

**PHARMACY BENEFIT ADMINISTRATIVE SERVICES  
AGREEMENT**

This Pharmacy Benefit Administrative Services Agreement (the "Agreement") is made and entered into on the date set forth below by and between the Nueces County Hospital District, a political subdivision of the State of Texas whose administrative offices are located in Corpus Christi, Texas (the "Hospital District" or "District"), and Script Care, Inc., a privately held Texas Corporation whose corporate offices are located in Beaumont, Texas ("Script Care").

WITNESSETH

WHEREAS, the Hospital District was established and created pursuant to the Texas Health and Safety Code, Chapter 281 (the "Health Code") and under Health Code §281.046 the District has a statutory obligation to furnish medical aid and hospital care to indigent and needy persons residing within the District's boundaries and the District fulfills said obligation through its Nueces Aid Program (the "Program") under terms of a separately performing Indigent Care Agreement (the "ICA") entered into between the Hospital District and Christus Spohn Health System Corporation (the "Provider");

WHEREAS, the Program includes an outpatient prescription drug benefit and the Hospital District's payment to Provider under the ICA for provision of said benefit is based on a discounted amount of the Average Wholesale Price, less Coinsurance (as said term is defined herein), plus a Dispensing Fee (as said term is defined herein), and due to the costs of this benefit and the distinct claims adjudication requirements associated with administration of the benefit, the District desires to acquire certain third-party pharmacy benefit administrative services ("PBA Services") to support its management, oversight and payment of the benefit provided through the Provider under terms of the ICA;

WHEREAS, the Hospital District desires to acquire PBA Services and on September 30, 2016 issued a related Request For Proposal styled "RFP# 2016-02" (the "RFP");

WHEREAS, Script Care, a third-party pharmacy benefit administrator, submitted a responsible proposal in response to the District's RFP solicitation demonstrating its desire to provide the PBA Services; and

WHEREAS, as a result of Script Care's RFP submission and the Hospital District's evaluation thereof, the District through its Board of Managers awarded the contract to Script Care.

NOW, THEREFORE, in consideration of premises and the mutual covenants and undertakings herein contained, the parties agree as follows:

1. DEFINITION OF TERMS.

1.1 Terms Above Stated. As used in this Agreement, the terms "Agreement", "Hospital District", "District", "Script Care", "Program", "ICA", "Provider", "PBA Services" and "RFP" shall have the corresponding meanings indicated above.

1.2 Additional Terms. In addition and as used in this Agreement, the following terms shall have the corresponding meanings:

“Administrative Services” means (i) the online adjudication of claims electronically submitted to Script Care by Provider for Covered Prescription Benefits. Administrative Services includes, but is not limited to, verification of eligibility, calculation of pricing for Legend Drug, OTC Drug and non-drug NDC-numbered items based on the Negotiated Drug/Item Price, less Coinsurance, plus Dispensing Fee, pharmacy claim adjudication; and (ii) provision of related utilization and management reports based on transaction data captured during the online claims adjudication process. For purposes of this Agreement the term “adjudication” shall mean settlement of a Provider claim based on the price calculated above.

“Authorized Physician” means a Doctor of Medicine (M.D.), Doctor of Osteopathy (D.O.), Doctor of Podiatry (D.P.M.) or Doctor of Dentistry (D.D.S.), when acting within the scope of his/her license, in accordance with the laws of the State of Texas and who maintain active medical staff membership and delineated privileges at Provider’s hospital facilities.

“Authorized Physician Extender” means: (a) an Advanced Practice Nurse (A.P.N.), who is licensed by and holds Limited Prescriptive Authority pursuant to Texas Board of Nurse Examiners rules and regulations and who is acting within the scope of his/her license, in accordance with the laws of the State of Texas, and who is employed or contracted by Provider; and (b) a Physician Assistant (P.A.) who is licensed by and has been granted Prescriptive Authority pursuant to Texas State Board of Medical Examiners rules and regulations and who is acting within the scope of his/her license, in accordance with the laws of the State of Texas, and who is employed or contracted by Provider.

“Average Wholesale Price” or “AWP” means the Average Wholesale Price as stated by First Data Bank Inc. as of the date Script Care adjudicates the claim.

“Coinsurance” means the fixed percentage amount of pharmacy charges Eligible Enrollees pay out-of-pocket to Provider for each Legend Drug, OTC Drug and non-drug NDC-numbered item filled, refilled or provided under the Hospital District’s Covered Prescription Benefit as specified in Schedule “A” attached hereto. Coinsurance percentages are negotiated between Hospital District and Provider and are based on Eligible Enrollees level of Program coverage.

“Covered Prescription Benefits” means those Legend Drug, OTC Drug and non-drug NDC-numbered items identified as being covered by Hospital District under the Program as specified in Schedule “A” attached hereto.

“Dispensing Fee” means the flat amount the Hospital District pays the Provider for each Legend Drug, OTC Drug and non-drug NDC-numbered item filled, refilled or provided.

“Drug Formulary” means a list of brand name and generic prescription drugs dispensed on an outpatient basis and covered under the Covered Prescription

Benefits specified in Schedule "A" attached hereto. The Drug Formulary is to be developed by the Hospital District and Script Care.

"Eligibility File" means the electronic database maintained by Script Care consisting of the list of Eligible Enrollees and the other pertinent information relating to them necessary for Script Care to determine the eligibility and adjudicate any claim submitted by Provider for Legend Drug, OTC Drug and non-drug NDC-numbered items under the Program.

"Eligible Enrollee" means any person which the Hospital District identifies as a enrollee in the Nueces Aid Program and who is eligible to receive the Program's outpatient prescription drug benefit.

"Eligibility File Maintenance Data" or "Eligibility Data" means that electronic or hard copy form and format of data provided to Script Care by Hospital District which identifies Eligible Enrollees as well as other eligibility information necessary for Script Care to perform its Administrative Services as encompassed by this Agreement. The form and format of Eligibility Data is described in Schedule "D" attached hereto.

"Legend Drug" means any medicinal substance which bears the legend "Caution: Federal law prohibits dispensing without a prescription" and, for the purposes of this Agreement, shall include State Restricted Drugs (any non-federal Legend Drug which, according to state law, may not be dispensed without a prescription) and compounded prescriptions containing at least one (1) Legend Drug (as defined herein), in a therapeutic amount.

"National Drug Code" or "NDC" means a unique Federal identifying number associated with each drug manufactured, prepared, propagated, compounded, or processed by a drug establishment registered under the Federal Food, Drug, and Cosmetic Act. The NDC serves as a universal identifier for human drugs. The NDC number identifies a drug's labeler/vendor, product code identifies a specific strength, dosage form, formulation, and package size. The related National Drug Code System consists of prescription and selected over-the-counter, insulin and foreign drug products that are in commercial distribution in the United States.

"Negotiated Drug/Item Price" means the price negotiated between the Hospital District and Provider for each Legend Drug, OTC Drug and non-drug NDC-numbered items provided under the Covered Prescription Benefits of the Program.

"Over-The-Counter Drug" or "OTC Drug" means any medicinal substance that is not a Legend Drug (as defined herein) and is identifiable by a NDC number. "Prescription Order" means the legal request for Legend Drug, OTC Drug and non-drug NDC-numbered items issued by any Authorized Physician or Authorized Physician Extender as defined herein.

2. DRUG COVERAGE AND EXCLUSIONS.

Coverage for drugs and any related exclusions authorized by the Program and provided to Eligible Enrollees shall be governed by Schedule "A" attached hereto.

3. QUANTITIES DISPENSED.

The quantity dispensed for each Eligible Enrollee prescription or refill of a covered prescription will be the quantity prescribed as governed by Schedule "A" attached hereto.

4. REFILLS.

Coverage for drugs and any related exclusions authorized by the Program and provided to Eligible Enrollees shall be governed by Schedule "A" attached hereto.

5. ELIGIBLE ENROLLEE COVERAGE.

Coverage for Eligible Enrollees shall be only as specified in the then current Eligibility File as updated from time to time by Hospital District through its Eligibility Data updates.

6. RESPONSIBILITIES OF HOSPITAL DISTRICT.

6.1 Assure that all Provider claims for Legend Drug, OTC Drug and non-drug NDC-numbered items provided under the Covered Prescription Benefits of the Program are submitted electronically to Script Care through an electronic intermediary agreed to by Hospital and Script Care.

6.2 Provide Script Care, or its agent, with complete Eligibility File Maintenance Data listing those Eligible Enrollees that Hospital District authorizes for the Program's outpatient prescription drug benefit. Hospital District shall submit the Eligibility data in the form and format specified in Schedule "D". Hospital District shall be responsible for the correctness, completeness and accuracy of all data submitted to Script Care or its agent, concerning the Eligibility Data and any updates thereof. If any such data submitted to Script Care, or its agent, is incorrect, incomplete, not in good condition, or not submitted on time, the Hospital District shall be responsible for any claim re-adjudication fees that may result from the use of said information in the verification of eligibility and adjudication of claims submitted to Script Care by Provider.

6.3 Inform Script Care, or its agent, using the agreed upon data transfer form and format, of all changes in the eligibility status of Eligible Enrollees (i.e., additions, terminations, renewals, limitations, etc.) no less often than once a month.

- 6.4 Negotiate pricing with Provider for Covered Prescription Benefits and inform Script Care or its agent, of all changes in said pricing, if any.
- 6.5 Negotiate Coinsurance amounts with Provider and inform Script Care, or its agent, of all changes in said amounts, if any.

7. RESPONSIBILITIES OF SCRIPT CARE.

It is understood and agreed by the parties hereto that Script Care is not a party to the ICA between the Hospital District and the Provider and that the services provided by Script Care under this Agreement are for Administrative Services (as said term is defined herein) only and that Script Care is not providing a pharmacy network. Script Care will not be responsible for any actions of the Provider Pharmacy in relationship with the prescription drug program. Additionally, the parties acknowledge and agree that Script Care is neither a guarantor or a surety with respect to the obligation of the Hospital District to reimburse Provider for any Covered Prescription Benefits provided under the Program.

- 7.1 Subject to the performance standards described in Section 7.2 below, Script Care agrees to perform the following Administrative Services in a timely, responsible and professional manner, except as to any delays due to commercial impracticability:
  - 7.1.1 Provide all personnel, equipment, software and facilities necessary to perform the claims adjudication operations for all claims submitted under this Agreement; and
  - 7.1.2 Adjudicate all claims submitted by Provider for approval or disapproval in accordance with the provisions of Schedule "A" attached hereto.
- 7.2 Script Care agrees to provide all the Administrative Services described in Schedule "B" and the reports identified in Schedule "C", in a timely, responsible and professional manner, except as to any delays due to commercial impracticability.
- 7.3 Script Care agrees to notify the Hospital District in writing in the event it no longer complies with any or all of the Assurances and Certifications (attached hereto as Exhibit "A") it submitted to the Hospital District as a portion of its response to the RFP.
- 7.4 Script Care agrees to provide the Hospital District written proof of insurance coverage prior to the Commencement Date, and annually thereafter, as follows:

- 7.4.1 Commercial General Liability with limits of \$1,000,000 (per occurrence) and \$2,000,000 (aggregate);
  - 7.4.2 Workers Compensation with limits per State of Texas statutes; and
  - 7.4.3 Professional Liability with limits of \$1,000,000 (per occurrence) and \$2,000,000 (Aggregate).
- 7.5 Script Care agrees to acquire a performance surety bond which guarantees that the Administrative Services provided by Script Care to the Hospital District under this Agreement will be completed according to the terms of this Agreement. Additionally, Script Care agrees to provide the Hospital District written proof of said bond prior to the Commencement Date, and annually thereafter.

8. PAYMENT FOR SERVICES.

- 8.1 For each prescription claim adjudicated and re-adjudicated by Script Care under this Agreement, the Hospital District shall pay Script Care upon the price terms set forth in Schedule "B" attached hereto.
- 8.2 As a condition to the Hospital District's payment for services to Script Care under Section 8.1 above, Script Care shall submit a written and detailed invoice to the Hospital District twice per month (on or about the 1<sup>st</sup> and 15<sup>th</sup> of each month) and the reports detailed in Schedule "C" attached hereto. The details of the invoice shall be determined by Hospital District. Hospital District shall remit payment to Script Care within ten (10) working days of receipt of such invoices and said remittance shall be mailed to the Script Care address set forth in Section 13 of this Agreement. In the event of a dispute of any amount in an invoice, all undisputed amounts will be timely paid and a written notice sent detailing any disputed amounts. For a period of 30 days after the date of the disputed invoice, the parties will have the right to audit the portion of both parties' books and records that relate to the subject of the dispute. The parties will work together to reconcile any disputed amounts during this 30 day period.

9. NO SUBCONTRACTING OR ASSIGNMENT BY SCRIPT CARE; BINDING EFFECT.

Script Care shall not subcontract or assign this Agreement to any other party or parties without the prior written consent of Hospital District. Hospital District may assign this Agreement without the consent of Script Care to any succeeding governmental entity assuming the responsibilities of Hospital District or to any subsidiary of the Hospital

District. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

10. RELATIONSHIP OF HOSPITAL DISTRICT AND SCRIPT CARE.

With respect to each other, Hospital District and Script Care are independent contractors, and this Agreement shall not be construed to create any other relationship between the parties.

11. AMENDMENT AND MODIFICATION.

This Agreement may not be amended or modified in any manner whatsoever except by written agreement signed by duly authorized representatives of each party.

12. SCHEDULES AND EXHIBITS.

Schedules and exhibits means the attached documents setting out certain particulars of this Agreement, or any replacement documents thereof. All schedules and exhibits referred to in this Agreement are incorporated herein by reference and are hereby made part of this Agreement.

13. NOTICES.

Any notices to be given hereunder by either party to the other shall be in writing and may be effected by (1) personal delivery; (2) commercial courier; (3) certified mail, postage pre-paid with return receipt requested; (4) facsimile with receipt acknowledgment; or (5) depositing the same into the custody of a nationally recognized overnight delivery service, addressed as follows:

If to Hospital District:

Nueces County Hospital District  
Attn: Jonny F. Hipp, ScD, FACHE, Administrator/Chief Executive Officer  
555 North Carancahua Street, Suite 950  
Corpus Christi, Texas 78401-0835  
Phone: (361) 808-3300  
Fax: (361) 808-3274

If to Script Care:

Script Care, Inc.  
Attn: James F. Brown, R.Ph., President  
6380 Folsom Drive  
Beaumont, Texas 77706

Phone: (800) 880-9902  
Fax: (409) 833-7435

14. CAPTIONS AND HEADINGS.

The captions and headings used herein are for convenience only and do not limit the contents of this Agreement.

15. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same agreement.

16. SEVERABILITY.

If any term(s) or provision(s) contained in this Agreement is determined by a court of competent jurisdiction to be void, illegal or unenforceable, in whole or in part, then the other term(s) and provision(s) contained herein shall remain in full force and effect as if the term(s) and provision(s) which was determined to be void, illegal, or unenforceable had not been contained herein.

17. DATA/CLAIMS PROCESSING SERVICE.

The Hospital District acknowledges and agrees that all data/claims processing services provided by Script Care under this Agreement shall be provided by the authorized agent of Script Care. Script Care makes no express warranties as to such data/claims processing services and no warranties are to be implied, including implied warranties of merchantability and fitness for a particular purpose.

18. GOVERNING LAW AND VENUE.

This Agreement has been executed and delivered and shall be interpreted and enforced in accordance with the laws of the State of Texas and venue shall be in Nueces County, Texas.

19. FORCE MAJEURE.

Neither party shall be liable for failure to perform its obligation under this Agreement if prevented from doing so by commercial impracticability, including, but not limited to, acts of God or nature, fires, storms, floods, earthquakes, riots, strikes, wars, or restraints of government.



20. ENTIRE AGREEMENT.

This Agreement, including any schedules, exhibits, or amendments, NCHD's RFP# 2016-02 and Script Care's entire response, which although not attached are incorporated herein by reference and made a part of this Agreement as if set forth in full, shall constitute the entire agreement of the parties concerning the provision of services and supercedes all prior and contemporaneous representations, statements, understandings, negotiations and agreements, either oral or in writing, between the parties hereto with respect to the subject matter herein and all such prior or contemporaneous representations, statements, understandings, negotiations and agreements, both oral and written, are hereby terminated.

21. WAIVER.

No waiver of any breach of any of the provisions of this Agreement shall constitute a waiver of any prior, concurrent, or subsequent breach of the same or other provisions hereof and no waiver shall be effective unless made in writing and signed by a duly authorized representative of the party making said waiver.

22. TERM AND RENEWAL.

22.1 Term. This Agreement shall commence at 12:01 a.m. on January 1, 2017 (the "Commencement Date") and, unless otherwise terminated pursuant to Section 23 below, it shall terminate at 11:59 p.m. on December 31, 2017 (the "Termination Date").

22.2 Renewal. Subject to satisfactory performance of Script Care's responsibilities under this Agreement as determined by Hospital District, the term of this Agreement may be renewed by Hospital District for three (3) additional one-year periods as follows:

1<sup>st</sup> Additional One-Year Period: January 1, 2018 to December 31, 2018

2<sup>nd</sup> Additional One-Year Period: January 1, 2019 to December 31, 2019

3<sup>rd</sup> Additional One-Year Period: January 1, 2020 to December 31, 2020

Such renewal(s), if any, shall be by mutual written agreement of the parties. The Hospital District shall provide Script Care written notice of its intent to renew not less than forty-five (45) days prior to the Termination Date.

23. TERMINATION.

23.1 Termination by Hospital District. Hospital District may terminate this Agreement without cause upon ninety (90) days written notice to Script Care.

- 23.2 Termination by Script Care. Script Care may terminate this Agreement without cause but must give Hospital District ninety (90) days written notice before said termination becomes effective. During the interim from the date Script Care's written notice of termination is received by Hospital District until the ninety (90) day notice period ends, Script Care shall continue to provide its services to the Hospital District in a timely, responsible and professional manner, except as to any delays due to commercial impracticability.
- 23.3 Termination by Mutual Consent. This Agreement may be terminated by mutual written consent of the parties.
- 23.4 Termination by Default. Either party may terminate this Agreement after five (5) calendar days written notice if the other party is in default of any provision of this Agreement and has failed to cure the default within ten (10) calendar days following written notice of such default.
- 23.5 Automatic Termination. Unless NCHD has exercised its renewal option as described in Section 22.2 above, this Agreement shall automatically terminate on the Termination Date.
- 23.6 Transfer of Hospital District's Files and Records Following Termination. Following termination of Script Care's services under any of the provisions of this Section 23, Script Care shall within five (5) working days facilitate the transfer of any and all of the Hospital District's files and records to the person then designated to Script Care in writing by the Hospital District. The transfer of said files and records shall be at the sole cost and expense of the Hospital District.

24. POWER AND AUTHORITY.

Each of the persons who has executed this Agreement on behalf of one of the parties hereto warrants that he has the power and authority to execute this agreement on behalf of such party and to bind such party to the terms and provisions of this Agreement.

25. OTHER PERFORMANCE.

This Agreement is non-exclusive. The Hospital District acknowledges and agrees that this Agreement shall not preclude Script Care from providing similar services to other customers. The Hospital District shall have the right, power and authority to contract with others to perform the services agreed to be provided by Script Care under this Agreement.

26. RECORDS AND ACCESS.

The records (including billing records) maintained by Script Care relating to services

provided under this Agreement are the property of the Hospital District, and Script Care shall comply with all applicable regulatory record retention rules and regulations with regard to maintaining such records. Upon written request of the Hospital District or any of its duly authorized agents or representatives, Script Care shall make available to the District those records, books and documents necessary to verify the nature and extent of services provided and Script Care's related billings for services provided during the term of this Agreement. The parties agree that any attorney-client, accountant-client privilege or any other legal privilege shall not be deemed waived by virtue of this Section 26.

27. REFUND OF OVERPAYMENT.

Script Care agrees that if any inspection or audit of its records discloses any overpricing of services or errors in the use of fees or otherwise which result in overpayment by Hospital District, the amount of the overpayment, plus interest at prevailing rates during the period of overpricing, shall be refunded to Hospital District promptly upon demand by cashiers check, or Hospital District, at its option, may withhold such overpayment from any amounts otherwise due Script Care under this Agreement.

28. CONFIDENTIALITY OF INFORMATION.

Neither party shall disclose any information or knowledge concerning the other party's claims, accounting procedures, or histories, all of which are deemed confidential information, except as otherwise required by law. Script Care agrees to take any and all reasonable precautions to prevent disclosure or misuse of any and all information described in this Section 28 for any purpose unrelated to the administration of the services provided under this Agreement.

28.1 Script Care further agrees to abide by the Federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320(d) ("HIPAA")) and keep private and to secure any information considered Protected information in accordance with federal law. Further, the Business Associate Agreement appended hereto as Exhibit "B" is a part of this Agreement and fully incorporated herein for all purposes.

28.2 If NCHD is requested to disclose any proprietary proposal data furnished to it by Script Care in its response to RFP# 2016-02 and designated "confidential" that is subject to provisions of the Public Information Act, NCHD will notify Script Care in writing of such request within ten (10) business days of receipt of the request. Information must be marked confidential before NCHD will notify Script Care of any Public Information Act request. Script Care upon notification bears the burden of establishing that its trade secrets and/or confidential commercial and/or financial information should be withheld under the applicable Public Information Act exceptions intended to protect its interests.

29. USE OF INFORMATION.

All data, information, and knowledge supplied to Script Care by Hospital District under terms of this Agreement shall be used by Script Care exclusively for the purposes of performing this Agreement. The Hospital District shall retain full ownership rights over any and all data, information, knowledge and reports created by Script Care under this Agreement.

30. INDEMNIFICATION.

To the extent permitted by law without establishing a sinking fund, the Hospital District agrees to indemnify, defend and hold Script Care harmless from and reimburse Script Care on demand for any claim, demand, action, liability, damage, loss, cost or expense, including reasonable attorneys fees, brought against, made upon, or incurred by Script Care because of or arising out of any act or omission (including without limitation any breach thereof) of Hospital District, its officers, directors, employees, subcontractors or principals. Script Care agrees to indemnify, defend and hold Hospital District harmless from and reimburse Hospital District on demand for any claim, demand, action, liability, damage, loss, cost or expense, including reasonable attorneys fees, brought against, made upon, or incurred by Hospital District because of or arising out of any act or omission (including without limitation any breach thereof) of Script Care, its officers, directors, employees, subcontractors or principals. The indemnifications provided for in this Section 30 shall survive the termination of this Agreement.

31. ENFORCEMENT.

In the event either party shall be required to enforce the terms of this Agreement the prevailing party shall be entitled to recover the costs of such action, including but not limited to reasonable attorney's fees and related court costs.

32. FUNDING.

Script Care acknowledges that Hospital District's funding of the services to be provided the District under this Agreement are for the initial one-year term and funding of subsequent years, if any, is subject to continued annual budget appropriation by the Hospital District Board of Managers as approved by Nueces County Commissioners Court.

33. ADMINISTRATION OF AGREEMENT.

Script Care acknowledges that the Hospital District has designated its Director of Administrative Services to administer this Agreement and to serve as the initial point of contact between Script Care and the Hospital District.

**AGREED, SIGNED and ENTERED INTO** by the duly authorized representatives of Hospital District and Script Care, Inc., on this the 20th day of December, 2016.

**NUECES COUNTY HOSPITAL DISTRICT**  
("Hospital District")

**SCRIPT CARE, INC.**  
("Script Care")

Jonny F. Hipp  
Jonny F. Hipp, ScD, FACHE  
Administrator/Chief Executive Officer

James F. Brown, R.Ph.  
President

Script Care, Inc. Federal Employer  
Identification Number 37-0621375

THE STATE OF TEXAS §  
COUNTY OF NUECES §

Before me, the undersigned, a Notary Public in and for county and state, on this date personally appeared Jonny F. Hipp, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of Nueces County Hospital District, political subdivision of the State of Texas, and that he executed the same as the act of such political subdivision for the purposes and considerations therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20<sup>th</sup> day of DECEMBER, 2016.



Sara G. Lopez  
Notary Public, State of Texas  
Notary ID# 630136-1

THE STATE OF TEXAS §  
COUNTY OF JEFFERSON §

Before me, the undersigned, a Notary Public in and for county and state, on this date personally appeared James F. Brown, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of Script Care, Inc., a privately held Texas Corporation, and that he executed the same as the act of such corporation for the purposes and considerations therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

**S e a l**

\_\_\_\_\_  
Notary Public, State of Texas

Notary ID# \_\_\_\_\_

S:/Documents/RFPs/RFP Pharmacy Admin. Serv/Contract Script Care-Pharmacy 2017.doc December 6, 2016

NUECES COUNTY HOSPITAL DISTRICT  
PHARMACY BENEFIT ADMINISTRATIVE SERVICES AGREEMENT  
SCRIPT CARE, INC

## SCHEDULE "A"

### *COVERED PRESCRIPTION DRUG BENEFITS, EXCLUSIONS, FORMULARY, DISPENSING LIMITS, DISPENSE AS WRITTEN, NEGOTIATED DRUG PRICE, COINSURANCE REDUCTION, DISPENSING FEE ADD-ON, and MAXIMUM MONTHLY NUMBER OF PRESCRIPTIONS*

#### 1. COVERED PRESCRIPTION DRUG BENEFITS

LEGEND DRUGS as defined in this Agreement.  
COMPOUND PRESCRIPTIONS of which at least one (1) ingredient is a Legend Drug (as defined in this Agreement) in a therapeutic amount.  
OVER-THE-COUNTER (OTC) DRUGS (as defined in this Agreement) upon Prescription Order.  
INSULIN AND INSULIN SYRINGES with NDC numbers and with Prescription Order.  
NON-INSULIN SYRINGES with NDC numbers and with Prescription Order.  
DIABETIC SUPPLIES (test strips) with NDC numbers and with Prescription Order.  
DIAGNOSTIC AGENTS (test kits) with NDC numbers and with Prescription Order.  
PRENATAL VITAMINS with NDC numbers and with Prescription Order.  
VITAMINS WITH FLUORIDE with NDC numbers and with Prescription Order.

#### 2. EXCLUSIONS

BIOLOGICAL SERUMS (immunological vaccines).  
OBESITY, WEIGHT AND DIET CONTROL DRUGS (anorexiant/stimulants).  
MEDICAL DEVICES/SUPPLIES  
INFERTILITY DRUGS  
CONTRACEPTIVE DEVICES  
SMOKING CESSATION DRUGS  
HAIR GROWTH STIMULANTS  
RETIN-A PRODUCTS for anyone 26 years of age and over.  
DRUGS USED TO TREAT COSMETIC CONDITIONS  
GROWTH HORMONES  
VITAMINS other than those listed above.  
ERECTILE DYSFUNCTION/ORGANIC IMPOTENCE DRUGS  
SEX CHANGE DRUGS  
ELECTIVE THERAPEUTIC ABORTION DRUGS  
NON-DRUG ITEMS, such as stockings or devices, even if a prescription is required.  
EXPERIMENTAL/INVESTIGATIONAL DRUGS or drugs required to be labeled:  
"Caution - Limited by Federal Law to Investigational Use."  
REFILLS obtained more than one (1) year after the original prescription date or prior to 75% of the completion of the projected usage.

3. **DRUG FORMULARY**

Drug Formulary to be developed by Hospital District and Script Care.

4. **DISPENSING LIMIT**

See #7 below for maximum number of monthly prescriptions.  
Maximum Daily Supply is 34 days.

5. **DISPENSE AS WRITTEN**

Do not allow Eligible Enrollee to override generic substitution allowed by Prescription Order.

6. **NEGOTIATED DRUG PRICE**

Negotiated Drug Price equals 79% of the AWP Price (as defined in this Agreement) for the lower of: (i) generic price; or (ii) brand name price, regardless of which drug was dispensed.

7. **COINSURANCE REDUCTION, DISPENSING FEE ADD-ON, and MAXIMUM MONTHLY NUMBER OF PRESCRIPTIONS**

<u>Coverage Code</u>	<u>Coinsurance % Reduction</u>	<u>Dispensing Fee Add-On</u>	<u>Maximum # Monthly Prescriptions</u>
N50	50%	\$4.03	6
N60	40%	\$4.03	6
N70	30%	\$4.03	6
N80	20%	\$4.03	6
N90	10%	\$4.03	6
N100	0%	\$4.03	6
POTH	0%	\$4.03	6
PSSI	0%	\$4.03	6
PTANF	0%	\$4.03	6

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**SCHEDULE "B"**

***ADMINISTRATIVE SERVICES FEE PRICING SCHEDULE***

8.	<b><u>Administrative Services Fee Pricing Schedule</u></b>	<b><u>Price</u></b>
	<ul style="list-style-type: none"><li>• Administrative Fee Per Paid Prescription Claim .....\$0.50 (Administrative Fee includes Standard Administrative Services below at no additional charge)</li><li>• Administrative Fee Per Re-Adjudicated Paid Prescription Claim.....\$0.50</li></ul>	
2.	<b><u>Standard Administrative Services</u></b>	
	<ul style="list-style-type: none"><li>• On-Line Prescription Claims Capture and Related Claim Adjudication per Schedule "A"</li><li>• Utilization and Management Reports per Schedule "C"</li><li>• Recurrent Eligibility File Updates</li><li>• Recurrent Changes to Plan Specifications</li><li>• Periodic Drug Formulary Updates</li><li>• Prospective Drug Utilization Review Services upon claim adjudication</li><li>• Software to support electronic input of Eligibility File Maintenance Data</li></ul>	
3.	<b><u>Initial Fees</u></b>	
	<ul style="list-style-type: none"><li>• Plan Implementation Fee ..... Waived</li><li>• Plan Start-up Fee..... Waived</li><li>• Initial Set Up Fee ..... Waived</li></ul>	

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## SCHEDULE "C"

### *UTILIZATION & MANAGEMENT REPORTS*

#### **General Reports** (as requested by Hospital District)

1. Accepted Group Claims (Payor Statement)
2. Cost and Utilization Summary Report
3. Cost and Utilization Report
4. Cost Comparison Report
5. Utilization Comparison Report
6. Cost Range Report
7. Stop-Loss Report
8. Family Utilization Report - one Eligible Enrollee ID per page
9. Monthly Summary Report
10. Coinsurance Report
11. Member (Eligible Enrollee) Utilization Report By Location
12. Member (Eligible Enrollee) Summary By Dollars
13. Member (Eligible Enrollee) Summary By Name
14. Top Utilized Drugs by Dollars
15. Top Utilized Drugs by Dollars (Drug Information)
16. Profile Analysis Report
17. Controlled Substances Report
18. Rx Provider Summary - by group
19. Therapeutic Class Report
20. Medication in Top Therapeutic Class

#### **Special Reports** (as requested by Hospital District)

21. Drug Formulary Compliance Report
22. Drug cost/utilization by specific class
23. Drug cost/utilization by name of medication, dosage and dispensed quantities
24. Drug cost/utilization by physician name
25. Drug cost/utilization by Eligible Enrollee name
26. Drug cost/utilization by coverage type
27. Drug cost/utilization by Eligible Enrollee age
28. Drug cost/utilization by brand name and generic
29. Ad hoc reports

Any of the above referenced reports may be provided by Script Care under an alternative name but must contain the essential data elements requested by the Hospital District.

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## SCHEDULE "D"

### *ELIGIBILITY MAINTENANCE DATA*

The Hospital District shall provide the Eligibility File Maintenance Data to Script Care in the form and format specified below on electronic diskette, via electronic mail with file attached or through direct input from the Hospital District through a software program to be provided Hospital District by Script Care. When necessary, hard copy Eligibility Data will be accepted by Script Care either through certified mail, postage pre-paid with return receipt requested or via facsimile, with receipt acknowledgment.

(256 Characters blocked 16-6250 or 1600 BPI)

<u>Field</u>	<u>Position</u>	<u>Length</u>	<u>Description</u>
Carrier Code	1 - 2	2	Assigned by Script Care
Group Number	3 - 14	12	Assigned by Script Care
Cardholder ID Number	15 - 32	18	Social Security Number w/ 2Digit ID
Effective Date	36 - 41	6	YYMMDD
Termination Date	42 - 47	6	YYMMDD
Date of Birth	63 - 68	6	YYMMDD
Sex	69	1	M or F
Last Name	70 - 84	15	
First Name	85 - 94	10	
Middle Initial	95	1	
Social Security Number	96 - 104	9	
Coverage Code	105-106	2	Benefit Option

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**EXHIBIT "A"**

***SCRIPT CARE, INC.  
ASSURANCES AND CERTIFICATIONS***

### **Assurances and Certifications**

(To be executed and returned to NCHD with Proposal)

I understand that my organization, known as "Offeror", must comply with each of the assurances and certifications below if awarded a Contract in response to this RFP solicitation. I certify that I am legally authorized to bind my organization to the following assurances and certifications, as exemplified by my signature at the end of this attachment. I understand that my failure to sign this attachment and certify all of these assurances may result in disqualification of my organization's proposal.

1. Offeror has made no attempt nor will make any attempt to induce any person or firm to submit or not submit a proposal.
2. Offeror acknowledges that no conflict of interests, as defined in Section 1.33 of this RFP, or otherwise, exist either with NCHD, including its Board, officers and employees; with CHRISTUS Spohn Health System Corporation, including its Board, officers and employees; or with CHRISTUS Spohn Hospital Memorial, including its officers and employees.
3. Offeror has thoroughly examined the attachments, drawings, specifications, schedule, instructions and all other RFP documents. Offeror has made all investigations and inquiries necessary to be thoroughly informed regarding the services as required by the RFP originating this Contract.
4. Offeror's business is a duly qualified, capable, and otherwise bondable business entity.
5. No persons or selling agency has been retained to solicit the business resulting from this RFP upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of Offeror. For breach or violation of this representation and warranty, NCHD shall have the right to terminate the resulting Contract without liability or in its discretion to, as applicable, add to or deduct from the contract price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
6. Offeror will comply with the requirements of the Immigration Reform and Control Act of 1986 and Immigration Act of 1990 regarding employment verification and retention of verification forms for any individual(s) hired on or after November 6, 1986 who will perform any labor or service under this RFP.
7. Offeror will comply with all federal statutes relating to nondiscrimination. These statutes include but are not limited to Title VI of the Civil Rights Act of 1964 (Public Law 88-352) which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112), which prohibits discrimination on the basis of handicaps; the Americans with Disabilities Act of 1990 (Public Law 101-336); and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts, particularly 45 CFR Part 80 (relating to race, color and national origin) 45 CFR Part 84 (relating to handicap), 45 CFR Part 86 (relating to sex), and 45

CFR Part 91 (relating to age).

8. As provided by Texas Family Code, §231.006, a child support obligor who is more than 30-days delinquent in paying child support and a business entity in which the obligor is the sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under a contract to provide property, materials, or services or receive a state-funded grant or loan. Although the funds used by NCHD to fund this contract are local and not state funds, the Offeror nonetheless certifies that it is not ineligible to receive state payments under the above statute and further acknowledges that NCHD may terminate this contract and payment may be withheld if this certification is inaccurate.
9. Offeror has arrived at this proposal independently without consultation, communication, or agreement with any other offeror or competitor for the purpose of restricting competition.
10. Offeror certifies that neither it nor its owners, officers or employees is involved in other activities or relationships with other persons or entities that cause Offeror to be unable or potentially unable to render impartial service, assistance or advice to NCHD, or that impair or might impair Offeror's objectivity in performing the contracted service, or that cause Offeror to have an unfair competitive advantage, or that is a financial or other conflict of interest, real or apparent.
11. Offeror accepts the terms, conditions, and provisions set forth in the RFP.
12. Offeror accepts NCHD's sole right to alter the RFP and Contract Award Schedule and/or the Service Implementation Schedule, without prior approval of the Offeror/Contractor.
13. Offeror agrees that no claim will be made for payment to cover costs incurred in the preparation or the submission of its proposal or any other associated costs.
14. Offeror owes no funds to Memorial Medical Center located in Corpus Christi, Texas or to NCHD.
15. Offeror owes no delinquent ad valorem taxes in Nueces County, Texas.
16. Offeror agrees to refrain from entering into any subcontracts for services sought under this RFP without prior approval in writing or waiver of the right of prior approval in writing from NCHD.
17. Offeror agrees that all products resulting from a contract award will be the property of NCHD.
18. Offeror acknowledges NCHD is exempt from City, State and most Federal taxes.
19. Offeror agrees to ensure that information about individuals served by NCHD will be kept confidential.
20. Offeror acknowledges that under Texas law, proposals are required to be opened in a

manner that acknowledges only their presence that avoids disclosure of the contents to competing offerors, and keeps the proposal secret during the process of negotiation. Offeror acknowledges that proposals are available and open to public inspection after the contract is awarded, except for trade secrets and confidential commercial and financial information contained in the proposals that has been identified as such by the Offeror. Offeror acknowledges that if it does not desire that trade secrets or confidential commercial and financial information be disclosed to the public, it should clearly identify proposal data that it considers proprietary. Offeror is aware that if NCHD is requested to disclose any proprietary proposal data furnished to it by Offeror that is subject to provisions of the Public Information Act, NCHD will notify the Offeror in writing of such request within ten (10) business days of receipt of the request. Offeror expressly acknowledges that if it is so notified, it bears the burden of establishing that its trade secrets and/or confidential commercial and/or financial information should be withheld under the applicable Public Information Act exceptions intended to protect its interests.

21. Offeror certifies that it, nor any of its principals, are presently held in abeyance, debarred, and suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a similarly performing contract by any federal or state department or agency.
22. Offeror, if it is a corporation, is either not delinquent in its franchise tax payments to the State of Texas, or is not otherwise subject to payment of franchise taxes to the State of Texas.
23. Neither Offeror nor any member of Offeror's staff or principals has participated in the development of specific evaluation criteria for award of this contract, nor will participate in the selection of the successful Offeror awarded this contract.
24. No principal of Offeror has worked as an employee for NCHD in the preceding year.
25. Offeror has not retained or promised to retain an entity or used or promised to use a consultant that has participated in the development of the specific criteria for the award of this contract or that will participate in the selection of the successful Offeror awarded this contract.
26. Offeror agrees to provide NCHD with information necessary to validate any statements made in its proposal (including these Assurances and Certifications), as requested by NCHD, including but not limited to allowing access for on-site observation, granting permission for NCHD to verify information with third parties, and allowing inspection of offeror's records. Offeror understands that failure to substantiate any statements made in its proposal as requested by NCHD may result in disqualification of the proposal.
27. Offeror certifies that no Federal or State Health and Human Service agency, or Public Safety, or Criminal Justice agency has not revoked, limited or restricted its license, permit, or certificate to operate in Texas.
28. Neither Offeror nor its owners, officers or employees have given, offered to give, or intend to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to any NCHD officer or employee in connection with its

submitted proposal.

29. All confidential materials made available to the successful Offeror by NCHD, including copies thereof, shall be returned to NCHD upon completion of the service or upon the request of NCHD.
30. Offeror certifies that none of the funds paid by NCHD pursuant to any contract resulting from this RFP will be used to pay any person for influencing or attempting to influence an officer or employee of NCHD or Nueces County.
31. Offeror certifies that it is not in bankruptcy receivership (Chapter 7, U.S. Bankruptcy Code) or in bankruptcy rehabilitation proceedings (Chapters 11, 12, and 13, U.S. Bankruptcy Code) during the preceding five (5)-year period.
32. Offeror certifies that none of Offeror's property, plant or equipment has been subject to foreclosure or repossession within the preceding five (5)-year period.
33. Offeror certifies that it has not had any debt declared in default and accelerated to maturity within the preceding five (5)-year period.
34. Offeror assures that its equipment and software will be compatible with and operate efficiently with computer equipment and software manufactured and/or distributed by Dell®, Compaq®, Microsoft®, and Hewlett Packard® which may be utilized by NCHD.
35. Offeror agrees to properly complete and submit an Internal Revenue Service Form W-9 *Request for Taxpayer Identification Number and Certification* prior to any payments being made by NCHD.
36. Offeror certifies that it is aware its proposal will be property of NCHD and will not be returned to the Offeror.
37. The person representing the Offeror as the point-of-contact is:

Name: Dustin Brown  
Title: President  
Address: 6380 Folsom Drive  
Beaumont, TX 77706  
Telephone: 800.880.9902  
FAX: 409.923.7363  
Electronic Mail: dbrown@scriptcare.com

38. Enter Offeror's Federal Employer Identification Number.  
Offeror's Federal Employer Identification Number is 760 - 621375.

If you are a sole owner or partnership, enter your Social Security Number.  
Offeror's Social Security Number is \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_.

Offeror: Script Care, Ltd.



Address: 6380 Folsom Drive, Beaumont TX 77706

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39. Signature of authorized representative.

 10/10/16  
Authorized Signature Date

Dustin Brown Senior Executive Vice President  
Printed Name of Signer Title

**Attach this entire executed *Assurance and Certifications* document to Offeror's proposal.**

**EXHIBIT "B"**

***BUSINESS ASSOCIATE AGREEMENT***

## BUSINESS ASSOCIATE AGREEMENT

This **Business Associate Agreement** (“BAA”) is entered into by and between **Script Care, Inc.** (hereinafter referred to as “CONTRACTOR”), and **the Nueces County Hospital District**, a political subdivision of the State of Texas (hereinafter referred to as “NCHD”).

### RECITALS

The purpose of this BAA is to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended (“HIPAA”); privacy and security regulations promulgated by the United States Department of Health and Human Services (“DHHS”); Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended (“HITECH Act”); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended; and TEX. HEALTH & SAFETY CODE ANN. §§ 81.046, as amended, 181.001 *et seq.*, as amended, 241.151 *et seq.*, as amended, and 611.001 *et seq.*, as amended (collectively referred to herein as the “Privacy and Security Requirements”).

### TERMS

#### CONTRACTOR’S RESPONSIBILITIES REGARDING USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION (“PHI”) AND ELECTRONIC PROTECTED HEALTH INFORMATION (“EPIH”)

A. Definitions.

1. Confidential Information is information that has been deemed or designated confidential by law (*i.e.*, constitutional, statutory, regulatory, or by judicial decision).
2. Protected Health Information (“PHI”) is defined in 45 C.F.R. § 160.103 and is limited to information created or received by CONTRACTOR from or on behalf of NCHD.
3. Electronic Protected Health Information (“EPIH”) shall mean individually identifiable health information that is transmitted by or maintained in electronic media.
4. Security Incident shall mean the unauthorized access, use, disclosure, modification, or destruction of Confidential Information, including, but not limited to, PHI and EPIH, or interference with the systems operations in an information system, including, but not limited to, information systems containing EPIH. This definition includes, but is not limited to, lost or stolen transportable media devices (*e.g.*, flash drives, CDs, PDAs, cell phones, and cameras), desktop and laptop computers, photographs, and paper files containing Confidential Information, including, but not limited to, PHI and EPIH.

B. General.

1. CONTRACTOR agrees to hold all PHI and EPHI confidential except to the extent that disclosure is required by Federal or State law, including the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended.
2. CONTRACTOR agrees to be bound by and comply with all applicable Federal and State of Texas licensing authorities' laws, rules, and regulations regarding records and governmental records, including the Privacy and Security Requirements. Compliance with this paragraph is at CONTRACTOR's own expense.
3. CONTRACTOR agrees to cooperate with state and federal agencies and to make appropriate personnel available for interviews, consultation, grand jury proceedings, pre-trial conferences, hearings, trials, and any other process, including investigations, required as a result of CONTRACTOR's services to NCHD. Compliance with this paragraph is at CONTRACTOR's own expense.
4. The terms used in this BAA shall have the same meaning as those terms in the Privacy and Security Requirements.

C. Representation. CONTRACTOR represents that it is familiar with and is in compliance with the Privacy and Security Requirements, which include Federal and State of Texas requirements governing information relating to HIV/AIDS, mental health, and drugs or alcohol treatment or referral.

D. Business Associate. CONTRACTOR is a "Business Associate" of NCHD as that term is defined under the Privacy and Security Requirements.

1. *Nondisclosure of PHI.* CONTRACTOR agrees not to use or disclose PHI received from or on behalf of NCHD or created, compiled, or used by CONTRACTOR pursuant to the Pharmacy Benefit Administrative Services RFP# 2016-02 to which this BAA is attached (hereinafter the "Agreement") other than as permitted or required by this BAA, or as otherwise required by law.
2. *Limitation on Further Use or Disclosure.* CONTRACTOR agrees not to further use or disclose PHI or EPHI received from or on behalf of NCHD or created, compiled, or used by CONTRACTOR pursuant to this BAA in a manner that would be prohibited by the Privacy and Security Requirements if disclosure was made by NCHD, or if either CONTRACTOR or NCHD is otherwise prohibited from making such disclosure by any present or future State or Federal law, regulation, or rule.
3. *Safeguarding PHI.* CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this BAA or as required by State or Federal law, regulation, or rule.

4. *Safeguarding EPHI.* CONTRACTOR agrees to implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains, or transmits on behalf of NCHD and to comply with Subpart C of 45 C.F.R. Part 164. These safeguards shall include, but not be limited to, the following:
- a) Encryption of EPHI that CONTRACTOR stores and transmits;
  - b) Implementation of strong access controls, including physical locks, firewalls, and strong passwords;
  - c) Use of updated antivirus software;
  - d) Adoption of contingency planning policies and procedures, including data backup and disaster recovery plans; and
  - e) Periodic security training.
5. *Reporting Security Incidents.* CONTRACTOR agrees to report to NCHD any Security Incident **immediately** upon becoming aware of such. CONTRACTOR further agrees to provide NCHD with the following information regarding the Security Incident as soon as possible, but no more than five (5) business days after becoming aware of the Security Incident: (1) a brief description of what happened, including the dates the Security Incident occurred and was discovered; (2) a reproduction of the PHI or EPHI involved in the Security Incident; and (3) a description of whether and how the PHI or EPHI involved in the Security Incident was rendered unusable, unreadable, or indecipherable to unauthorized individuals either by encryption or otherwise destroying the PHI or EPHI prior to disposal. If CONTRACTOR determines that it is infeasible to reproduce the PHI or EPHI involved in the Security Incident, CONTRACTOR agrees to notify NCHD in writing of the conditions that make reproduction infeasible and any information CONTRACTOR has regarding the PHI or EPHI involved.

CONTRACTOR agrees to cooperate in a timely fashion with NCHD regarding all Security Incidents reported to NCHD.

CONTRACTOR agrees that NCHD will review all Security Incidents reported by CONTRACTOR and NCHD, in its sole discretion, will take steps in response, to the extent necessary or required by law including, but not limited to, (1) notifying the individual(s) whose PHI or EPHI was involved in the Security Incident, either in writing, via telephone, through the media, or by posting a notice on NCHD's website, or through a combination of those methods, of the Security Incident; (2) providing the individual(s) whose PHI or EPHI was involved in the Security Incident with credit monitoring and related services for a period of time to be determined by NCHD, at no cost to the individual(s); and (3) providing notice of the Security Incident, as required by law, to the Secretary of the United States

Department of Health and Human Services (“HHS”).

CONTRACTOR agrees to reimburse NCHD for all expenses incurred as a result of CONTRACTOR’s Security Incidents, including, but not limited to, expenses related to the activities described above. CONTRACTOR agrees that NCHD will select the contractors and negotiate the contracts related to said expenses.

6. *EPHI and Subcontractors.* CONTRACTOR shall require any agent to whom it provides PHI or EPHI, including a subcontractor, to agree to implement reasonable and appropriate safeguards to protect such PHI or EPHI and comply with Subpart C of 45 C.F.R. Part 164. Further, CONTRACTOR agrees to give NCHD at least sixty (60) days advance notice of its intent to provide PHI or EPHI to an agent located outside of the United States. CONTRACTOR understands and agrees that it remains ultimately responsible for any breaches of PHI or EPHI and violations of the Privacy and Security Requirements by its agent(s) or subcontractor(s).
7. *Subcontractors and Agents.* CONTRACTOR shall require any subcontractor or agent that creates, receives, maintains, or transmits PHI or EPHI on behalf of CONTRACTOR pursuant to this BAA and the Agreement, to agree to the same restrictions and conditions that apply to CONTRACTOR with respect to such PHI and EPHI. CONTRACTOR agrees to terminate its agreement with its agent(s) or subcontractor(s), if (a) CONTRACTOR becomes aware of a pattern of activity or practice of its agent(s) or subcontractor(s) that constitute a material breach or violation of the agent or subcontractor’s obligation under the agreement or other arrangement with CONTRACTOR or (b) agent(s) or subcontractor(s) takes steps to cure the breach or end the violation and such steps are unsuccessful.
8. *Reciprocal Disclosures.* The Parties agree that the Parties may reciprocally disclose and use PHI or EPHI for initial and continuing eligibility and compliance determinations related to the provision of benefits, for auditing and legal compliance purposes, and for compliance with laws, regulations, and rules related to the provision of medical or drug benefits to persons who may be eligible for such benefits under the Medicare Prescription Drug Benefit Program, Part D, or other federal or State of Texas programs. NCHD agrees:
  - a) to be bound by these provisions with regard to PHI or EPHI received from CONTRACTOR;
  - b) to restrict access to such PHI or EPHI to NCHD’s Administrator and/or Assistant Administrator, NCHD’s Chief Financial Officer, the Nueces County Attorney’s Office, and designated employees of NCHD’s Benefits Department for legal and auditing services; and
  - c) to take disciplinary action against any employee whose willful act violates these provisions and results in an unlawful disclosure of PHI or EPHI.

9. *Mitigation.* CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of PHI or EPHI by CONTRACTOR, or by a subcontractor or agent of CONTRACTOR, resulting from a violation of this BAA, including violations of the Privacy and Security Requirements stated herein. CONTRACTOR also agrees to inform NCHD in advance of its actual mitigation and of the details of its mitigation plan, unless doing so would cause additional harm.
10. *Notice – Access by Individual.* CONTRACTOR agrees to notify NCHD in writing within three (3) business days of any request by an individual for access to the individual's PHI or EPHI and, upon receipt of such request, direct the individual to contact NCHD to obtain access to the individual's PHI. Upon request by NCHD and within three (3) business days of the request, CONTRACTOR agrees to make available PHI and EPHI to NCHD in accordance with 45 C.F.R. § 164.524.
11. *Notice – Request for Amendment.* CONTRACTOR agrees to notify NCHD in writing within three (3) business days of any request by an individual for an amendment to the individual's PHI or EPHI and, upon receipt of such request from the individual, direct the individual to NCHD to request an amendment of the individual's PHI or EPHI. CONTRACTOR agrees to make available upon request PHI and EPHI for amendment and to incorporate any amendments to PHI and EPHI agreed to in accordance with 45 C.F.R. § 164.526 within three (3) business days of receipt of the notice to incorporate the amendment(s).
12. *Notice – Request for Accounting.* Upon receipt of any request from an individual for an accounting of disclosures made of the individual's PHI or EPHI, CONTRACTOR agrees to notify NCHD in writing within three (3) business days of any such request, and upon receipt of such request from the individual, direct the individual to NCHD for an accounting of the disclosures of the individual's PHI or EPHI. CONTRACTOR agrees to make available to NCHD upon request, within three (3) business days of the request, the information required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528. Pursuant to 45 C.F.R. § 164.528(a), an individual has a right to receive an accounting of certain disclosures of PHI or EPHI in the six (6) years prior to the date on which the accounting is requested.
13. *HHS Inspection.* Upon written request, CONTRACTOR agrees to make available to HHS or its designee, CONTRACTOR's internal practices, books, and records relating to the use and disclosure of PHI and EPHI received from, or created or received on behalf of, NCHD in a time or manner designated by HHS for purposes of HHS determining NCHD's compliance with the Privacy and Security Requirements.
14. *NCHD Inspection.* Upon written request, CONTRACTOR agrees to make available to NCHD and its duly authorized representatives during normal business hours CONTRACTOR's internal practices, books, records and documents relating

to the use and disclosure of confidential information, including, but not limited to, PHI and EPHI received from, or created or received on behalf of, NCHD in a time and manner designated by NCHD for the purposes of NCHD determining compliance with the Privacy and Security Requirements. CONTRACTOR agrees to allow such access until the expiration of four (4) years after the services are furnished under the contract or subcontract or until the completion of any audit or audit period, whichever is later. CONTRACTOR agrees to allow similar access to books, records, and documents related to contracts between CONTRACTOR and organizations related to or subcontracted by CONTRACTOR to whom CONTRACTOR provides confidential information, including, but not limited to, PHI and EPHI received from, or created or received on behalf of, NCHD.

15. *PHI or EPHI Amendment.* Within three (3) business days of receipt of notification, CONTRACTOR agrees to incorporate any amendments, corrections, or additions to the PHI or EPHI received from or created, compiled, or used by NCHD pursuant to this BAA when notified by NCHD that the PHI or EPHI is inaccurate or incomplete, or that other documents are to be added as required or allowed by the Privacy and Security Requirements.
16. *Documentation of Disclosures.* CONTRACTOR agrees to document disclosure of PHI or EPHI and information related to such disclosures as is necessary for NCHD to respond to a request by an individual for an accounting of disclosures of PHI or EPHI in accordance with 45 C.F.R. § 164.528, as amended.
17. *Termination Procedures.* Upon termination of this BAA for any reason, CONTRACTOR agrees to deliver all PHI or EPHI received from NCHD or created, compiled, or used by CONTRACTOR pursuant to this BAA within thirty (30) days from the date of termination, or, if specially requested to do so by NCHD in writing, to destroy all PHI or EPHI and retain no copies and certify to NCHD in writing that all PHI and EPHI not returned has been destroyed, within the time frame determined by NCHD, which will be no less than thirty (30) days from the date of the notice of termination. This provision applies when CONTRACTOR maintains PHI or EPHI from NCHD in any form. If CONTRACTOR determines that transferring or destroying the PHI or EPHI is infeasible, CONTRACTOR agrees:
  - a) to notify NCHD of the conditions that make transfer or destruction infeasible;
  - b) to extend the protections of this BAA to such PHI or EPHI;
  - c) to limit any further uses and disclosures of such PHI or EPHI to those purposes that make the return, or transfer to NCHD, or destruction infeasible; and
  - d) to return or, if requested by NCHD, to destroy the PHI or EPHI retained by CONTRACTOR when it becomes feasible.



18. *Notice-Termination.* Upon written notice to CONTRACTOR, NCHD may terminate any portion of the Agreement under which CONTRACTOR maintains, compiles, or has access to PHI or EPHI. Additionally, upon written notice to CONTRACTOR, NCHD may terminate the entire Agreement if NCHD determines, at its sole discretion, that CONTRACTOR has repeatedly violated a Privacy or Security Requirement.
19. *Obligations of NCHD.* To the extent NCHD requests in writing that CONTRACTOR carry out one or more of NCHD's obligations under Subpart E of 45 C.F.R. Part 164, CONTRACTOR agrees to comply with the requirements of Subpart E that apply to NCHD in the performance of such obligation.
- E. Survival of Privacy Provisions. CONTRACTOR's obligations with regard to PHI and EPHI shall survive termination of this BAA and the Agreement.
- F. Amendment Related to Privacy and Security Requirements. The Parties agree to take such action as is necessary to amend this BAA if NCHD, in its reasonable discretion, determines that amendment is necessary for NCHD to comply with the Privacy and Security Requirements or any other law or regulation affecting the use or disclosure of PHI or EPHI. Any ambiguity in this BAA shall be resolved to permit NCHD to comply with the Privacy and Security Requirements.
- G. **INDEMNIFICATION.** CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS, TO THE EXTENT ALLOWED BY LAW, NCHD AND ITS BOARD OF MANAGERS, OFFICERS, EMPLOYEES, AND AGENTS (INDIVIDUALLY AND COLLECTIVELY "INDEMNITEES") AGAINST ANY AND ALL LOSSES, LIABILITIES, JUDGMENTS, GOVERNMENTAL FINES AND PENALTIES, AWARDS, AND COSTS (INCLUDING COSTS OF INVESTIGATIONS, LEGAL FEES, AND EXPENSES) ARISING OUT OF OR RELATED TO:
1. A BREACH OF THIS BAA RELATING TO THE PRIVACY AND SECURITY REQUIREMENTS BY CONTRACTOR; OR
  2. ANY NEGLIGENT OR WRONGFUL ACTS OR OMISSIONS OF CONTRACTOR OR ITS EMPLOYEES, DIRECTORS, OFFICERS, SUBCONTRACTORS, OR AGENTS, RELATING TO THE PRIVACY AND SECURITY REQUIREMENTS, INCLUDING FAILURE TO PERFORM THEIR OBLIGATIONS UNDER THE PRIVACY AND SECURITY REQUIREMENTS.
- H. Electronic Mail Addresses. CONTRACTOR affirmatively consents to the disclosure of its e-mail addresses that are provided to NCHD, including any agency or department of NCHD. This consent is intended to comply with the requirements of the Texas Public Information Act, TEX. GOV'T CODE ANN. § 552.137 *et seq.*, as amended, and shall survive termination of this BAA. This consent shall apply to e-mail addresses provided

by CONTRACTOR and agents acting on behalf of CONTRACTOR and shall apply to any e-mail address provided in any form for any reason whether related to this BAA or otherwise.

- I. Notices. Any notice required to be given pursuant to the terms and provisions of this BAA will be in writing and deemed to be given: (a) upon delivery in person, (b) three (3) days after the date deposited with or sent by U.S. Mail (first class, postage paid, return receipt requested), or (c) upon receipt by commercial delivery service, and addressed as follows, or to such address as NCHD may subsequently designate to CONTRACTOR in writing:

Nueces County Hospital District  
555 N. Carancahua Street, Suite 950  
Corpus Christi, TX 78401-0835

- J. Except as otherwise limited in this BAA, CONTRACTOR may use or disclose Protected Health Information it creates or receives from or on behalf of NCHD to provide the services to or on behalf of NCHD set out in the Agreement to which this BAA is attached.
- K. This BAA is effective on the later date it is signed by the Parties and survives the termination of the Agreement.

Executed in multiple originals, each of equal force, by duly authorized representatives of the Nueces County Hospital District and CONTRACTOR.

NUECES COUNTY HOSPITAL DISTRICT

CONTRACTOR

By: Jonny F. Hipp  
Name: Jonny F. Hipp  
Title: Administrator/CEO  
Date Signed: 12/20/2016


By: \_\_\_\_\_  
Name: James F. Brown  
Title: President  
Date Signed: \_\_\_\_\_

**EXHIBIT "C"**

***CONFLICT OF INTEREST QUESTIONNAIRE***

***FORM CIQ***

Not applicable. SCL has no relationships that would be classified as conflicts of interest.

CONFLICT OF INTEREST QUESTIONNAIRE		FORM CIQ
For vendor doing business with local governmental entity		
<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>		<b>OFFICE USE ONLY</b> Date Received
1	Name of vendor who has a business relationship with local governmental entity.  Script Care, Ltd.	
2	<input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)	
3	Name of local government officer about whom the information is being disclosed.  _____ Name of Officer	
4	Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor? <input type="checkbox"/> Yes <input type="checkbox"/> No A. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity? <input type="checkbox"/> Yes <input type="checkbox"/> No	
5	Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.	
6	<input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).	
7	Signature of vendor doing business with the governmental entity 	Date 10/10/16