

PHARMACY SERVICES AGREEMENT

THIS PHARMACY SERVICES AGREEMENT (the “Agreement”) is by and between **Galion City Health Department**, a not-for-profit corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, (“Covered Entity”), **CVS Pharmacy, Inc.**, on behalf of itself and its subsidiaries/affiliates (“Retail Pharmacy”), and separately between Covered Entity and **Caremark, L.L.C.**, on behalf of itself and its subsidiaries/affiliates (“Specialty Pharmacy”). This Agreement shall become effective on the date (“Effective Date”) on which it has been registered and made effective by the Health Resources and Services Administration (“HRSA”). Specialty Pharmacy, Retail Pharmacy, and Covered Entity are each individually a “Party” and collectively the “Parties”. The term “Pharmacy” in this Agreement means each of the Specialty Pharmacy and the Retail Pharmacy separately and independently.

WHEREAS, Covered Entity provides healthcare services to Eligible Patients at Covered Entity Sites;

WHEREAS, Covered Entity has engaged a third party service organization (“340B Service Provider”) to administer Covered Entity’s 340B Program with Pharmacy;

WHEREAS, Pharmacy has appropriate licensure in place in order to be able to provide services described in this Agreement;

WHEREAS, Covered Entity desires to engage Pharmacy to provide Pharmacy Services, as defined in this Agreement, to Eligible Patients with respect to outpatient drugs purchased pursuant to Section 340B; and

NOW, THEREFORE, the Parties agree as follows:

1. The Parties.

(a) Covered Entity is a covered entity as defined in Section 340B of the Public Health Service Act (“Section 340B”) and is eligible to purchase certain outpatient drugs at reduced prices for use by Eligible Patients (as defined herein) from drug manufacturers that have signed a pharmaceutical pricing agreement with the United States Department of Health and Human Services (“DHHS”) and/or the manufacturers’ wholesalers. Covered Entity is subject to the requirements of the 340B program including guidance issued from time to time by HRSA (the “340B Program”). The Parties agree that the terms and conditions of this Agreement shall apply to the Covered Entity and all eligible child sites (in the case of a hospital) and all affiliated sites (in the case of a federal grantee) that are registered in the Office of Pharmacy Affairs Information System (“340B OPAIS”), and, to the extent permitted by HRSA, any provider-based child site (in the case of a hospital) or affiliated site (in the case of a federal grantee) that is reimbursable under Medicare cost report (“MCR”) rules and eligible but is not yet registered and does not appear on the most recently filed MCR (“Covered Entity Sites”). A list of the Covered Entity Sites is included as Attachment 1 to the applicable Addendum to this Agreement. The Parties agree that the list of Covered Entity Sites will be automatically updated on the first day of each calendar quarter to reflect sites that have been added or removed from the 340B OPAIS. Updates will be by reference only without the need for either Party to revise the existing text of the applicable Addendum.

(b) Covered Entity agrees and acknowledges that this Agreement forms two (2) separate and independent 340B contract pharmacy arrangements – one (1) between Covered Entity and Retail Pharmacy, and one (1) between Covered Entity and Specialty Pharmacy.

(i) The term “Retail Pharmacy” applies only to the arrangement between Retail Pharmacy and Covered Entity. Additional terms and conditions specific to the Retail Pharmacy arrangement are set forth in Addendum A.

(ii) The term “Specialty Pharmacy” applies only to the arrangement between Specialty Pharmacy and Covered Entity. Additional terms and conditions specific to the Specialty Pharmacy arrangement are set forth in Addendum B.

(c) Covered Entity agrees and acknowledges that Retail Pharmacy and Specialty Pharmacy are separate legal entities, and that Retail Pharmacy shall be solely responsible for the Pharmacy Services provided at Retail Pharmacy sites, and Specialty Pharmacy shall be solely responsible for the Pharmacy Services provided at Specialty Pharmacy sites.

(d) With respect to Pharmacy, Covered Entity agrees to use Wellpartner, L.L.C. (“Wellpartner”) as its 340B Service Provider. All terms and conditions that control the provision of the 340B administrative services by Wellpartner are set forth in Addendum C.

2. Pharmacy Services

(a) Pharmacy shall dispense 340B Processed Drugs (as defined herein) to patients determined to be Eligible Patients by Covered Entity (“Pharmacy Services”). Pharmacy shall provide Pharmacy Services in accordance with all applicable State and Federal law and in accordance with the 340B Program and the professional judgment of the dispensing pharmacist.

(b) Pharmacy agrees it will provide Pharmacy Services contracted for under this Agreement at the site(s) listed on Attachment 2 of the applicable Addendum (“Contracted Pharmacy Locations”). Retail Pharmacy and Specialty Pharmacy will independently provide services at their respective pharmacy sites and will separately accumulate and replenish 340B Processed Drugs (as defined herein) on behalf of Covered Entity.

(c) In addition to Pharmacy Services, Pharmacy may provide medical services to Eligible Patients. The Parties understand and agree that Pharmacy provides such medical services on its own behalf, and may bill responsible payers for reimbursement for those services for its own account. Covered Entity is not entitled to and will not receive any reimbursement obtained by Pharmacy for medical services.

3. Eligible Patients. Covered Entity represents and warrants that:

(a) Covered Entity shall be responsible for determining whether a patient is an Eligible Patient and identifying such Eligible Patients to Pharmacy;

(b) Pharmacy shall be entitled to rely on the Covered Entity's determination and identification of Eligible Patients; and

(c) Covered Entity will consider a patient an "Eligible Patient" under this Agreement only if the individual meets the prescribed patient definition criteria as set forth at 61 Fed. Reg. 55156 (Oct. 24, 1996), as may be amended from time to time by HRSA.

4. 340B Processed Drugs. "340B Processed Drugs" are defined as drugs that are covered by this Agreement and applicable Addendum, processed according to all 340B policies and procedures established by Covered Entity, and able to be replenished by Covered Entity.

5. Maintaining Title. Covered Entity shall purchase 340B Processed Drugs and Covered Entity shall maintain title to the 340B Processed Drugs and shall assume all responsibility for establishing the price of the 340B Processed Drugs subject to applicable Federal, State, and local laws.

6. Ship To, Bill To Agreement. A "ship to, bill to" procedure shall be used by the Parties pursuant to which the Covered Entity shall order 340B Processed Drugs directly from the drug manufacturer, a designated sales representative, or a drug wholesaler. Covered Entity, or 340B Service Provider on Covered Entity's behalf, shall arrange for Covered Entity to be billed directly for purchased 340B Processed Drugs. 340B Processed Drugs will be shipped directly to Pharmacy.

7. Relationship of the Parties.

(a) Pharmacy agrees to render all services provided under this Agreement in accordance with professional standards applicable to pharmacy services and in accordance with rules and regulations of the applicable State Board of Pharmacy. Pharmacy shall have the right to refuse to serve any Eligible Patient where such service would violate any statute, regulations, or professional standards applicable to pharmacy services. Covered Entity acknowledges and agrees that it is responsible for compliance with all legal and regulatory requirements under the 340B Program and represents and warrants that during the term of this Agreement Covered Entity will remain in compliance with all requirements of the 340B Program. Pharmacy is responsible to provide the Pharmacy Services under the terms of this Agreement and makes no representation or warranty with respect to Covered Entity's compliance with the 340B Program. Covered Entity and Pharmacy agree to the operational procedures attached hereto as Attachment 4 in the applicable Addendum (the "Operational Procedures"). Covered Entity agrees and understands that the Operational Procedures are subject to change by Pharmacy by providing Covered Entity thirty (30) days' written notice of such change.

(b) Covered Entity acknowledges and agrees that in making a decision to contract with a 340B Service Provider, it has not and will not rely on any statement or representation by Pharmacy or affiliates related to the qualifications and abilities of 340B Service Provider. Covered Entity acknowledges and agrees that Pharmacy is relying on the Covered Entity and 340B Service Provider and their systems, policies and procedures, including 340B Service Provider's tracking system and information system (together, the "340B System"), and the Operational Procedures, to support the Pharmacy Services.

(c) Covered Entity agrees that it shall ensure that Pharmacy has reasonable access to Drug Supply Chain Security Act (DSCSA) information held and stored by its wholesaler.

(d) Covered Entity agrees that it shall ensure that Pharmacy has reasonable access to the 340B System that will, among other things on behalf of the Covered Entity: (i) perform automatic and ongoing review of claims adjudicated at the Contracted Pharmacy Locations to determine 340B eligibility; (ii) facilitate ongoing inventory replenishment; (iii) produce revenue/expense reports for revenue reconciliation and applicable accounting; and (iv) facilitate audits associated with the performance of this Agreement. Covered Entity agrees that access to the 340B System shall be in a manner reasonably required by Pharmacy and Pharmacy shall be entitled to rely on any document or information provided by Covered Entity, 340B Service Provider and the 340B System as true and accurate. Covered Entity agrees that the Covered Entity or 340B Service Provider shall perform required or routine maintenance, upgrades and inspections on any software included in the 340B System and will make any adjustments reasonably necessary to prevent the diversion of 340B drugs to individuals who are not Eligible Patients.

8. Payment for Pharmacy Services. Pharmacy shall be timely paid by Covered Entity for Pharmacy Services in accordance with the terms provided in Attachment 3 to the applicable Addendum of this Agreement. Payment shall include a dispensing fee (the “Dispensing Fee”) for each prescription of 340B Processed Drugs filled for Eligible Patients. The Parties have freely negotiated the terms of this Agreement and neither has offered or received any inducement or other consideration from another Party for entering into this Agreement. Pharmacy’s compensation is consistent with fair market value in arms-length transactions for Pharmacy Services and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between or among the Parties for which payment may be made in whole or in part under a Federal or State healthcare program. Nothing in this Agreement shall be construed to require Covered Entity to make referrals of patients to Pharmacy.

9. Patient Choice. Pharmacy understands and agrees that Eligible Patients of Covered Entity may elect not to use Pharmacy for Pharmacy Services. In the event that an Eligible Patient elects not to use Pharmacy for such services, the patient may obtain the prescription from the prescriber and then obtain the drug(s) from a pharmacy provider of his or her choice.

10. Reports. Covered Entity acknowledges that all information and reports related to the 340B Processed Drugs will be provided by the 340B Service Provider, and not Pharmacy. Pharmacy will submit claims for drugs dispensed by Pharmacy to 340B Service Provider to support the 340B Service Provider’s reporting and tracking requirements to the Covered Entity. The 340B Service Provider shall prepare a reconciliation report of 340B Processed Drugs no later than sixty (60) days from the date of termination of this Agreement and submit that report to both Covered Entity and Pharmacy to be used as a basis for negotiating a final reconciliation under the terms of this Agreement. The provisions of this Section 10 shall survive the expiration or termination of this Agreement for any reason.

11. Prohibition on Resale or Transfer. The Parties agree that they will not resell or transfer a 340B Processed Drug ordered under this Agreement pursuant to Section 340B to an individual who is not an Eligible Patient of Covered Entity. Covered Entity represents, warrants and agrees that it has established and will maintain an overall system to ensure that only Eligible Patients receive 340B Processed Drugs and that 340B Processed Drugs will be accounted for and tracked. Covered Entity acknowledges that it may be removed from the 340B Program’s list of covered entities and made ineligible for 340B pricing should it violate this Section.

12. Audits and Inspection.

(a) The Parties understand and agree that a copy of this Agreement will be provided upon written request to DHHS. In addition, the Parties understand and agree that the Parties are subject to audit by DHHS and by drug manufacturers who have signed a drug purchasing agreement with DHHS, which audits may pertain to the Covered Entity's compliance with the prohibition on drug resale or transfer and the prohibition on duplicate Medicaid rebates and discounts. The Parties further understand that the DHHS has published guidelines for such audits. The Parties agree to cooperate with such audits and to comply with applicable provisions of the audit guidelines and amendments thereto that may be published from time to time.

(b) Pharmacy grants Covered Entity, and its duly authorized representatives, the right, on behalf of Covered Entity, to audit its books and records, including all electronic records, to verify and ensure compliance with the duties, obligations and transactions outlined hereunder. Any such audit shall be conducted during reasonable business hours, upon reasonable prior written notice, and in a manner so as not to interfere with the conduct of Pharmacy's business. Pharmacy agrees to use commercially reasonable efforts to cooperate with such audits in good faith.

(c) Pharmacy agrees to cooperate with Covered Entity to identify necessary information for Covered Entity to meet its ongoing responsibility of ensuring that the contract pharmacy services guidelines as promulgated by HRSA's Office of Pharmacy Affairs ("OPA") are being complied with and establish mechanisms to ensure the availability of that information for periodic independent audits (no less frequently than annually) that shall be performed by Covered Entity's independent auditors. In complying with these requirements, Covered Entity will register with HRSA using the online Contract Pharmacy Registration as required by OPA.

(d) Any payments made to either Party in excess of the payment amount due under this Agreement because of error, inaccurate claim, discrepancy, or any other reason may be recovered by the other Party. The recovering Party shall notify the other Party in writing of such excess payments and shall have the right either to offset such excess payment amounts against any payments due to the other Party or to require reimbursement from the other Party of such excess payment amounts. If the recovering Party requires reimbursement, the other Party shall have thirty (30) days from the date of notification to reimburse the excess payment amounts. When the recovering Party collects amounts due as a result of audit compliance discrepancies, there shall be no collection, compensation or reimbursement from, or any recourse against, a patient for those amounts.

(e) This Section 12 shall survive the expiration or termination of this Agreement for any reason.

13. Insurance. Pharmacy shall maintain during the term of this Agreement a policy of liability insurance with a responsible insurance carrier in an amount not less than \$1,000,000 per incident and \$3,000,000 in the aggregate and which includes the 340B Processed Drugs in its coverage. Covered Entity shall maintain during the term of this Agreement a policy of liability insurance with a responsible insurance carrier with at least the minimum limits that are customary in its industry. Covered Entity may satisfy such insurance requirements through a self-insurance program maintained in accordance with the requirements of State law and the Medicare program.

14. Non-Assignment. This Agreement may not be assigned by any Party without the prior written agreement of the other Party(ies), which agreement shall not be unreasonably delayed or withheld; provided, however, that the preceding restriction shall not apply to the assignment by a Party to an affiliated company or any successor entity through a sale, merger, or other similar transaction.

15. Term and Termination. This Agreement shall commence on the Effective Date and continue for two (2) years (“Initial Term”) unless terminated earlier for reasons described herein. Thereafter this Agreement shall automatically renew for successive two (2) year terms (each a “Renewal Term”), unless Pharmacy provides a written notice of non-renewal to Covered Entity or Covered Entity provides a written notice of non-renewal to Pharmacy not less than thirty (30) days prior to the end of the Initial Term or any Renewal Term. The Parties recognize that this Agreement will become operational as soon as practical following the date this Agreement is fully executed, but in no event earlier than the Effective Date. Notwithstanding anything to the contrary herein, this Agreement may be terminated early:

(a) By mutual agreement of Pharmacy and Covered Entity;

(b) Upon prior written notice of a material breach of this Agreement by the non-breaching Party to the breaching Party, which is not cured to the reasonable satisfaction of the non-breaching Party within thirty (30) days. The Party’s waiver or failure to take action with respect to the other Party’s failure to comply with any term or provision of this Agreement shall not be deemed to be a waiver of the right to insist on future compliance with such term or provision;

(c) Upon termination of Covered Entity’s eligibility as a Covered Entity under the 340B Program. Covered Entity agrees to provide immediate written notice to Pharmacy of loss or termination of its 340B eligibility. Termination shall be effective whether or not notice is provided by the Covered Entity;

(d) Upon termination of Covered Entity’s agreement with Wellpartner;

(e) By Pharmacy or Covered Entity without cause upon thirty (30) days prior written notice to the other Party;

(f) With respect to Section 15(e), Covered Entity may separately terminate this Agreement with respect to Retail Pharmacy or Specialty Pharmacy and Retail Pharmacy or Specialty Pharmacy may separately terminate this Agreement; provided that if Covered Entity chooses to separately terminate this Agreement with respect to any of the Pharmacies, or any of the Pharmacies separately chooses to terminate this Agreement, then the Parties will confer during the thirty (30) day notice period to make any amendments to this Agreement between the Parties as may be necessary for this Agreement to continue for the remaining Pharmacy or Pharmacies.

16. Compliance With Laws. The Parties hereto shall comply with all applicable Federal, State and local laws, rules, regulations and requirements, including but not limited to Federal and State anti-kickback laws, self-referral laws, and false claims laws. Each Party is aware of the potential for civil or criminal penalties if the Party violates Federal, State, or local laws.

17. Choice of Law. This Agreement shall be interpreted according to the substantive laws of the State of Delaware.

18. Representations of Pharmacy. Pharmacy represents and warrants to Covered Entity that:

(a) it employs, and will continue to employ throughout the term of this Agreement, sufficient qualified and credentialed personnel needed to manage and operate the Pharmacy and provide the services anticipated hereunder in a timely, professional, competent and ethical manner;

(b) it owns, possesses and employs, and will continue to employ throughout the term of this Agreement, sufficient technology and equipment as needed to manage and operate the Pharmacy and provide the services in the manner anticipated hereunder;

(c) it will render the services hereunder in accordance with prevailing pharmaceutical and medical standards and will apply them in the same fashion to all patients of Covered Entity; and

(d) it will render all services to Eligible Patients without regard to race, creed, color, age, sex, sexual orientation, citizenship, marital status, veteran status, national origin, disability, religion, arrest record or other protected status.

19. Representations of Covered Entity and Pharmacy. Covered Entity and Pharmacy each represent and warrant to the other that:

(a) all of its employees, agents, representatives and members of its workforce, whose services may be used to fulfill obligations under this Agreement are or shall be appropriately informed of the applicable terms of this Agreement and are under legal obligation, by contract or otherwise, sufficient to enable each of Covered Entity and Pharmacy to fully comply with all provisions of this Agreement including, without limitation, with respect to Pharmacy, the requirement that modifications or limitations that Covered Entity has agreed to adhere to with regards to the use and disclosure of Protected Health Information of any individual that materially affects and/or limits the uses and disclosures that are otherwise permitted will be communicated to Pharmacy, in writing, and in a timely fashion;

(b) they will reasonably cooperate with each other in the performance of the mutual obligations under this Agreement; and

(c) to the best of their knowledge, neither they, nor their respective shareholders, members, directors, officers, agents, employees or members of its workforce performing services under this Agreement are excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have been convicted, under Federal or State law (including without limitation a plea of nolo contendere or participation in a first offender deferred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (i) the neglect or abuse of a patient, (ii) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a Federal or State healthcare program, (iii) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any Federal, State or local government agency, (iv) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (v) interference with or obstruction of any investigation into any criminal offense described in (i) through (iv) above.

20. Representations of Covered Entity. Covered Entity represents and warrants to Pharmacy that:

(a) it is a Covered Entity as defined in Section 340B and will remain such throughout the term of this Agreement;

(b) it will be solely responsible for ensuring 340B Program compliance, including the actions and inactions of its 340B Service Provider;

(c) it will be solely responsible for compliance with all Federal and State laws, regulations and guidance prohibiting duplicate discounting by: (1) carving out from its definition and determination of Eligible Patient any patient that is a beneficiary of Medicaid, Medicaid managed care, ADAP coverage or other coverage if the use of 340B Processed Drugs for such patients results in prohibited duplicate discounts, and/or (2) making other arrangements to prevent duplicate discounting, when required, including arrangements to comply with requirements applicable to covered entities or contract pharmacies to identify 340B claims and/or to submit 340B claims at legally or contractually specified pricing, with Medicaid agencies, Medicaid managed care organizations, ADAPs or other payers;

(d) (i) it has full right, power, and authority to enter into this Agreement; (ii) in doing so, it will not violate any other agreement, judgment, order, or decree to which it is a party, including any agreement with any third party administrator other than Wellpartner; and (iii) it has taken all corporate action necessary to authorize the execution and delivery of this Agreement and the performance of its obligations under this Agreement; and

(e) it will perform its responsibilities hereunder in a professional and diligent manner consistent with industry standards reasonably applicable to the performance thereof.

21. Patient Privacy and HIPAA Compliance. The Parties recognize that they are healthcare providers within the meaning of the federal Health Insurance Portability and Accountability Act (“HIPAA”). The Parties acknowledge that as covered entities under HIPAA, each must comply with HIPAA Rules concerning the confidentiality, privacy, and security of Protected Health Information as defined in 45 CFR 160.103, and the regulations promulgated from time to time thereunder.

Covered Entity agrees that the 340B Service Provider is a Business Associate of the Covered Entity and that the Covered Entity has entered into a Business Associate Agreement with the 340B Service Provider requiring the 340B Service Provider to comply with the HIPAA Rules concerning the confidentiality, privacy, and security of Protected Health Information. Covered Entity agrees that Pharmacy may transmit claims containing Protected Health Information to the 340B Service Provider acting as the Business Associate and agent of the Covered Entity under this Agreement. Covered Entity agrees that it shall obtain Protected Health Information from the 340B Service Provider only relating to patients who are Eligible Patients under this Agreement. The Covered Entity shall not request or receive Protected Health Information from the 340B Service Provider relating to patients who are not Eligible Patients of the Covered Entity.

Failure by either Party to abide by these requirements shall be a basis for immediate termination of this Agreement.

22. Non-Disclosure.

(a) Non-Disclosure. In the course of performing under this Agreement, a Party may receive, be exposed to or acquire Confidential Information including but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identified as confidential of the other Party ("Confidential Information"). Without limiting the foregoing, the Parties acknowledge and agree that this Agreement, including the pricing terms of this Agreement, constitutes Confidential Information. For purposes of this Agreement, Confidential Information shall not include Protected Health Information, the security of which is provided for elsewhere. The Parties, including their respective employees, agents or representatives shall: (i) not disclose to any third party the Confidential Information except as otherwise permitted by this Agreement, (ii) only permit use of such Confidential Information by employees, agents and representatives having a need to know in connection with performance under this Agreement, and (iii) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential. Notwithstanding anything to the contrary herein, each Party shall be free to use, for its own business purposes, any ideas, suggestions, concepts, know-how or techniques contained in information received from each other that directly relates to the performance under this Agreement. This provision shall not apply to Confidential Information: (1) after it becomes publicly available through no fault of a Party hereto; (2) which is later publicly released by a Party hereto in writing; (3) which is lawfully obtained from third parties without restriction; (4) which can be shown to be previously known or developed by a Party hereto independently of another Party; or (5) that is legally required by court order, law, or other governmental regulation or authority to be disclosed; provided, that unless prohibited by law, such disclosure may be made only after giving written notice to the Party whose Confidential Information is to be disclosed so that it may object to such disclosure and seek a protective order and; provided, further that the disclosure shall be limited to only that portion of the Confidential Information which is legally required to be disclosed.

(b) Enforcement. Each of the Parties acknowledges and agrees that any breach by it of any of the provisions of Section 22(a) ("Non-Disclosure") would result in irreparable injury and damage for which money damages would not provide an adequate remedy. Therefore, if a Party hereto breaches, or threatens to commit a breach of, Non-Disclosure, the other shall have the right and remedy (upon compliance with any necessary prerequisites imposed by law upon the availability of such remedy), which shall be independent and severally enforceable, and which shall be in addition to, and not in lieu of, any other rights and remedies available to it under law or in equity (including, without limitation, the recovery of damages), to have the Non-Disclosure specifically enforced (without posting bond and without the need to prove damages) by any court having equity jurisdiction, including, without limitation, the right to an entry against breaching Party of restraining orders and injunctions (preliminary, mandatory, temporary and permanent), without posting bond and without the need to prove damages, against violations, threatened or actual, and whether or not then continuing, of such covenants. The existence of any claim or cause of action by the breaching Party, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of the Non-Disclosure. In addition, any breach of the Non-Disclosure shall constitute a material breach of this Agreement.

23. Indemnification/Limitation of Liability. Covered Entity shall defend, indemnify and hold harmless Pharmacy, its subsidiaries and affiliates and each of their respective officers, directors, agents, representatives, successors, assigns, and employees (the “Pharmacy Parties”) from and against any and all claims and losses incurred by any Pharmacy Party as a result of any claim made by a third party against a Pharmacy Party to the extent arising out of or relating to Covered Entity’s or 340B Service Provider’s negligence or breach of its obligations, representations or warranties set forth in this Agreement, except to the extent such claims or losses are caused by or result from the negligence or willful misconduct of any Pharmacy Party. Additionally, Covered Entity shall defend, indemnify and hold harmless the Pharmacy Parties for any claim arising out of the failure to comply with the requirements of the 340B Program.

Pharmacy shall defend, indemnify and hold harmless Covered Entity, its subsidiaries and affiliates and each of their respective officers, directors, agents, representatives, successors, assigns, and employees (the “Covered Entity Parties”) from and against any and all claims and losses incurred by any Covered Entity Party as a result of any claim made by a third party against a Covered Entity Party to the extent arising out of or relating to Pharmacy’s negligence or breach of its obligations, representations or warranties set forth in this Agreement, except to the extent such claims or losses are caused by or result from the negligence or willful misconduct of any Covered Entity Party.

The indemnified Party shall promptly notify the indemnifying Party of any indemnification claim for which indemnification is sought, upon actual knowledge of such indemnification claim; provided, however, that failure to give such notice shall not relieve the indemnifying Party of its obligations under this Section except to the extent that the indemnifying Party is materially prejudiced by such failure. The indemnifying Party shall have the right and option to undertake and control such defense of such action with counsel of its choice. The indemnifying Party shall select qualified counsel with demonstrable experience defending claims of the type to be defended and approved by the indemnified Party, which approval shall not be unreasonably withheld. The indemnifying Party shall not concede or settle or compromise any indemnification claim without the prior written approval of the indemnified Party, which shall not be unreasonably withheld.

In no event shall Pharmacy or Covered Entity be liable to the other for any incidental, special, consequential, or punitive damages as a result of the performance or any default in the performance of their respective obligations under this Agreement; provided however it is understood by the Parties that fines and penalties which may be imposed for violation of Federal or State laws or regulations arising from a Party’s performance of or failure to perform its duties under this Agreement shall not be deemed to constitute incidental, special, consequential, or punitive damages under this Section 23.

24. Force Majeure. A 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.

25. Entire Agreement. This Agreement, including the recitals and all Addenda and Attachments, represent the entire understanding of the Parties in the subject matter hereof. Such attachments are incorporated herein and made a part hereof. There are no other agreements or understandings among the Parties, either oral or written, relating to the subject matter hereof. Any amendments to this Agreement shall be in writing and signed by the Parties hereto. The Parties agree that to the extent that there is an inconsistency or conflict between the terms and conditions of any Addenda and Attachment and this Agreement, the terms and conditions of the Attachment or Addenda shall prevail.

26. **Independent Contractors.** The Parties to this Agreement are independent contractors, and have no other legal relationship under or in connection with this Agreement. The provisions of this Agreement do not, and are not intended to, create a partnership, joint venture, agency or employment relationship among or between the Parties.

27. **Third Party Beneficiaries.** This Agreement is intended for the sole benefit of the Parties and does not create any third party beneficiary rights.

28. **Operation of Law.** In the event that this Agreement or any part of this Agreement is deemed to be contrary to local, State or Federal law by counsel for the Parties or, in the opinion of counsel, presents substantial legal risk to either Party, the Parties agree to use their best efforts to make changes to this Agreement to the minimum extent necessary to make this Agreement consistent with applicable laws, and to try to retain as closely as possible the original terms reflected in this Agreement. After the Parties have used their best efforts, if this Agreement cannot be modified or amended to comply with applicable law or mitigate the legal risk to the Parties in a way that is mutually agreeable to the Parties, then Pharmacy or Covered Entity may terminate this Agreement upon notice to the other.

29. **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.

30. **Waiver.** The failure of Covered Entity or Pharmacy to enforce at any time or for any period of time any one or more of the provisions hereof shall not be construed to be a waiver of the other's responsibilities or obligations under such provision(s) or of the right of a Party thereafter to enforce each such provision.

31. **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. Signature execution by facsimile or other electronic means shall be considered binding.

32. **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.

[signature page follows on next page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the last signature below.

CAREMARK, L.L.C., SPECIALTY PHARMACY

By: _____
Name: Christian Reid
Its: Executive Director, 340B
Date: _____
Address: One CVS Drive
HSA, MailStop 4036
Woonsocket, RI 02895

CVS PHARMACY, INC.

By: _____
Name: Christian Reid
Its: Executive Director, 340B
Date: _____
Address: One CVS Drive
HSA, MailStop 4036
Woonsocket, RI 02895

GALION CITY HEALTH DEPARTMENT

By: _____
Name: Jason McBride
Its: Health Commissioner
Date: Sep 11, 2023
Address: _____

ADDENDUM A
ATTACHMENT 1-a

RETAIL PHARMACY

COVERED ENTITY SITE

The Covered Entity Site listed on this Addendum A Attachment 1-a shall be serviced by the Contracted Pharmacy Locations listed on Addendum A Attachment 2-a.

<u>340B ID</u>	<u>ENTITY NAME</u>	<u>ENTITY ADDRESS</u>	<u>CITY</u>	<u>STATE</u>	<u>ZIP</u>
STD44833	GALION CITY HEALTH DEPARTMENT	113 HARDING WAY EAST	GALION	OH	44833

All eligible child sites (in the case of a hospital) and all affiliated sites (in the case of a federal grantee) that are registered in the Office of Pharmacy Affairs Information System (“340B OPAIS”), and, to the extent permitted by HRSA, any provider-based child site (in the case of a hospital) or affiliated site (in the case of a federal grantee) that is reimbursable under Medicare cost report (“MCR”) rules and eligible but is not yet registered and does not appear on the most recently filed MCR.

ADDENDUM A
ATTACHMENT 2-a

RETAIL PHARMACY

CONTRACTED PHARMACY LOCATIONS

The Contracted Pharmacy Locations listed on this Addendum A Attachment 2-a shall service the Covered Entity Site listed on Addendum A Attachment 1-a. In the event there is a nonmaterial discrepancy between the information in the table below and on the 340B OPAIS listing (e.g. a typographical error, punctuation, abbreviation), the 340B OPAIS listing shall control and the Parties agree an amendment to this Agreement shall not be required.

<u>STORE NUMBER</u>	<u>PHARMACY NAME</u>	<u>STORE ADDRESS 1</u>	<u>STORE ADDRESS 2</u>	<u>STORE CITY</u>	<u>STORE STATE</u>	<u>STORE ZIP</u>	<u>DEA NUMBER</u>
03406	OHIO CVS STORES, L.L.C.	DBA: CVS/PHARMACY # 03406	101 EAST CHARLES STREET	BUCYRUS	OH	44820	AR2941498
06167	OHIO CVS STORES, L.L.C.	DBA: CVS/PHARMACY # 06167	418 EAST MAIN STREET	ASHLAND	OH	44805	FO1805083
06169	OHIO CVS STORES, L.L.C.	DBA: CVS/PHARMACY # 06169	1411 LEXINGTON AVENUE	MANSFIELD	OH	44907	FO1805095
06175	OHIO CVS STORES, L.L.C.	DBA: CVS/PHARMACY # 06175	755 ASHLAND ROAD	MANSFIELD	OH	44905	FO1805146
06176	OHIO CVS STORES, L.L.C.	DBA: CVS/PHARMACY # 06176	1049 WEST FOURTH STREET	MANSFIELD	OH	44906	FO1805160

<u>STORE NUMBER</u>	<u>PHARMACY NAME</u>	<u>STORE ADDRESS 1</u>	<u>STORE ADDRESS 2</u>	<u>STORE CITY</u>	<u>STORE STATE</u>	<u>STORE ZIP</u>	<u>DEA NUMBER</u>
11338 CAREPLUS	PROCARE PHARMACY, L.L.C.	DBA CVS/PHARMACY #11338	10160 INTERNATIO NAL BLVD.	WEST CHESTER	OH	45246	FP7924031

ADDENDUM A
ATTACHMENT 3

RETAIL PHARMACY

COMPENSATION FOR PHARMACY SERVICES – DISPENSING FEE

1. It is understood and agreed that Retail Pharmacy shall receive a Dispensing Fee for each successfully adjudicated claim for drugs dispensed by Retail Pharmacy to an Eligible Patient.
2. Retail Pharmacy’s Dispensing Fee for Pharmacy Services shall be as follows:
 - a. For Eligible Patients with third-party prescription insurance coverage:
 - i. For each Brand Name Drug dispensed: 13% with a \$22.00 minimum based on the reimbursement obtained from all sources in accordance with its agreements with third party payers for each prescription filled with 340B Processed Drugs.
 - ii. For each multi-source or generic drug dispensed: 13% with a \$22.00 minimum based on the reimbursement obtained from all sources in accordance with its agreements with third party payers for each prescription filled with 340B Processed Drugs.
3. Retail Pharmacy’s Dispensing Fee for ‘Careplus’ Pharmacy Services shall be as follows:
 - a. For Eligible Patients with third-party prescription insurance coverage:
 - i. For each Brand Name Drug dispensed: 13% with a \$22.00 minimum based on the reimbursement obtained from all sources in accordance with its agreements with third party payers for each prescription filled with 340B Processed Drugs.
 - ii. For each multi-source or generic drug dispensed: 13% with a \$22.00 minimum based on the reimbursement obtained from all sources in accordance with its agreements with third party payers for each prescription filled with 340B Processed Drugs.
4. Covered Entity agrees and understands that Pharmacy, upon written notice to Covered Entity, may adjust the Dispensing Fee on an annual basis to account for any of the following: (i) an increase in the Medical Care Commodities Index (“CPI-U-MCC”) as published by the United States Bureau of Labor Statistics; (ii) an increase in direct and indirect remuneration fees; or (iii) a significant change in drug mix or average day supply. In the event the identified CPI-U-MCC ceases to be published or updated, the Parties will substitute the approximate Consumer Price Index. Any other changes in the Dispensing Fee must be agreed to in writing executed by both Parties.

ADDENDUM A
ATTACHMENT 4

RETAIL PHARMACY

OPERATIONAL PROCEDURES

These Operational Procedures outline the parameters used to operationalize the Covered Entity's Retail 340B Program.

Purpose

340B Service Provider will review eligibility, track the patients, prescriptions and drugs dispensed to 340B eligible patients, and maintain a virtual inventory replenishment system on behalf of the Covered Entity and the Retail Pharmacy.

Policy

It is the policy of the Covered Entity that all contract pharmacies will receive drug inventory replenishments. For those drugs dispensed to Eligible Patients that reach or surpass the Unit of Issuance (as hereinafter defined), 340B Service Provider will order replenishment of Retail Pharmacy's drug inventory. Inventory replenishment is subject to the agreed upon terms herein and the availability of the drug from the wholesaler.

Definitions

1. "Drugs" include all prescription drugs (controlled and non-controlled substances), and Over the Counters (OTCs).
2. "Unit of Issuance" refers to the package size of the drug as it is sold by the wholesaler.
3. "NDC" refers to the 11-digit National Drug Code and is the number assigned to each drug and includes information regarding drug, strength, manufacturer, package size, etc.
4. All other capitalized terms have the meaning ascribed to them in this Agreement, including its other Attachments, to which this Attachment 4 is attached.

ADDENDUM A
ATTACHMENT 4-a

RETAIL PHARMACY

PROCEDURES

A. Inventory Tracking and Replenishment

1. 340B Service Provider will track the quantity of each 340B Processed Drug dispensed to a 340B Eligible Patient. 340B Processed Drugs include all prescription Drugs (controlled and non-controlled substances), and Over the Counters (“OTCs”).
2. 340B Service Provider will tally the quantities dispensed of 340B Processed Drugs and determine the inventory to be replenished to Retail Pharmacy based upon the package size or Unit of Issuance associated with the dispensed Drug’s 11-digit NDC code.
3. *Cash Claims.* If mutually agreed upon, Covered Entity will define a 340B cash plan structure. Covered Entity will issue and distribute identification cards with 340B Service Provider’s Bank Identification Number (“BIN”) and Processor Control Number (“PCN”) to Covered Entity patients as applicable. Retail Pharmacy will adjudicate these claims to the 340B Service Provider BIN and PCN. 340B Service Provider will evaluate the 340B eligibility and return pricing based upon mutually agreed upon parameters in the 340B discount cash plan structure. 340B Service Provider will reject any prescriptions that are not 340B eligible or respond with whichever amount is the lowest of the usual and customary or 340B discount cash plan amount.
4. On a schedule determined by the Retail Pharmacy, 340B Service Provider shall order, for delivery to Retail Pharmacy, all Drugs which have been determined to be eligible and have reached a full package size but have not yet been delivered to Retail Pharmacy. Retail Pharmacy’s wholesaler will be used as wholesaler for the purposes of replenishment, and is subject to change upon the request of the Retail Pharmacy.
5. *Generic Launch.* If a new generic Drug is launched for an existing brand, Retail Pharmacy may temporarily discontinue eligibility and replenishment for the brand NDC. Any claims with the brand NDC that have not yet been replenished may be reconciled.
6. Controlled substances (other than Schedule II) are included in the 340B Service Provider system and will be replenished the same way as non-controlled substances.
7. *Excluded Drugs.* The following Drugs are excluded from the 340B Program. All other Drugs excluded from the 340B Program must be agreed upon in writing by both the Retail Pharmacy and Covered Entity.
 - a. Schedule II controlled substances.
 - b. Immunizations and vaccines.
 - c. Prescriptions adjudicated with a compound code (National Council for Prescription Drug Programs (“NCPDP”) compound code field 406-D6 value ‘2’).

- d. Diabetic Testing Supplies.
8. Once the electronic inventory replenishment order has been submitted to the wholesaler, 340B Service Provider will electronically verify that the drug wholesaler has received the order. Once the drug wholesaler sends an invoice to 340B Service Provider on behalf of Covered Entity for the Retail Pharmacy's inventory replenishment order, 340B Service Provider will electronically reconcile the drug wholesaler invoice with the 340B drug replenishment order based upon the purchase order number.
9. *Slow Moving Items.*
 - a. Any Drug that is dispensed that does not meet a Unit of Issuance within one-hundred twenty (120) days since date of capture will be reconciled on the following Invoice (as defined in Section B.1)
 - b. *Slow Moving Partial Packages.* Drugs are dispensed by billing units but purchased in manufacturer specified package sizes. At times, a part of a prescription will cross a package size boundary causing part of the prescription to be replenished but not the full prescription. For example: a package sized at 100 tablets is used to replenish 2 prescriptions for 60 tablets each (total of 120 tablets for both prescriptions). Both prescriptions are Invoiced, 100 tablets are immediately replenished, and the remaining 20 tablets wait for enough subsequent claims to arrive until they can be replenished. If the portion of a claim that is already Invoiced does not meet a Unit of Issuance within 120 days of capture, the un-replenished portion of the prescription will be reconciled on the subsequent Invoice. Covered Entity will remit payment to the Retail Pharmacy for the amounts of the drugs in question at the Wholesale Acquisition Cost ("WAC"), or Average Wholesaler Price ("AWP") if WAC is not available, for the NDC for that particular Drug, prorated according to the amount of Drugs that cannot be replenished.
10. *For all out-of-stock ("OOS")* Drugs owed by Covered Entity to Retail Pharmacy, 340B Service Provider will reorder these OOS Drugs on subsequent inventory replenishment order. If, however, after ninety (90) calendar days from date of first order, the Drug(s) remain OOS, that portion of the Drugs will be reconciled on the following Invoice. If a 340B Discount Cash Claim, Covered Entity will remit payment to the Retail Pharmacy for the amounts of the Drugs in question at the WAC, or AWP if WAC is not available, for the NDC for that particular Drug, prorated according to the amount of Drugs that cannot be replenished. If a third-party claim, Covered Entity will remit payment to the Retail Pharmacy for the amounts of the Drugs in question at the rate paid by the Retail Pharmacy to the Covered Entity originally.
11. *Discontinued or Changed NDCs.* Periodically, pharmaceutical manufacturers will discontinue or change certain NDCs. 340B Service Provider will report through the application for the Retail Pharmacy and Covered Entity any such changes in order to prevent replenishment opportunity from accumulating for NDCs that cannot be replenished. In the event that 340B eligible claims are adjudicated for a discontinued NDC which cannot be reversed, 340B Service Provider will attempt to replenish said NDCs, and if unsuccessful, they will be reconciled either as OOS or slow moving items, in accordance with Sections A.9 or A.10 above.

12. *Reprocessing Window*: If new or additional information causes the 340B Service Provider to re-designate a claim as 340B eligible that was originally deemed ineligible, any reprocessing of such claims must be completed within one hundred twenty days (120) calendar days from date of service. Other than for inventory reconciliations as described in Sections A.9 through A.11 above or initiated at the Retail Pharmacy store location, Retail Pharmacy and Covered Entity agree that 340B eligibility reversals will not be processed beyond thirty (30) calendar days from date of service.
13. *Over Replenishment*. In the event of over replenishment, Covered Entity shall: (1) with the agreement of Retail Pharmacy, coordinate with the 340B wholesaler to arrange for the return of Drug(s), or (2) perform a financial reconciliation with wholesaler and manufacturer. Covered Entity agrees that it is responsible for ensuring that any inventory return or financial reconciliation of inventory complies with all 340B legal and regulatory requirements, including but not limited to any requirements to notify manufacturers, OPA/HRSA or others and to maintain auditable records, and does not result in a violation of 340B diversion or resale prohibitions. In no event shall Retail Pharmacy be required to reimburse Covered Entity more than Retail Pharmacy's own Drug cost.

B. Claims Processing, Invoices and Payments

1. On the 1st and 15th of the month, 340B Service Provider shall prepare and electronically deliver to Retail Pharmacy a reconciliation which identifies all monies owed by Retail Pharmacy to Covered Entity ("Invoice").
2. Except for Cash Claims, all claims meeting 340B eligibility criteria will be held for thirty (30) days prior to becoming available for invoicing and replenishment activity.
3. A Cash Claim will be included in the Invoice only if it satisfies the agreed upon criteria, as defined in Operational Procedures Section A.3.
4. For each 340B-eligible claim, Retail Pharmacy shall owe Covered Entity an amount equal to the reimbursement for the Drug less the Dispensing Fee as determined by the executed Agreement. Each eligible claim shall be Invoiced based on the Unit of Issuance.
5. Within twenty (20) days from Invoice date, Retail Pharmacy shall remit payment thereof to 340B Service Provider, unless said payment date falls on a weekend or holiday, in which case payment shall be promptly remitted on the following business day.
6. 340B Service Provider will distribute Covered Entity payments in accordance with 340B Service Provider contract terms

C. Close Out and Final Reconciliation

1. *Shutdown Procedure*. In the event either Party decides to terminate the contractual relationship, the following shutdown procedure must be utilized:
 - a. Covered Entity shall cause 340B Service Provider to generate final reconciliation reports, including but not limited, to a final Invoice and final inventory report.

- b. Upon request, 340B Service Provider may place one last replenishment order (30 day hold is not applicable) to the drug wholesaler for Retail Pharmacy for all inventory due to Retail Pharmacy. For items remaining under-replenished after this order, Covered Entity shall remit payment to the Retail Pharmacy for the amounts of the drugs in question at WAC. Over-replenished drugs shall be reconciled as set forth in Section A.13 above.
- c. Final Reconciliation Reports. Final reconciliation report shall occur no later than sixty (60) days from the date of termination of this Agreement.

D. Retail Pharmacy Operational Matrix

<u>Item</u>	<u>Agreed to terms</u>
Inventory Replenishment Frequency	Weekly and subject to change by Retail Pharmacy
340B Eligibility Reversal Window	Completed within thirty (30) days from date of service
Dispensing Fee for 340B Processed Drugs	Refer to <u>Addendum A, Attachment 3</u>
340B Eligibility Retrospective Review (by Covered Entity / Administrator)	Completed within one hundred twenty (120) days from date of service
Invoicing	1st & 15th of each month
Payment Terms	Within twenty (20) days of date of Invoice

ADDENDUM B
ATTACHMENT 1

SPECIALTY PHARMACY

COVERED ENTITY SITES

<u>340B ID</u>	<u>ENTITY NAME</u>	<u>ENTITY ADDRESS</u>	<u>CITY</u>	<u>STATE</u>	<u>ZIP</u>
STD44833	GALION CITY HEALTH DEPARTMENT	113 HARDING WAY EAST	GALION	OH	44833
<p>All eligible child sites (in the case of a hospital) and all affiliated sites (in the case of a federal grantee) that are registered in the Office of Pharmacy Affairs Information System (“<u>340B OPAIS</u>”), and, to the extent permitted by HRSA, any provider-based child site (in the case of a hospital) or affiliated site (in the case of a federal grantee) that is reimbursable under Medicare cost report (“<u>MCR</u>”) rules and eligible but is not yet registered and does not appear on the most recently filed MCR.</p>					

ADDENDUM B
ATTACHMENT 2

SPECIALTY PHARMACY

CONTRACTED PHARMACY LOCATIONS

In the event there is a nonmaterial discrepancy between the information in the table below and on the 340B OPAIS listing (e.g. a typographical error, punctuation, abbreviation), the 340B OPAIS listing shall control and the Parties agree an amendment to this Agreement shall not be required.

<u>STORE NUMBER</u>	<u>NAME</u>	<u>STORE ADDRESS</u>	<u>STORE CITY</u>	<u>STORE STATE</u>	<u>STORE ZIP</u>	<u>DEA NUMBER</u>
01701	CAREMARK NEW JERSEY SPECIALTY PHCY, LLC DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	180 PASSAIC AVE, UNIT B-5	FAIRFIELD	NJ	07004	FC0275304
01702	CAREMARK KANSAS SPECIALTY PHARMACY CVS/SPECIALTY OR CARELONRX SPECIALTY PHA	11162 RENNER BLVD	LENEXA	KS	66219	BL7438941
01703	CAREMARK, L.L.C. DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	1127 BRYN MAWR AVE SUITE A	REDLANDS	CA	92374	BC3683580
02909	PROCARE PHARMACY, L.L.C. DBA: CVS/PHARMACY #2909	1521 4TH AVE., SOUTH	BIRMINGHAM	AL	35233	BS6949119
02921	PROCARE PHARMACY DIRECT, L.L.C. DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	105 MALL BOULEVARD	MONROEVILLE	PA	15146	BS6907224
02923	PROCARE PHARMACY, L.L.C. DBA CVS/PHARMACY #2923	3250 HARDEN ST. EXT. SUITE #300	COLUMBIA	SC	29203	FP0861650

<u>STORE NUMBER</u>	<u>NAME</u>	<u>STORE ADDRESS</u>	<u>STORE CITY</u>	<u>STORE STATE</u>	<u>STORE ZIP</u>	<u>DEA NUMBER</u>
48023	CAREMARK FLORIDA SPECIALTY PHARMACY LLC DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	7930 WOODLAND CENTER BLVD STE 500	TAMPA	FL	33614	FC0098916
48031	CAREMARK ILLINOIS SPECIALTY PHARMACY, LL DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	800 BIERMANN CT STE B	MOUNT PROSPECT	IL	60056	FC0059736
48036	CAREMARK MASSACHUSETTS SPECIALTY PHARMAC DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	25 BIRCH STREET, BLDG B, SUITE 100	MILFORD	MA	01757	BC9420491
48040	CAREMARK MICHIGAN SPECIALTY PHARMACY, LL DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	1307 ALLEN DR STE H	TROY	MI	48083	FC0002802
48045	CAREMARK NORTH CAROLINA SPECIALTY PHARMA DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	10700 WORLD TRADE BLVD STE 110	RALEIGH	NC	27617	FC1404918
48050	CAREMARK TENNESSEE SPECIALTY PHARMACY, L DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	8370 WOLF LAKE DRIVE SUITE 107	BARTLETT	TN	38133	BC9505960
48604	CVS/SPECIALTY OR CARELONRX SPECIALTY PHA CAREMARK, LLC	1001 SPINKS ROAD, STE 280	FLOWER MOUND	TX	75028	FC6963157

<u>STORE NUMBER</u>	<u>NAME</u>	<u>STORE ADDRESS</u>	<u>STORE CITY</u>	<u>STORE STATE</u>	<u>STORE ZIP</u>	<u>DEA NUMBER</u>
48641	CAREMARK, L.L.C. DBA CVS/SPECIALTY OR CARELONRX SPECIALTY	7251 S. EASTERN AVE.	LAS VEGAS	NV	89119	FC8994089

ADDENDUM B
ATTACHMENT 3

SPECIALTY PHARMACY

COMPENSATION FOR SERVICES – SPECIALTY PHARMACY-DISPENSING FEE

1. It is understood and agreed that Specialty Pharmacy shall receive a Dispensing Fee for each successfully adjudicated claim for drugs dispensed by Specialty Pharmacy to an Eligible Patient. Specialty Pharmacy's Dispensing Fee for Pharmacy Services shall be thirteen percent (13%) of the reimbursement in accordance with either its agreements with third-party payers or a Specialty Pharmacy-determined rate when reimbursement is payable under a medical benefits plan or for certain direct-contract payers, for each prescription filled with 340B Processed Drugs.
2. The Specialty Dispensing Fee shall be billed on the 1st and the 15th of each month in accordance with a 340B Service Provider invoicing process.
3. Covered Entity agrees and understands that Pharmacy, upon written notice to Covered Entity, may adjust the Dispensing Fee on an annual basis to account for any of the following: (i) an increase in the Medical Care Commodities Index ("CPI-U-MCC") as published by the United States Bureau of Labor Statistics; (ii) an increase in direct and indirect remuneration fees; or (iii) a significant change in drug mix or average day supply. In the event the identified CPI-U-MCC ceases to be published or updated, the Parties will substitute the approximate Consumer Price Index. Any other changes in the Dispensing Fee must be agreed to in writing executed by both Parties.

ADDENDUM B
ATTACHMENT 4

SPECIALTY PHARMACY
OPERATIONAL PROCEDURES

These Operational Procedures outline the parameters used to operationalize the Covered Entity's Specialty 340B Program.

Purpose

340B Service Provider will review eligibility, track the patients, prescriptions and drugs dispensed to 340B eligible patients, and maintain a virtual inventory replenishment system on behalf of the Covered Entity and the Specialty Pharmacy.

Policy

It is the policy of the Covered Entity that all contract pharmacies will receive drug inventory replenishments. For those drugs dispensed to Eligible Patients that reach or surpass the Unit of Issuance (as hereinafter defined), Covered Entity or its 340B Service Provider will order replenishment of Specialty Pharmacy's drug inventory. Inventory replenishment is subject to the agreed upon terms herein and the availability of the drug from the Wholesaler.

Definitions

For the purpose of the Specialty 340B arrangement the following definitions shall apply:

1. "Unit of Issuance" refers to the package size of the drug as it is sold by the wholesaler.
2. "NDC" refers to the 11-digit National Drug Code and is the number assigned to each drug and includes information regarding drug, strength, manufacturer, package size, etc.
3. "340B Processed Drugs" are defined as drugs that are covered by this Agreement, processed according to all 340B policies and procedures established by Covered Entity, and able to be replenished by Covered Entity. With respect to Specialty Pharmacy, the 340B Processed Drugs within the scope and covered by this Agreement, include only those which are "Branded Drugs" dispensed to patients who are covered by payers included in Pharmacy Services by Specialty Pharmacy. Branded Drugs are drugs marketed under a proprietary, trademark-protected name, that are patent protected, and that are designated a branded drug by the applicable manufacturer.
4. "Wholesaler" refers to Pharmacy's Wholesaler.
5. All other capitalized terms have the meaning ascribed to them in this Agreement, including its other Attachments, to which this Attachment 4 is attached.

NPI Report

With respect to Specialty Pharmacy and to support the ongoing evaluation of the program, the Covered Entity or the 340B Service Provider shall deliver to Specialty Pharmacy a quarterly report that lists the National Provider Identifier (NPI) values ("NPI Report") for all facilities that are affiliated with the Covered Entity, such as ambulatory surgery center, urgent care center, and hospitals ("Facilities") and those primary care, specialists, and sub-specialist clinicians who have medical staff privileges at a Facility and/or are considered to be a member of the Covered Entity's organization ("Physicians"). The NPI Report shall be in a format and delivered in a means mutually agreed upon by the organizations. Such reports shall include key information on each Physician and/or Facility inclusive of, but not limited to name, NPI, designation as primary or specialty care physician, specialty type, office phone and fax numbers, and primary practice address, town, and zip code. Each NPI Report shall indicate changes (additions and deletions) from the prior NPI Report. Covered Entity warrants that each NPI Report shall be accurate and complete.

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ADDENDUM B
ATTACHMENT 4-a

SPECIALTY PHARMACY

PROCEDURES

A. Inventory Tracking and Replenishment

1. 340B Service Provider will track the quantity of each drug dispensed to an Eligible Patient.
2. 340B Service Provider will tally the quantities of 340B Processed Drugs and determine the inventory to be replenished to Specialty Pharmacy based upon the package size or Unit of Issuance associated with each 340B Processed Drug's NDC.
3. Two (2) to three (3) times per week, and subject to change by Specialty Pharmacy, 340B Service Provider shall order, for delivery to Specialty Pharmacy, all drugs which have been determined to be eligible and have reached a full package size but have not yet been delivered to Specialty Pharmacy.
4. Prescriptions adjudicated with a compound code (National Council for Prescription Drug Programs ("NCPDP") compound code field 406-D6 value '2') will be excluded from 340B Processed Drugs.
5. Once the electronic inventory replenishment order has been submitted to the Wholesaler, 340B Service Provider will electronically verify that the drug Wholesaler has received the order. Once the drug Wholesaler sends an invoice for the Specialty Pharmacy's inventory replenishment order to 340B Service Provider on behalf of Covered Entity, 340B Service Provider will electronically reconcile the drug Wholesaler invoice with the 340B drug replenishment order based upon the purchase order number.
6. On a schedule determined by the Specialty Pharmacy, 340B Service Provider shall order, for delivery to Specialty Pharmacy, all Drugs which have been determined to be eligible and have reached a full package size but have not yet been delivered to Specialty Pharmacy. Specialty Pharmacy's wholesaler ("Wholesaler") will be used as wholesaler for the purposes of replenishment, and is subject to change upon notice.
7. *Slow Moving Items.*
 - a. Any drug that is dispensed that does not meet a Unit of Issuance within thirty (30) days since last dispensed will be reconciled on the following Invoice (as defined in Section B.2). The 340B Service Provider may have specific timelines to accommodate the thirty (30) day timeframe.
 - b. *Slow Moving Partial Packages.* Drugs are dispensed by billing units but purchased in Units of Issuance. At times, a single prescription will complete one Unit of Issuance but with a remainder that causes part of the prescription to be replenished but not the full prescription. If there are no additional claims within thirty (30) days to exceed the orderable full package size, then the claim will be reversed from 340B due to non-

replenishment. If this claim has already been Invoiced, the claim reversal will be reflected on the subsequent Invoice. The 340B Service Provider may have specific timelines to accommodate the thirty (30) day timeframe.

8. *Out-of-Stock Drugs.* For all out-of-stock (“OOS”) drugs owed by Covered Entity to Specialty Pharmacy, 340B Service Provider will reorder these OOS drugs onto the next inventory replenishment order. If, however, after thirty (30) calendar days from date of first order, the drug(s) remain OOS, that portion of the drugs will be reconciled on the following Invoice. The 340B Service Provider may have specific timelines to accommodate the thirty (30) day time frame. If the reconciled claim was paid by a prescription drug insurance plan, Covered Entity will return the reimbursement to the Specialty Pharmacy for the drugs in question and Specialty Pharmacy will return any Dispensing Fees paid to it by Covered Entity.
9. *Discontinued or Changed NDCs.* Periodically, pharmaceutical manufacturers will discontinue or change certain NDCs. 340B Service Provider will report through the application for the Specialty Pharmacy and Covered Entity any such changes in order to prevent replenishment opportunity from accumulating for NDCs that cannot be replenished. In the event that 340B eligible claims are adjudicated for a discontinued NDC which cannot be reversed, 340B Service Provider will attempt to replenish said NDCs, and if unsuccessful, they will be reconciled either as OOS or slow moving items, in accordance with Sections A.7 and A.8 above.
10. *Drop Ship Drugs.* Certain drugs may require the Covered Entity to manually purchase the drug directly from the pharmaceutical manufacturer. The Covered Entity may be required to manually submit specific hospital information to the Wholesaler prior to the release of the purchase order as determined by the pharmaceutical manufacturer.
11. *Reconciliation.* 340B Service Provider, Covered Entity, and Specialty Pharmacy will conduct a quarterly reconciliation of dispensed drugs against those replenishment 340B Processed Drugs received by Specialty Pharmacy.
 - a. If 340B Service Provider, Covered Entity, or Specialty Pharmacy uncover a discrepancy as a result of the dispensed drugs being OOS, slow-moving or discontinued, the Parties will resolve such discrepancies in accordance with Sections A.7, A.8, or A.9 above.
 - b. In the event 340B Service Provider or the Parties determine that the quantity of 340B Processed Drugs provided to Specialty Pharmacy exceeds the quantity to which it was entitled hereunder, the Parties will, in good faith, select one of the following options in the manner that is as transparent as possible, in accordance with HRSA guidance and the Parties’ desire to minimize or eliminate excess inventory: (i) return the excess quantity to the Wholesaler; (ii) work together to take appropriate corrective action such as credit-and-rebill, offering manufacturer refunds, etc.; (iii) if the excess drug product was purchased in the same calendar quarter, adjust the virtual inventory so that such excess is applied against future 340B Processed Drug orders. In the event 340B Service Provider or the Parties determine that the quantity of 340B Processed Drugs provided to Specialty Pharmacy is less than the quantity of drugs dispensed to Eligible Patients hereunder, Specialty Pharmacy will reasonably cooperate with Covered Entity and 340B Service Provider in ordering replacement 340B Processed Drugs sufficient to eliminate the shortfall. Specialty Pharmacy will reasonably cooperate with Covered

Entity and 340B Service Provider to provide supporting documentation reflecting any discrepancies identified in accordance with the above.

B. Claim Processing, Invoices and Payments

1. Prescription claim data will be sent each business day by the Specialty Pharmacy via secure file transfer protocol (“FTP”) server to 340B Service Provider for 340B eligibility review purposes. All 340B eligibility responses by the 340B Service Provider will be sent back to the Specialty Pharmacy via secure FTP within forty-eight (48) hours of initial transmission.
2. On the 1st and 15th of the month, 340B Service Provider shall prepare and electronically deliver to Specialty Pharmacy a reconciliation which identifies all claims for which Specialty Pharmacy will provide reimbursement to Covered Entity (“Invoice”).
3. For each 340B-eligible claim, Specialty Pharmacy shall owe Covered Entity directly an amount equal to the reimbursement obtained for the drug less the Dispensing Fee as determined by the executed Agreement.
4. Within thirty (30) days from the date the Invoice was received, Specialty Pharmacy shall remit payment thereof to 340B Service Provider, unless said payment date falls on a weekend or holiday, in which case payment shall be promptly remitted on the following business day. 340B Service Provider will distribute Covered Entity payments in accordance with 340B Service Provider contract terms.

C. Close Out and Final Reconciliation

1. *Shutdown Procedure.* In the event Specialty Pharmacy or Covered Entity decides to terminate this Agreement, the following shutdown procedure must be utilized and shall occur no later than sixty (60) days from the date of termination of this Agreement:
 - a. The Parties will conduct reconciliation in accordance with Section A.11 above.
 - b. Covered Entity shall cause 340B Service Provider to generate an over/under replenishment status inventory report.
 - c. The final reconciliation report shall occur no later than sixty (60) days from the date of termination of this Agreement.

D. Operational Matrix:

<u>Item</u>	<u>Agreed to terms</u>
Inventory Replenishment Frequency	Two (2) to three (3) times weekly, depending on 340B Service Provider
Wholesaler	Pharmacy's Wholesaler
340B Eligibility Reversal Window; based on Inventory Availability	Completed within thirty (30) days
Specialty Dispensing Fee for 340B Processed Drugs	Refer to <u>Addendum B, Attachment 3</u>
340B Eligibility Retrospective Review (by Hospital/Administrator)	Completed within a minimum of thirty (30) days or a maximum of three-hundred sixty-five (365) days, dependent on operational requirements. 340B Service Provider may have specific timelines to accommodate.
Invoicing	1st & 15th of each month
Payment Terms	Within thirty (30) days of date of Invoice
Formulary	Branded Drugs

ADDENDUM C

340B ADMINISTRATIVE SERVICES ADDENDUM

This 340B Administrative Services Addendum is by and between **Galion City Health Department**, a not-for-profit corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, (hereinafter "Covered Entity") and **Wellpartner, LLC** ("Wellpartner")

NOW, THEREFORE, the Covered Entity and Wellpartner agree as follows:

1. PURPOSE; DEFINITIONS

Covered Entity and Wellpartner agree to add this 340B Administrative Services Addendum to the Pharmacy Services Agreement ("Agreement") for the purpose of Wellpartner providing 340B Administrative Services to Covered Entity. All capitalized terms not otherwise defined in this 340B Administrative Services Addendum shall have the meaning ascribed to them in the Agreement. The following terms which are not defined in the Agreement have the meaning described below for purposes of this 340B Administrative Services Addendum only:

- 1.1 "340B Administrative Services Addendum" means this 340B Administrative Services Addendum, including all attachments and schedules hereto, as they may be amended from time to time.
- 1.2 "340B Claims Qualification Criteria" means the written standards solely established by Covered Entity that determine which drugs qualify as 340B Processed Drugs hereunder.
- 1.3 "340B Price" means the 340B price available to Covered Entity on the date the claim is qualified by Wellpartner as a 340B Processed Drug. 340B Price is obtained from the wholesaler price file in effect and the Covered Entity based on the 11-digit National Drug Code ("NDC") for the dispensed drug product.
- 1.4 "Additional Fee" means monies earned by Wellpartner and owed by Covered Entity in connection with Wellpartner's provision of an Additional Service, as calculated in accordance with Attachment 3 of this 340B Administrative Services Addendum.
- 1.5 "Additional Service" is a service that is in addition to and separate from the Administrative Services that, if elected by Covered Entity, Wellpartner agrees to provide and Covered Entity agrees to pay for pursuant to the terms of Section 6 and Attachment 3 of this 340B Administrative Services Addendum.
- 1.6 "Administrative Fee" means monies earned by Wellpartner from Covered Entity in connection with Wellpartner's provision of the Administrative Services, as calculated in accordance with Attachment 1 to this 340B Administrative Services Addendum.
- 1.7 "Administrative Services" are the services provided by Wellpartner to Covered Entity under Section 2, Section 3, Section 4, and Section 5 of this 340B Administrative Services Addendum.
- 1.8 "BAA" means the Business Associate Agreement between Covered Entity and Wellpartner and attached hereto as Attachment 4.

- 1.9 “Claim” means a prescription claim for a covered outpatient prescription dispensed by a Pharmacy that has been submitted by the Pharmacy to Wellpartner for verification and qualification of 340B eligibility based on Covered Entity’s 340B Claims Qualification Criteria.
- 1.10 “Contracted Pharmacy Locations” means those Contracted Pharmacy Locations listed in the Agreement.
- 1.11 “Encounter Data Files” means outpatient encounter data for Covered Entity Sites.
- 1.12 “Effective Date” means the Effective Date of the Pharmacy Services Agreement between Covered Entity and Pharmacy.
- 1.13 “Party” or “Parties” means Covered Entity or Wellpartner, either individually or collectively as the case may be.
- 1.14 “Prescriber” means the health care professional that prescribes 340B Processed Drugs for Eligible Patients.
- 1.15 “Prescriber List” means a list of Covered Entity’s Prescribers.
- 1.16 “Third-Party Payer” means a commercial or governmental third-party payer or insurer providing health care benefits to an Eligible Patient under a health care benefit plan.
- 1.17 “Total Covered Entity Net Amount” means (i) total amount paid for all Eligible Patient Claims (regardless of who paid, e.g., Third-Party Payer, Eligible Patient, or Covered Entity) minus (ii) the 340B Price, minus (iii) the total Dispensing Fees owed to Pharmacy, minus (iv) the total Administrative Fees owed to Wellpartner.
- 1.18 “Wellpartner Clarity” refers to Wellpartner’s web-based portal that provides Wellpartner specified data reports to assist Covered Entity’s oversight of its participation in the 340B Program.

2. IMPLEMENTATION OF COVERED ENTITY’S 340B PROGRAM WITH WELLPARTNER

- 2.1 Covered Entity shall:
 - 2.1.1 Ensure Wellpartner has all relevant and pertinent information related to Covered Entity’s eligibility for participation in the 340B Program.
 - 2.1.2 Assist Wellpartner in confirming proper set-up of Wellpartner’s system to ensure all relevant and pertinent information for Covered Entity’s 340B program is entered correctly.
 - 2.1.3 Conduct periodic audits of reports and data extracts to ensure proper qualification of Claims eligible for 340B and provide that information to Wellpartner.
 - 2.1.4 Coordinate with Wellpartner in the implementation of any quality assurance programs and process improvement initiatives reasonably requested by Covered Entity for Covered

Entity's 340B program and Administrative Services provided under this 340B Administrative Services Addendum.

- 2.1.5 Provide Wellpartner with initial BIN and PCN numbers to be included in or specifically excluded from its 340B Program, and update those numbers on a regular basis.
 - 2.1.6 Provide Wellpartner reasonable access to appropriate Covered Entity personnel to ensure Parties can satisfy objectives and timelines for Covered Entity's 340B program.
 - 2.1.7 Provide, where applicable, subject to the terms of the BAA, Encounter Data Files, electronic prescriptions, and Prescriber List in a format and on a schedule agreed to by the Parties.
- 2.2 Wellpartner, upon Covered Entity's request and in coordination with Covered entity, shall:
- 2.2.1 Provide appropriate regional pharmacy mapping and engage in pharmacy outreach, and recommend to Covered Entity appropriate pharmacies that may serve in Covered Entity's network of contract pharmacies.
 - 2.2.2 Use reasonable efforts to train Covered Entity and Pharmacy staff on Wellpartner's rules, policies and processes and 340B Program requirements.
 - 2.2.3 As applicable, assist Covered Entity in its contracting for third-party vendor services as necessary for the ongoing management and support of Covered Entity's 340B program (e.g., drug wholesalers). If a wholesaler used by Wellpartner or Pharmacy needs to contract with Covered Entity, then Covered Entity agrees to provide any required information and authorize Wellpartner to act on Covered Entity's behalf with wholesaler as needed in order for Wellpartner to provide the Administrative Services.
 - 2.2.4 Assist Covered Entity as needed during its contracting process with pharmacies. Covered Entity acknowledges that, subject to applicable state and federal laws and related professional standards, the treatment of any patient and the prescribing of any drug is at the sole discretion of the Prescriber, and the decision to dispense any drugs is at the sole discretion of Pharmacy. Covered Entity acknowledges that in the performance of Administrative Services, Wellpartner makes no representations, either express or implied, with respect to the discretion exercised by the Prescriber or Pharmacy.
 - 2.2.5 As applicable, assist Covered Entity with the administration of its Discount Cash Plan. In order for Wellpartner to properly administer Covered Entity's Discount Cash Plan, Covered Entity must assign a group code to patients who are eligible for the Discount Cash Plan and such group code must be presented to Pharmacy at the time of 340B Claims Adjudication.
 - 2.2.6 Provide Administrative Services for each Contracted Pharmacy Location.

3. COVERED DRUG DISPENSING AND PROGRAM REPORTS

- 3.1 Covered Entity shall provide its 340B Claims Qualification Criteria to Wellpartner for each Contracted Pharmacy Location. For avoidance of doubt, Wellpartner does not make any

representations or warranties with respect to the qualification criteria for drugs as 340B eligible or as to which drugs will qualify as 340B Processed Drugs.

- 3.2 Wellpartner agrees to receive certain information regarding Claims as follows: (a) directly from Pharmacy in a format agreed to by Wellpartner or (b) from Pharmacy's Claim switching service, in a format agreed to by Wellpartner and provided that Wellpartner has agreed to utilize the identified switching service.
- 3.3 Wellpartner shall review Claims based on the 340B Claims Qualification Criteria.
- 3.4 Covered Entity acknowledges that Wellpartner may be unable to qualify and verify certain Claims in the event prescription information is incomplete or a prescription does not otherwise meet applicable federal and state laws and regulations including state Board of Pharmacy requirements.
- 3.5 Covered Entity will not take any action to prevent an Eligible Patient from choosing any pharmacy of his or her choice to fill the prescription. This 340B Administrative Services Addendum shall not be interpreted, construed, or otherwise used to limit patient access or choice.
- 3.6 Wellpartner shall use the information from Claims that have been qualified as 340B eligible in order to create reports referenced in Attachment 2 to this 340B Administrative Services Addendum. Covered Entity shall have access to such reports via Wellpartner Clarity at any time via a username and password.

4. FINANCIAL RECONCILIATION SERVICES

- 4.1 Wellpartner shall, consistent with this 340B Administrative Services Addendum and the applicable Operational Procedures, provide the following 340B account reconciliation services to Covered Entity for the Contracted Pharmacy Locations:
 - 4.1.1 Following the dispensing of a Claim by the Pharmacy, Wellpartner shall review the Claim information received from Pharmacy, the 340B Claims Qualification Criteria, the Prescriber List, and the Encounter Data Files, and any other information which Wellpartner deems necessary for determining whether the Claim is 340B eligible, managing replenishment, ensuring the proper reconciliation of 340B Program accounts, and reporting under the 340B Program.
 - 4.1.2 Wellpartner shall invoice and undertake the collection and remittance of the amounts due from the appropriate parties in connection with such Eligible Patient Claims; and/or coordinate with Covered Entity for the reconciliation of Claims and payments due under the Agreement, in accordance with the Operational Procedures.
 - 4.1.3 Neither Party will submit or cause to be included any Claim which is known by it to be paid, in whole or in part, by a fee-for-service Medicaid program, unless the Covered Entity, Pharmacy, and the State have established an arrangement to prevent duplicate discounts and Covered Entity notifies HRSA of the arrangement. Covered Entity shall provide Wellpartner with reasonable notice of any such arrangement permitting submission of Claims to fee-for-service Medicaid. Covered Entity agrees it is solely responsible for ensuring that any Claims submitted to fee-for-service Medicaid or Medicaid managed care comply with the 340B claims identification requirements

imposed by HRSA, the State, or the applicable Medicaid managed care plan, including compliance with HRSA's Medicaid Exclusion File, if applicable.

- 4.1.4 The amount remitted to Covered Entity shall be the appropriate amount collected by the Pharmacy for Eligible Patient Claims dispensed during that dispensing period, less: (a) the applicable Dispensing Fee retained by Pharmacy, as applicable; (b) the Administrative Fee retained by Wellpartner; and (c) any offset amounts required for any inventory and financial reconciliations or reversals ("True-Up"). Wellpartner shall remit the aforementioned amount to Covered Entity approximately forty-five (45) days after Wellpartner's standard invoicing cycle. For Eligible Patient Claims where Covered Entity elects to contribute a share of the Eligible Patient's cost, the related portion shall be deducted from the amounts due to Covered Entity. The Parties shall otherwise abide by the payment terms specified in the applicable Operational Procedures.
- 4.1.5 Wellpartner will initiate an Electronic Funds Transfer ("EFT") to the Covered Entity account. The EFT process used under this 340B Administrative Services Addendum will be finalized and instituted by the Parties at the time of Wellpartner implementation or Pharmacy implementation, as applicable.
- 4.1.6 Covered Entity acknowledges and agrees that Wellpartner shall be authorized to credit and/or offset against any amounts due a Party hereunder, any overpayments, reversals or other adjustments determined to be necessary or appropriate to properly reflect the terms of the Agreement and this 340B Administrative Services Addendum. Wellpartner shall not be responsible for pursuing any unresolved claims for payment that may exist with any Third-Party Payer, wholesaler, Medicaid agency or other person or entity.
- 4.1.7 If as a result of any audit conducted pursuant to Section 7 below it is determined (and otherwise supported by the dispensing, payment, and reconciliation records and reports) that a Party was either overpaid or underpaid, or if an ineligible Claim was processed, then, as necessary, the Claim will be reprocessed in accordance with the applicable Operational Procedures and the Party owing such monies shall be obligated to make the necessary payments to the other Party within thirty (30) days receipt of such information supporting said obligation.
- 4.2 Covered Entity acknowledges that Wellpartner operates only as an intermediary between Covered Entity and Pharmacy. Wellpartner will not be obligated to pay Covered Entity or Pharmacy amounts which may become due hereunder out of Wellpartner's own funds; rather, Wellpartner will pay or reconcile amounts from Pharmacy or Covered Entity funds after those funds are received by Wellpartner from Pharmacy or Covered Entity, as applicable.
- 4.3 Each Party shall be responsible for the payment of their respective taxes, fees and/or similar assessments and any related penalties and interest assigned which is due or may become due in connection with the Agreement; including as a result of income/earnings (whether gross or net), property, employment, payroll, worker's compensation, unemployment or other similar assessment.

5. INVENTORY MANAGEMENT SERVICES

- 5.1 Wellpartner and Covered Entity agree to follow the processes for inventory tracking and replenishment described in the Operational Procedures. Those terms in each of the Operational Procedures are deemed part of this 340B Administrative Services Addendum.
- 5.2 Wellpartner shall monitor and track 340B Processed Drugs dispensed by Contracted Pharmacy Locations to Eligible Patients to accurately assess proper replenishment of 340B Processed Drugs. Wellpartner shall arrange for such drugs to be shipped directly to Pharmacy and billed to Covered Entity (in the form of a “bill-to/ship-to” arrangement) and shall perform tracking, reporting, and auditing of replenishment orders consistent with applicable laws and regulations.
- 5.3 Wellpartner shall notify Covered Entity of any known discrepancies with respect to replenishment shipments received by the Pharmacy from a wholesaler and undertake commercially reasonable action to make Covered Entity and Pharmacy aware of the discrepancy; provided that Wellpartner shall not be liable for refunding amounts to the Covered Entity or wholesaler or assuring return of the 340B drug to the wholesaler or Covered Entity.
- 5.4 Covered Entity may utilize Wellpartner Clarity to conduct audits to verify Wellpartner’s compliance with obligations related to provision of Administrative Services. If as a result of any such audit, it is determined that an ineligible Claim was submitted or an Eligible Patient Claim was incorrectly adjudicated, Wellpartner, subject to the Operational Procedures, shall take commercially reasonable steps to reverse or recalculate the Claim.
- 5.5 Covered Entity shall immediately notify Wellpartner in the event of any suspected fraud or abuse related to the 340B Program by Covered Entity staff, or an Eligible Patient or person claiming to be an Eligible Patient of Covered Entity. Covered Entity shall work with Wellpartner and regulatory enforcement authorities to investigate and resolve any suspected fraud or abuse issue.

6. ADDITIONAL SERVICES

- 6.1 If Covered Entity has elected an Additional Service, such Additional Service is set forth in Attachment 3.

7. RECORDS AND AUDITS

- 7.1 Each Party shall maintain all records and other information relating to the performance of its obligations under this 340B Administrative Services Addendum in a manner and for a period as required by the 340B statute and all other applicable law, regulation, and guidance, and otherwise consistent with the terms of this 340B Administrative Services Addendum, during the term of this 340B Administrative Services Addendum and for the three (3) years thereafter.
- 7.2 Each Party grants to the other Party , and its duly authorized representatives, the right to audit its applicable books and records, including all electronic records, to verify and ensure compliance with the duties, obligations and transactions outlined under this 340B Administrative Services Addendum. Any such audit shall be conducted at the auditing Party’s sole cost and expense, during reasonable business hours, upon reasonable prior written notice, and in a manner so as not to interfere with the conduct of audited Party’s business. Each Party agrees to use commercially reasonable efforts to cooperate with such audits in good faith. Any such examinations shall be subject to the requirements of state and federal laws regarding the

confidentiality of medical and prescription drug records. Additionally, all information obtained as a result of any such examinations shall be held in strict confidence and used solely for the purposes of ensuring compliance with the Agreement. Audits may be made at any time during the term hereof, and for up to twelve (12) months after the expiration or termination of this 340B Administrative Services Addendum.

- 7.3 The Parties agree that the 340B Administrative Services described in this 340B Administrative Services Addendum are not Pharmacy Services, as defined in the Agreement and, therefore, this 340B Administrative Services Addendum is not a written contract for contract pharmacy services covered by 75 Fed. Reg. 10272 (March 5, 2010).

8. COMPLIANCE

- 8.1 Subject to Covered Entity's cooperation, direction, and supervision, Wellpartner shall perform its Administrative Services under this 340B Administrative Services Addendum consistent with the requirements of the 340B statute and all other applicable laws, regulations, and guidance.
- 8.2 Wellpartner shall provide information and guidance to the Covered Entity to reasonably assist Covered Entity's compliance with the 340B statute and all other applicable laws, regulations, and guidance.
- 8.3 Covered Entity shall be responsible for all aspects of Covered Entity's participation in the 340B Program and for ensuring that such participation is in compliance with the 340B Program. Wellpartner shall rely on the information and data contained in the Prescriber Data Files and Encounter Data Files when making Eligible Patient determinations hereunder.

9. INDEMNIFICATION; LIMITATION OF LIABILITY

- 9.1 Each Party ("Indemnifying Party") shall defend, indemnify and hold harmless the other party, its subsidiaries and affiliates and each of their respective officers, directors, agents, representatives, successors, assigns, and employees (collectively "Indemnified Party") from and against any and all third party claims, actions, suits, demands, damages, obligations, losses, settlements, judgments, costs, and expenses (including reasonable attorneys' fees) (collectively, "Indemnification Claims") incurred by any Indemnified Party to the extent arising out of or relating to Indemnifying Party's negligence, willful misconduct, or breach of its obligations, representations or warranties set forth in this 340B Administrative Services Addendum, except to the extent such Indemnification Claims are caused by or result from the negligence or willful misconduct of the Indemnified Party.
- 9.2 The Indemnified Party shall promptly notify the Indemnifying Party of any Indemnification Claim for which indemnification is sought, upon actual knowledge of such Indemnification Claim; provided, however, that failure to give such notice shall not relieve the Indemnifying Party of its obligations under this Section except to the extent that the Indemnifying Party is materially prejudiced by such failure. The Indemnifying Party shall have the right and option to undertake and control such defense of such action with counsel of its choice. The Indemnifying Party shall select qualified counsel with demonstrable experience defending claims of the type to be defended and approved by the Indemnified Party, which approval shall not be unreasonably withheld. The Indemnifying Party shall not concede or settle or compromise any Indemnification Claim without the prior written approval of the Indemnified Party, which shall not be unreasonably withheld.

- 9.3 **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN ANY OTHER SECTION OF THIS 340B ADMINISTRATIVE SERVICES ADDENDUM, IN NO EVENT SHALL WELLPARTNER BE LIABLE UNDER THIS 340B ADMINISTRATIVE SERVICES ADDENDUM (WHETHER IN AN ACTION IN NEGLIGENCE, CONTRACT OR TORT OR BASED ON A WARRANTY OR OTHERWISE) FOR FAILURE TO REALIZE SAVINGS OR LOSS OF PROFITS, REVENUE, OR ANY OTHER INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES. WELLPARTNER'S TOTAL LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS 340B ADMINISTRATIVE SERVICES ADDENDUM SHALL BE LIMITED TO DAMAGES IN AN AMOUNT EQUAL TO THE AMOUNT OWED BY COVERED ENTITY TO WELLPARTNER DURING THE THREE (3) MONTHS PRIOR TO THE DATE THE LEGAL CLAIM IS MADE BY COVERED ENTITY.**

10. TERM AND TERMINATION

- 10.1 This 340B Administrative Services Addendum shall commence on the Effective Date and continue as long as the Agreement is in effect, unless this 340B Administrative Services Addendum is terminated earlier for reasons described herein or Covered Entity and Wellpartner mutually agree to continue this 340B Administrative Services Addendum despite the termination of the Agreement between Covered Entity and Pharmacy. The Parties recognize that this 340B Administrative Services Addendum will become operational as soon as practical following the date this 340B Administrative Services Addendum is fully executed, but in no event earlier than the Effective Date. Notwithstanding anything to the contrary herein, this 340B Administrative Services Addendum may be terminated early:
- 10.1.1 By mutual agreement of Covered Entity and Wellpartner;
 - 10.1.2 Upon prior written notice of a material breach of this 340B Administrative Services Addendum by the non-breaching Party to the breaching Party, which is not cured to the reasonable satisfaction of the non-breaching Party within thirty (30) days. The Party's waiver or failure to take action with respect to the other Party's failure to comply with any term or provision of this 340B Administrative Services Addendum shall not be deemed to be a waiver of the right to insist on future compliance with such term or provision;
 - 10.1.3 Upon termination of Covered Entity's eligibility as a Covered Entity under the 340B Program. Covered Entity agrees to provide immediate written notice to Wellpartner of loss or termination of its 340B eligibility. Termination shall be effective whether or not notice is provided by the Covered Entity; or
 - 10.1.4 By Wellpartner or Covered Entity without cause upon thirty (30) days prior written notice to the other Party. A termination by Covered Entity of this 340B Administrative Services Addendum shall also be a termination of the Agreement.

11. REPRESENTATIONS AND WARRANTIES

- 11.1 The Representations of Covered Entity described in Section 20 of the Agreement are incorporated herein.
- 11.2 Covered Entity represents and warrants that it is not aware of any third-party claims or potential claims against it, Wellpartner, or Pharmacy related to the Administrative Services provided by Wellpartner hereunder nor is it aware of a basis for such a claim.
- 11.3 Wellpartner represents and warrants that it is (i) duly organized and validly existing in its state of formation/incorporation; (ii) has all requisite power and authority to execute and deliver this 340B Administrative Services Addendum and to perform its obligations hereunder; and (iii) is not a party to any other agreement that would prevent or restrict its performance hereunder.
- 11.4 **EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS 340B ADMINISTRATIVE SERVICES ADDENDUM, WELLPARTNER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.**

12. MISCELLANEOUS

- 12.1 Sections 14 (Non-Assignment), 16 (Compliance With Laws), 17 (Choice of Law), 21 (Patient Privacy and HIPAA Compliance), 22 (Non-Disclosure), 24 (Force Majeure), 25 (Entire Agreement), 26 (Independent Contractors), 27 (Third Party Beneficiaries), 29 (Survival), 30 (Waiver), 31 (Counterparts), 32 (Notice) of the Agreement are incorporated herein by reference and shall apply between Wellpartner and Covered Entity.
- 12.2 Insurance. With respect to the performance of its obligations under this 340B Administrative Services Addendum, Wellpartner shall maintain general and professional liability insurance with limits of not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate per policy year.
- 12.3 Intellectual Property. During the term of this 340B Administrative Services Addendum, Covered Entity may access and use Wellpartner's Administrative Services or Additional Services (collectively, "Services") on a limited, non-sublicensable, non-transferable, and non-exclusive basis. Wellpartner retains all right, title, and interest in and to the Services and all logos and trademarks reproduced through the Services. This 340B Administrative Services Addendum does not grant Covered Entity any intellectual property rights in the Services or any of its components.

[signatures on following page]

IN WITNESS WHEREOF, Wellpartner and Covered Entity have executed this 340B Administrative Services Addendum as of the date of the last signature below.

WELLPARTNER, LLC

By: _____
Name: _____
Its: _____
Date: _____
Address: 20800 SW 115th Avenue, Suite 100
Tualatin, OR 97062

GALION CITY HEALTH DEPARTMENT

By: _____ *Jason McBride* _____
Name: _____ Jason McBride _____
Its: _____ Health Commissioner _____
Date: _____ Sep 11, 2023 _____
Address: _____

340B ADMINISTRATIVE SERVICES ADDENDUM
ATTACHMENT 1

FINANCIAL TERMS

The reimbursement and other terms set forth in this Attachment 1 represent the entire financial understanding between Wellpartner and Covered Entity with respect to the Administrative Services provided under 340B Administrative Services Addendum. Wellpartner and Covered Entity have freely negotiated the fees set forth herein and agree that such fees are consistent with and otherwise represent a fair market value for Administrative Services rendered. Wellpartner and Covered Entity also agree to the applicable terms and conditions in the Operational Procedures.

1. ADMINISTRATIVE FEE

- 1.1 For each 340B Processed Drug, Covered Entity shall reimburse Wellpartner an Administrative Fee equal to the greater of:
 - 1.1.1 \$4.00; or
 - 1.1.2 14.00% of the amount represented by the following formula: (i) total amount paid for a Claim (regardless of who paid, e.g. Third-Party Payer, Eligible Patient, or Covered Entity) minus (ii) the 340B Price.
- 1.2 Covered Entity shall reimburse Wellpartner a carve-out fee of \$0.01 for each Carved-Out Claim. For purposes of this provision, a “Carved-Out Claim” means a Claim that is 340B Program eligible, but that Covered Entity has chosen to exclude from its 340B Claims Qualification Criteria.
- 1.3 Notwithstanding any provision of this 340B Administrative Services Addendum including this Attachment 1, Covered Entity understands and agrees that Wellpartner shall be entitled to receive an Administrative Fee for Claims that are reversed or required to be reversed because of inaccurate or incomplete data or information provided by Covered Entity.
- 1.4 The Parties acknowledge that the 340B Price in effect on the date the Claim is qualified by Wellpartner may differ from the price of the 340B Processed Drug that Covered Entity purchases to replenish the dispensed drug including when completing reconciliation of inventory. Covered Entity shall in all cases be responsible to pay for the 340B Processed Drugs using the amounts contained on wholesaler invoices or Wellpartner invoices or statements which may differ from the 340B Price used to calculate the amount owed to Wellpartner hereunder.
- 1.5 In the event of any change in industry standards or legal or regulatory requirements imposed on the Covered Entity, Wellpartner or Pharmacy related to Administrative Services or the reimbursement and/or payment terms set forth in 340B Administrative Services Addendum including this Attachment 1, the Parties agree to work in good faith to modify the terms of this 340B Administrative Services Addendum including this Attachment 1 so that the level of compensation received by Wellpartner prior to such change is maintained.

340B ADMINISTRATIVE SERVICES ADDENDUM
ATTACHMENT 2

WELLPARTNER CLARITY REPORTS

1. **Carved in Claims by Covered Entity/Carved in Claims by Pharmacy:** Details dispensing events at the Claim level, including payment collection and reimbursement activity, Eligible Patient name, Prescriber name, prescription number, drug NDC and quantity, and amounts charged and amounts collected.
2. **Carved Out Claims Report:** Shows details of claims that carved out of the program.
3. **Medicaid Claims Sent to State:** Shows details of claims that were carved in for Medicaid and sent to the State.
4. **Medicaid Payers Claims:** Shows claim's detail of Medicaid payer claims.
5. **Brand vs. Generic Summary:** Shows number and percentage of claims that carved in for brand or generic drugs.
6. **340B Dashboard Report:** Replicates the Dashboard on the Portal.
7. **Carved in Claim Financials by Covered Entity/Carved in Claim Financials by Pharmacy:** Claim's detail showing financials (Administrative Fee, Dispensing Fee, Total Covered Entity Net Amount, True-Ups, etc.).
8. **Financial Performance Report:** Shows the monthly financial performance, including Total Covered Entity Net Amount, Covered Entity Revenue, Administrative Fees, True-up costs, Estimated 340B Price, and carve out Fees.
9. **Financial Summary:** Provides an executive summary of the 340B Program by reporting period.
10. **Back Ordered Items:** An inventory report that shows how many times Wellpartner has attempted to order specific drug/NDC and if the drug is just out of stock, or discontinued.
11. **Inventory Control by Covered Entity/Inventory Control by Pharmacy:** Details starting and ending balances in the 340B product accumulator, with dispensed and replenished amounts.
12. **Positive Inventory by Covered Entity/Positive Inventory by Pharmacy:** Shows a list of positive inventory that has accrued during Covered Entity's participation in the 340B Program.
13. **Purchase Order Details by Covered Entity/ Purchase Order Details by Pharmacy:** Shows when purchase orders were placed, for what products, and the estimated cost.
14. **True-Ups by Covered Entity/True-Ups by Pharmacy:** Shows when True-Ups were processed, for what products, and at what cost.
15. **Encounter Data Files:** Covered Entity encounter data (patient, prescriber, encounter date, clinic code).
16. **Covered Entity Eligible Patient List:** Covered Entity's Eligible Patient list.
17. **Covered Entity Prescriber List:** Covered Entity Prescriber list.
18. **Global Specialty List:** List of specialty drugs/NDC's.
19. **Payer Summary:** Shows percentage of carved in claims that were insured or uninsured.
20. **Patient Carve-In Fluctuation:** Shows the number of claims that are carved in per patient and the carve-in percentage rate.

340B ADMINISTRATIVE SERVICES ADDENDUM
ATTACHMENT 3

ADDITIONAL SERVICES AND ADDITIONAL FEES

[INTENTIONALLY OMITTED]

340B ADMINISTRATIVE SERVICES AGREEMENT
ATTACHMENT 4

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is effective as of the Effective Date specified below by and between Wellpartner, LLC on behalf of itself and its subsidiaries and affiliates with an office at 20800 SW 115th Avenue, Suite 100, Tualatin, OR 97062 (“Business Associate”) and Galion City Health Department with an office at 113 Harding Way East, Galion, OH 44833 (“Covered Entity”) for which Business Associate provides services pursuant to one or more service agreements or other arrangements entered into between the parties (collectively “Service Agreement”).

Covered Entity and Business Associate mutually agree to the terms of this BAA in order to comply with the HIPAA Rules”) and other applicable HIPAA Rules, as defined below.

Covered Entity and Business Associate have entered into one or more Service Agreements wherein the Business Associate may create, receive, maintain or transmit Protected Health Information for or on behalf of the Covered Entity.

Covered Entity and Business Associate intend that this BAA shall apply to all such Service Agreements.

This BAA is effective as the Effective Date of the Service Agreement (the “Effective Date”).

1. Definitions

- (a) “Breach” shall have the same meaning as the term “Breach” in 45 CFR 164.402.
- (b) “HIPAA Rules” shall mean the Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR parts 160 and 164.
- (c) “Individual” shall have the same meaning as the term “Individual” in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g) or other applicable federal or state law.
- (d) “Protected Health Information” or “PHI” shall have the same meaning as such term as defined in 45 CFR 160.103, but limited to information created, accessed or received on behalf of Covered Entity.
- (e) “Secure” shall mean to render unusable, unreadable or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of the HITECH Act.
- (f) “Successful Security Incident” shall mean any Security Incident (as defined in 45 CFR 164.304) that results in the unauthorized use, access, disclosure, modification or destruction of electronic PHI.

All capitalized terms used in this BAA and not defined elsewhere herein or in the Services Agreement shall have the same meaning as those terms as used or defined in the HIPAA Rules.

2. Obligations of Business Associate

- (a) Business Associate agrees to comply with the HIPAA Rules that apply to Business Associates concerning the confidentiality, privacy, and security of PHI. To the extent Business Associate carries out any obligations under the Privacy Rule (45 CFR Subpart E of Part 164) for Covered Entity, Business Associate shall comply with the requirements of the Privacy Rule that apply to the performance of such obligations.
- (b) Business Associate shall enter into a written agreement meeting the requirements of 45 C.F.R. 164.504(e) and 164.314(a)(2) with any Subcontractor that may have access to PHI prior to the Subcontractor obtaining such access. Any such agreement shall contain restrictions, conditions and requirements that are at least as restrictive as those that apply to Business Associate in this BAA.
- (c) Business Associate agrees that it shall request, use and disclose only the minimum necessary PHI to perform or fulfill a specific function required or permitted under this BAA, in accordance with, and subject to the exceptions in, 45 CFR 164.502(b). Business Associate agrees to comply with any guidance issued by the Secretary regarding minimum necessary.
- (d) If Business Associate conducts, in whole or in part, any Transactions electronically on behalf of Covered Entity, Business Associate shall comply with the applicable requirements of 45 CFR 162 and shall require that any agents or Subcontractors that perform, in whole or in part, such Transactions on its behalf, agree in writing to comply with such requirements.
- (e) Business Associate shall report to Covered Entity any Breach and any Successful Security Incident to Covered Entity promptly, but in no event later than within thirty (30) calendar days, after it is discovered (within the meaning of 45 CFR 164.410(a)(2)). Business Associate shall provide the information concerning the Breach as required by 45 CFR 164.410(c). If such information is not available to Business Associate at the time the Breach is required to be reported to Covered Entity, Business Associate shall provide such information to Covered Entity promptly as it becomes available. Business Associate shall maintain complete records regarding the Breach for the period required by 45 CFR 164.530(j) or such longer period required by state law, and shall make such records available to Covered Entity promptly upon request, and to the extent required by applicable law. The foregoing notwithstanding, for purposes of the Security Incident reporting obligation under this Paragraph 2(f), Business Associate hereby reports and Covered Entity acknowledges that (i) Business Associate experiences inconsequential incidents from time to time such as scans or “pings” that are not permitted past Business Associate’s firewall (“Inconsequential Attempted Incidents”), and (ii) this report satisfies the requirements of the HIPAA Rules with respect to Inconsequential Attempted Incidents until such time as further guidance from the Secretary indicates otherwise. Notice is hereby deemed given for unsuccessful Security Incidents.
- (f) Within ten (10) business days of receipt of a request from Covered Entity, Business Associate shall provide to an Individual, PHI relating to that Individual held by Business Associate or its agents or Subcontractors in a Designated Record Set in accordance with 45 CFR 164.524. In the event any Individual requests access to his or her PHI directly from Business Associate, Business Associate shall, within ten (10) business days of receipt of such request by Business Associate’s Privacy Office, respond directly to the Individual.

- (g) Within ten (10) business days of receipt of a request from Covered Entity, Business Associate agrees to make any requested amendment(s) to PHI held by it or any agent or Subcontractor in a Designated Record Set in accordance with 45 CFR 164.526. In the event any Individual requests an amendment to his or her PHI directly from Business Associate, Business Associate shall, within ten (10) business days of receipt thereof by Business Associate's Privacy Office shall respond directly to the Individual.
- (h) Business Associate agrees to document such disclosures of PHI made by it, and information related to such disclosure as would be required for Covered Entity to respond to a request by an Individual for an accounting in accordance with 45 CFR 164.528. Upon written request by Covered Entity, and within twenty (20) business days, Business Associate agrees to provide to Covered Entity information collected in accordance with this Paragraph (i) of this Section for Covered Entity to provide an accounting under 45 CFR 164.528. If any Individual requests an accounting of disclosures under 45 CFR 164.528(a) directly from Business Associate, Business Associate shall, within ten (10) business days of receipt of such request by Business Associate's Privacy Office, shall respond directly to the Individual.
- (i) Within ten (10) business days of receipt of a request from Covered Entity, Business Associate agrees to comply with any request for confidential communication of, or restriction on the use or disclosure of, PHI held by it or any agent or Subcontractor as requested by Covered Entity and in accordance with 45 CFR 164.522.
- (j) Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of Health and Human Services or her/his designees or other government authorities in a time and manner designated by Covered Entity or such governmental authorities, for purposes of determining compliance with the HIPAA Rules.
- (k) Business Associate shall maintain documentation of its obligations hereunder to the extent and for the period required by the HIPAA Rules, including 45 CFR 164.530(j).

3. Security of Protected Health Information

- (a) Business Associate agrees to implement appropriate administrative, physical, and technical safeguards to prevent the unauthorized use and disclosure of PHI, and to protect the confidentiality, integrity, and availability of Electronic PHI, as required by the HIPAA Rules.

4. Permitted Uses and Disclosures of Protected Health Information

- (a) Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by this BAA or as Required by Law.
- (b) Business Associate may use and disclose Protected Health Information as necessary in order to provide its services as described in the Services Agreement.
- (c) Business Associate may use Protected Health Information if necessary for its proper management and administration or to carry out its legal responsibilities. In addition, Business Associate may disclose Protected Health Information as necessary for its proper management and administration or to carry out its legal responsibilities provided that any such disclosure is Required by Law or is made in compliance with the HIPAA Rules.
- (d) Except as otherwise limited in this BAA, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).

- (e) Business Associate may de-identify PHI received from Covered Entity, consistent with the HIPAA Rules' standards for de-identification at 45 CFR 164.514.

5. Obligations of Covered Entity

- (a) Covered Entity shall provide Business Associate with the Notice of Privacy Practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such Notice of Privacy Practices.
- (b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522.
- (d) Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity.

6. Term and Termination

- (a) The term of this BAA shall be effective as of the Effective Date and shall terminate when all of the PHI maintained by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity, or, if Business Associate determines that it is infeasible to return or destroy the PHI, protections are extended to such PHI in accordance with the termination provisions in this section.
- (b) Upon a material breach of this BAA, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation and if Business Associate does not cure the breach or if a cure is not possible, end the violation, within thirty (30) days or receipt of written notice by Covered Entity then Covered Entity may terminate this BAA.
- (c) Except as provided in paragraph (b) of this subsection, upon termination of the Services Agreement for any reason, Business Associate shall return to Covered Entity or destroy all Protected Health Information in its possession or that of its Subcontractors or agents. Business Associate and its agents and Subcontractors shall retain no copies of the Protected Health Information. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall extend the protections of this BAA to the Protected Health Information, and limit further uses and disclosures of it to those purposes that make the return or destruction infeasible, for so long as Business Associate or its agents or Subcontractors hold such Protected Health Information.

7. Mitigation of Breach

If there is a Breach of PHI under the control of Business Associate or its agents or Subcontractors, Business Associate agrees mitigate, to the extent practicable, any harmful effect that is known to the Business Associate.

8. Miscellaneous

- (a) No Private Cause of Action. This BAA is not intended to and does not create a private cause of action by any individual, other than the parties to this BAA, as a result of any claim arising out of the breach of this BAA, the HIPAA rules or other state or federal law or regulation relating to privacy or security.

- (b) Assumption of Obligations. Except as expressly provided in the Service Agreements or this BAA, Business Associate will not assume any obligations of Covered Entity under the HIPAA Rules. To the extent that Business Associate is to carry out any of Covered Entity's obligations under the HIPAA rules as expressly provided in the Services Agreements or this BAA, Business Associate will comply with the requirements of the HIPAA Rules that apply to Covered Entity in the performance of such obligations.
- (c) Amendment. Business Associate agrees to take such action as the parties deem mutually necessary to amend this BAA from time to time to comply with the requirements of any HIPAA Rules.
- (d) Severability. If any provision of this BAA shall be declared invalid or illegal for any reason whatsoever, then notwithstanding such invalidity or illegality, the remaining terms and provisions of this BAA shall remain in full force and effect.
- (e) Governing Law. This BAA shall be interpreted, construed, and governed according to the laws of the State in which the Covered Entity maintains its principal place of business. The parties agree that venue shall lie in Federal and State courts in the State in which the Covered Entity maintains its principal place of business, without regard to its conflicts of law principles, regarding any and all disputes arising from this BAA.
- (f) References. A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended, and as of its effective date.
- (g) Ambiguity. Any ambiguity in this BAA shall be resolved to permit compliance with the HIPAA Rules.
- (h) Conflicts. The terms and conditions of this BAA shall override and control any conflicting term or condition of the Services Agreement. All non-conflicting terms and conditions of the Services Agreement remain in full force and effect.

~ Signature Page Follows ~

IN WITNESS WHEREOF, the parties hereto have executed this Business Associate Agreement as of the Effective Date.

WELLPARTNER, LLC

By: _____
Name: _____
Its: _____
Date: _____
Address: 20800 SW 115th Avenue, Suite 100
Tualatin, OR 97062

GALION CITY HEALTH DEPARTMENT

By: _____ *Jason McBride* _____
Name: _____ Jason McBride _____
Its: _____ Health Commissioner _____
Date: _____ Sep 11, 2023 _____
Address: _____