EXHIBIT A

CORPORATE INTEGRITY AGREEMENT
BETWEEN THE
OFFICE OF INSPECTOR GENERAL
OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
HERITAGE ENTERPRISES, INC. AND GREEN TREE PHARMACY, INC.

I. PREAMBLE

Heritage Enterprises, Inc. ("Heritage") and Green Tree Pharmacy, Inc. ("Green Tree") hereby enter into this Corporate Integrity Agreement ("Agreement") with the Office of Inspector General of the United States Department of Health and Human Services ("HHS-OIG") to ensure compliance with the requirements of Medicare, Medicaid and all other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f))(hereinafter collectively referred to as the "Federal health care programs") by Heritage, Green Tree, their subsidiaries and employees, and to promote compliance by their independent contractors and third parties who are directly involved in, or responsible for, the dispensing, control and/or delivery of medications, pharmaceutical items or related services. Heritage's and Green Tree's compliance with the terms and conditions in this Agreement shall constitute an element of Heritage's and Green Tree's present responsibility with regard to participation in the Federal health care programs. Contemporaneously with this Agreement, Heritage is entering into a Settlement Agreement with the United States, and this Agreement is incorporated by reference into the Settlement Agreement.

II. TERM OF THE AGREEMENT

The period of the compliance obligations assumed by Heritage and Green Tree under this Agreement shall be five (5) years from the effective date of this Agreement (unless otherwise agreed to in writing by the parties). The effective date of this Agreement shall be the date on which the last signatory executes this Agreement (the "effective date").

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EXHIBIT A

III. CORPORATE INTEGRITY OBLIGATIONS

Heritage's former subsidiary and current affiliate, LTC Pharmacy, Inc., has pleaded guilty to a violation of 18 U.S.C. §§ 287 and 1341 and, therefore, has been excluded pursuant to 42 U.S.C. §1320a-7(a)(1) effective the date of LTC Pharmacy, Inc's sentencing. HHS-OIG is advised that Green Tree, an affiliate of Heritage, has been created to provide pharmacy services to the residents of Heritage's nursing homes. Green Tree, as a party to this Agreement, is subject to its requirements. The requirements of this Agreement shall also apply to any other pharmacies and/or pharmacy-related facilities, such as warehouses or distribution facilities, regulated pursuant to the Illinois Pharmacy Practice Act, the Illinois Controlled Substances Act, and related regulations, which Heritage or Green Tree may establish or acquire. The following requirements will apply to any such pharmacies and/or pharmacy-related facilities that Heritage or Green Tree may establish in the next five (5) years.

Pursuant to this Agreement, and for the duration of this Agreement, Heritage will incorporate the following integrity obligations as elements of its Compliance Plan, which shall be established in accordance with the provisions below:

A. JOINT COMPLIANCE COMMITTEE

Heritage and Green Tree shall appoint a joint Compliance Committee within ninety (90) days after the effective date of this Agreement. The Compliance Committee shall be responsible for, at a minimum, compliance with the integrity obligations in this Agreement. The corporations shall ensure that the Compliance Committee is continuously composed of representatives of the multiple disciplines and segments of the corporations' operations. At a minimum, the Compliance Committee shall include the Compliance Officer, the Compliance Liaison Officers, the President, the Executive Vice President of Operations, the Executive Vice President of Nursing Services, the Executive Vice President of Corporate Services, the Pharmacy Director for any pharmacy services subsidiary, and representatives from the billing, medical, pharmacy and nursing staff. The Compliance Committee shall report directly to the appropriate Boards of Directors. Any changes in the appointment of individuals or their authority,

the design or other aspects relating to the Compliance Committee must be reported to HHS-OIG within thirty (30) days of the effective date of such an action. All other matters affecting the Compliance Committee shall be reported to HHS-OIG in accordance with Section V below.

B. COMPLIANCE OFFICER AND COMPLIANCE LIAISON OFFICERS

Heritage and Green Tree have appointed an individual to serve as Compliance Officer. The corporations will continue to employ a Compliance Officer for the full term of this Agreement. The Compliance Officer shall be responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this Agreement and with the requirements of the Federal health care programs. The Compliance Officer shall also serve as chairperson of the Compliance Committee. At a minimum, the Compliance Officer must continuously be charged with the responsibility for the day-to-day compliance activities in furtherance of the integrity obligations assumed herein, as well as for any reporting obligations established under this Agreement.

The Compliance Officer shall report directly to the Presidents of Heritage and Green Tree and shall have unrestricted access to each corporation's Board of Directors. Any changes in the appointment of the Compliance Officer (including voluntary or involuntary personnel changes) or the duties of this position must be reported to HHS-OIG within fifteen (15) days of the effective date of the action. All other matters affecting the Compliance Officer shall be reported in accordance with Section V below.

Each of Heritage's facilities, as well as Green Tree, shall have a Compliance Liaison Officer to serve as a resource for information and inquiries related to any compliance issues as well as to serve as a liaison with the Compliance Officer and Compliance Committee. The Compliance Liaison Officer shall be a member of the facility's senior management and shall make reports regarding compliance matters directly to Heritage's Compliance Officer at least quarterly, and, as appropriate, taking into account the severity of any such matter. At a minimum, the Compliance

Liaison Officer will be charged with the responsibility for the day-to-day compliance activities at his/her facility or subsidiary in furtherance of the integrity obligations assumed herein, as well as for any reporting obligations established under this Agreement. The names of the Compliance Liaison Officers shall be submitted to HHS-OIG within ninety (90) days of the effective date of this Agreement. When the identity of the Compliance Liaison Officer changes, Heritage shall notify, in writing, the HHS-OIG within thirty (30) days of such a change. All other matters affecting the Compliance Liaison Officer shall be reported in accordance with Section V below.

C. WRITTEN STANDARDS

1. *Code of Conduct.* Within ninety (90) days of the effective date of this Agreement, Heritage and Green Tree shall each develop a written Code of Conduct as part of their Compliance Plans and shall maintain it in effect for the duration of this Agreement. A copy of the Code of Conduct shall be provided to HHS-OIG and the Illinois Department of Public Aid Office of the Inspector General ("IDPA-OIG") within sixty (60) days of the effective date of this Agreement for review and possible comment. The Code of Conduct shall be distributed to all officers, directors, 5% or greater shareholders, employees, contractors and/or agents within ninety (90) days of the effective date of this Agreement.

For the purposes of this paragraph, "contractor" shall include all consultants, therapists, medical service providers (including hospitals, ambulance services, x-ray technicians, laboratory technicians, dialysis and respiratory specialists, hospices and transportation providers), doctors, dentists and podiatrists who contract with Heritage to provide services that directly impact patient care. Copies of the Code of Conduct shall be provided to all contracting entities retained by Heritage and a representative from such entity shall certify, pursuant to the certification requirements set forth below, that the entity has received the Code of Conduct. Two entities which contract with Green Tree, i.e., Progressive Inventory Services of Chicago, Illinois, and Easy Returns of St. Charles, Missouri, will each be

required to have a company representative certify that their respective company's employees have received a copy of the Code of Conduct.

Heritage and Green Tree shall make the promotion of, and adherence to, the Code of Conduct an element in evaluating the performance of managers, supervisors, and all other employees. Each corporation's respective Code of Conduct shall, at a minimum, set forth:

a. Heritage's or Green Tree's commitment to full compliance with all statutes, regulations, and guidance applicable to Federal health care programs (including Medicaid), and its commitment to prepare and submit accurate reimbursement claims consistent with Federal health care program regulations and procedures or instructions otherwise communicated by the Health Care Financing Administration ("HCFA") (or other appropriate regulatory agencies) and/or its agents;

b. Heritage's or Green Tree's requirement that all of its officers, directors, 5% or greater shareholders, employees, contractors and/or agents shall be expected to comply with all statutes, regulations, and guidance applicable to Federal health care programs and with Heritage's or Green Tree's own policies and procedures (including the requirements of this Agreement);

c. the requirement that all of Heritage's or Green Tree's officers, directors, 5% or greater shareholders, employees, contractors, and/or agents shall be expected to report to the Compliance Officer any suspected violations of any statute, regulation, or guidelines applicable to Federal health care programs or with Heritage's or Green Tree's own policies and procedures;

d. the potential consequences to both Heritage or Green Tree, and to any officer, director, 5% or greater shareholder, employee, contractor, and/or agent as a result of any failure to

comply with Federal health care program requirements and with Heritage's or Green Tree's own policies and procedures, or any failure to report such non-compliance; and

e. the right of all officers, directors, 5% or greater shareholders, employees, contractors, and/or agents to use the confidential disclosure program as set forth in Section III.F, as well as Heritage's or Green Tree's commitment to confidentiality and non-retaliation with respect to good faith disclosures.

Within ninety (90) days of the effective date of the Agreement, each Heritage and Green Tree employee shall certify, in writing, that they have received, read, understood, and will abide by Heritage and Green Tree's respective Codes of Conduct. Heritage and Green Tree shall also ask a representative from each contracting entity and/or agent to certify each entity has received, read, understood, and will abide by their respective corporation's Code of Conduct. New employees, contracting entities and/or agents shall receive the Codes of Conduct and shall complete the required certification within thirty (30) days after the commencement of their employment, or contract, or within ninety (90) days of the effective date of the Agreement, whichever is later.

Heritage and Green Tree will annually review their respective Codes of Conduct and will make any necessary revisions. A copy of the revisions shall be provided to HHS-OIG and IDPA-OIG for review and possible comment. These revisions shall be distributed within thirty (30) days of initiating such a change. Employees shall certify on an annual basis that they have received, read, understood and will abide by the Code of Conduct.

2. *Policies and Procedures*. Within ninety (90) days of the effective date of this Agreement, Heritage and Green Tree shall develop and implement written Policies and Procedures regarding the operation of their respective compliance programs and their compliance with all Federal and state health care statutes, regulations, and guidance

by the agency in charge of administering the program and/or its agents.

The Policies and Procedures shall address mechanisms in Heritage's and Green Tree's billing system to assure the correct billing for:

a. the amount or price for drugs;

b. units for billing purposes;

c. dispensing fee charges; and

d. any items or devices used to administer drugs.

Heritage and Green Tree shall assess and update as necessary the Policies and Procedures at least annually and more frequently, as appropriate. A summary of the Policies and Procedures will be provided to HHS-OIG in the Implementation Report. The Policies and Procedures will be available to HHS-OIG upon request.

Within ninety (90) days of the effective date of the Agreement, the relevant portions of the Policies and Procedures shall be distributed to all appropriate officers, directors, 5% or greater shareholders, employees, contractors, and/or agents. Compliance staff or supervisors should be available to explain any and all policies and procedures during normal business hours.

D. TRAINING AND EDUCATION

1. *Scope of Paragraph.* For the purposes of this paragraph D, "contractor" refers only to Progressive Inventory Services of Chicago, Illinois, and Easy Returns of St. Charles, Missouri. "Independent contractor" will refer to all consultants, therapists, medical service providers (including hospitals, ambulance services, x-ray technicians, laboratory technicians, dialysis and respiratory specialists, hospices and transportation providers), doctors, dentists and podiatrists who contract with Heritage to provide services that directly impact patient care.

2. *General Training.* Within ninety (90) days of the effective date of this Agreement, Heritage and Green Tree shall provide at least one and one-half (1-1/2) hours of training to each employee, contractor, and/or agent. This general training shall explain Heritage's or Green Tree's:

   a. Corporate Integrity Agreement requirements;

   b. Compliance Program (including the Policies and Procedures as they pertain to general compliance issues); and

   c. Code of Conduct.

   The training material shall be made available to the HHS-OIG, upon request.

   New employees shall receive the general training described above within thirty (30) days of the beginning of their employment or within ninety (90) days after the effective date of this Agreement, whichever is later. Every employee, contractor, and/or agent shall receive one and one-half (1-1/2) hours of general training on an annual basis.

Heritage shall in its annual report to HHS-OIG identify the measures taken to encourage the participation in such training of its independent contractors. Notice of training shall be sent to all independent contractors encouraging them to attend. Finally, Heritage shall also identify in its annual report to HHS-OIG the percentage of its independent contractors who attended such training in the prior year.

3. *Specific Training.*

a. Green Tree Pharmacy Employees:

Within ninety (90) days of the effective date of this Agreement, each Green Tree employee, contractor, and/or agent who is involved directly or indirectly in the delivery of patient care and/or in the preparation or submission of claims for reimbursement for patient care (including, but not limited to, coding and billing) for any Federal health care programs shall receive at least six (6) hours of specialized training in addition to the general training required above. This training shall include a discussion of all of the following:

i) the submission of reimbursement billings for pharmacy services to Medicare, Medicaid and other Federal health care programs;

ii) policies, procedures and other requirements applicable to the dispensing, storage, delivery or returns of medications under the applicable state and federal regulations;

iii) the personal obligation of each individual involved in the billing process to ensure that such billings are accurate;

iv) applicable reimbursement rules and statutes;

v) the legal sanctions for improper billings; and

vi) examples of proper and improper billing practices.

These training materials shall include a summary or copy of the materials that shall be included in the Annual Report. Persons providing the training must be knowledgeable about the subject area.

Affected new Green Tree employees shall receive this training within thirty (30) days of the beginning of their employment or within ninety (90) days of the effective date of this Agreement, whichever is later. If a new employee has any responsibility for the delivery of patient care, the preparation or submission of claims and/or the assignment of procedure codes prior to completing this specific training, a Green Tree employee who has completed the substantive training shall review all of the untrained person's work regarding the preparation or submission of claims and/or the assignment of procedure codes the assignment of billing codes and what services qualify as medically necessary.

Every affected Green Tree employee shall receive refresher sessions lasting at least three (3) hours on this specific training each year for the duration of this Agreement. The substance of the training and the identity of the individuals must be documented in accordance with Section 3 below.

b. Heritage Caregivers:

i) Nursing Supervisors: Nursing supervisors, consisting of all Directors of Nursing and all Assistant Directors of Nursing, shall receive four (4) hours of specific training each year for the duration of this Agreement, which shall include training on items (iii) through (vi) listed above in paragraph D.2.a, as well as instruction concerning level of care changes, ancillary services charges, nursing supply charges and bed hold policies. Heritage may apply four (4) hours of in-service training annually toward satisfaction of this four (4) hour requirement: provided, however, that this in-service training covers matters described in this subparagraph.

ii) Licensed Staff: Licensed staff, consisting of all registered nurses, licensed practical nurses, and therapists, shall receive one (1) hour of training each year for the duration of this Agreement, which shall consist of instruction concerning level of care charges, ancillary services charges, nursing supply charges and bed hold policies. Heritage may apply one (1) hour of in-service training annually toward satisfaction of this one (1) hour requirement: provided, however, that this in-service training covers matters described in this subparagraph

c. Accounts Receivable Supervisors and Specialists:

Within ninety (90) days of the effective date of this Agreement, each Accounts Receivable Supervisor and each Accounts Receivable Specialist shall receive at least four (4) hours of training in items (iii) through (vi) listed in paragraph D.2.a above. Thereafter each Accounts Receivable Supervisor and each Accounts Receivable Specialist shall receive four (4) hours of the training described in this subparagraph for each year of this Agreement.

4. *Certification.* Upon completion of each training session, each affected employee shall certify, in writing, that he or she has attended the required general and specific training. The certification shall specify the type of training received and the date received. The Compliance Officer shall retain the certifications, along with specific course materials. These shall be made available to HHS-OIG, upon request.

E. REVIEW PROCEDURES

Heritage and Green Tree shall retain an independent entity, such as an accounting, auditing or consulting firm (hereinafter "Independent Review Organization"), to perform review procedures to assist Heritage and Green Tree in assessing the adequacy and effectiveness of its billing and compliance practices pursuant to this Agreement. Specifically, these annual

claims reviews shall focus, at a minimum, on the accuracy of reimbursement billings for pharmacy services to Medicaid and other Federal health care programs. This review shall be an annual requirement and shall cover a twelve (12) month period. The Independent Review Organization must have expertise in the billing, coding, reporting and other requirements of the Federal health care programs from which Green Tree seeks reimbursement. The Independent Review Organization must be retained within ninety (90) days of the effective date of this Agreement to conduct the claims review of the first year.

The Independent Review Organization will conduct two separate engagements. One will be an analysis of Green Tree's billing to the Federal health care programs to assist Green Tree and HHS-OIG in determining Green Tree's effectiveness in complying with all applicable statutes, regulations, and directives/guidance ("billing engagement"). The second engagement will determine whether Heritage and Green Tree are in compliance with this Agreement ("compliance engagement").

1. *Billing Engagement.* The billing engagement shall consist of a review of a statistically valid sample of claims that can be projected to the population of claims for the relevant period. The sample size shall be determined through the use of a probe sample. At a minimum, the full sample must be within a ninety-five (95) percent confidence level and a precision of twenty-five (25) percent. The probe sample must contain at least thirty (30) sample units and cannot be used as part of the full sample. Both the probe sample and the sample must be selected through random numbers. Green Tree and its Independent Review Organization shall use HHS-OIG's Office of Audit Services Statistical Sampling Software, also known as "RAT-STATS," which is available through the Internet at "www.hhs.gov/oas/ratstat.html".

Each annual billing engagement analysis shall include the following components in its methodology:

a. Billing Engagement Objective: A clear statement of the objective intended to be achieved by the billing engagement

and the procedure or combination of procedures that will be applied to achieve the objective.

b. Billing Engagement Population: Identify the population, which is the group about which information is needed. Explain the methodology used to develop the population and provide the basis for this determination.

c. Sources of Data: Provide a full description of the source of the information upon which the billing engagement conclusions will be based, including the legal or other standards applied, documents relied upon, payment data, and/or any contractual obligations.

d. Sampling Unit: Define the sampling unit, which is any of the designated elements that comprise the population of interest.

e. Sampling Frame: Identify the sampling frame, which is the totality of the sampling units from which the sample will be selected.

The billing engagement shall provide:

a. findings regarding Green Tree's billing and coding operation (including, but not limited to, the operation of the billing system, strengths and weaknesses of this system, internal controls, effectiveness of the system);

b. findings regarding whether Green Tree is submitting accurate claims for services billed to the Federal health care programs;

c. findings regarding Green Tree's procedures to correct inaccurate billings for pharmacy services to the Federal health care programs;

d. findings regarding whether Green Tree's programs, policies, operations, and procedures comply with the applicable

statutes, regulations and other requirements of the Federal health care programs from which Green Tree seeks reimbursement; and

e. findings regarding the steps Heritage and Green Tree are taking to bring their operations into compliance or to correct problems identified by the audit.

In regard to Green Tree, this engagement shall be aimed at ensuring that:

a. the Federal health care programs, including the Illinois Medical Assistance (Medicaid) program, are billed appropriately for medications or related services that are provided as claimed;

b. All of Green Tree's contracts with third parties involving Green Tree's dispensing, storage, delivery or returns of medications, or involving related services, comply with all applicable state and Federal statutes and regulations; and

c. Green Tree complies with Illinois statutes and regulations regarding returned medications. Specifically, Green Tree agrees that as part of the latter review, it will review whether Green Tree has either (i) destroyed all unused medications paid for by the Illinois Medicaid program that are subsequently returned from nursing homes, other health care facilities or individuals to Green Tree (hereafter "Medicaid Returns") or (ii) credited the Illinois Department of Public Aid ("IDPA")(which administers Illinois' Medicaid Program) the appropriate amount if the returned medications are not destroyed, but are instead returned to Green Tree's inventory.

2. *Compliance Engagement.* An Independent Review Organization (which may be the same as that which conducted the billing engagement) shall also conduct a compliance engagement, which shall provide findings regarding whether Heritage's and Green Tree's program, policies, procedures, and operations comply with

the terms of this Agreement. This engagement shall include a section by section analysis of the requirements of this Agreement.

A complete copy of the Independent Review Organization's billing and compliance engagement shall be included in each of Heritage's Annual Reports to HHS-OIG.

3. *Verification/Validation.* In the event that the HHS-OIG determines that it is necessary to conduct an independent review to determine whether or the extent to which Heritage or Green Tree is complying with its obligations under this Agreement, both corporations agree to pay for the reasonable cost of any such review or engagement by the HHS-OIG or any of its designated agents.

F. CONFIDENTIAL DISCLOSURE PROGRAM

Within sixty (60) days after the effective date of this Agreement, Heritage shall establish a Confidential Disclosure Program, which must include measures (e.g., a toll-free compliance telephone line) to enable employees, contractors, agents or other individuals to disclose, to the Compliance Officer or some other person who is not in the reporting individual's chain of command, any identified issues or questions associated with Heritage's policies, practices or procedures with respect to Federal health care programs, including Medicaid, believed by the individual to be inappropriate. Heritage shall publicize the existence of the hotline (e.g., e-mail to employees or post hotline number in prominent common areas).

The Confidential Disclosure Program shall emphasize a non-retribution, non-retaliation policy, and shall include a reporting mechanism for anonymous, confidential communication. Upon receipt of a complaint, the Compliance Officer (or designee) shall gather the information in such a way as to elicit all relevant information from the individual reporting the alleged misconduct. The Compliance Officer (or designee) shall make a preliminary good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has obtained all of the information necessary to determine whether a further review should be conducted. For

any disclosure that is sufficiently specific so that it reasonably: (1) permits a determination of the appropriateness of the alleged improper practice, and (2) provides an opportunity for taking corrective action, Heritage shall conduct an internal review of the allegations set forth in such a disclosure and ensure that proper follow-up is conducted.

All employees of Green Tree shall also have access to and knowledge of the Confidential Disclosure Program implemented pursuant to this Section. Green Tree shall be required to follow up on any allegation discovered pursuant to the Confidential Disclosure Program in the same manner as required of Heritage by this Section.

The Compliance Officer shall maintain a confidential disclosure log, which shall include a record and summary of each allegation received, the status of the respective investigations, and any corrective action taken in response to the investigation. A copy of this confidential disclosure log shall be submitted to the HHS-OIG in accordance with section V.B.9 of this Agreement.

G. DEALING WITH EXCLUDED OR CONVICTED PERSONS OR ENTITIES

Heritage and Green Tree shall implement a written internal policy stating that they shall not knowingly employ or contract with, with or without pay, any individual or entity that is listed by a federal agency as excluded, suspended, or otherwise ineligible for participation in federal programs (hereinafter "Ineligible Person Policy"). Heritage and Green Tree shall formally maintain this policy. At a minimum, Heritage's and Green Tree's Ineligible Person Policy shall include the following requirements:

1. *Definition.* For purposes of this Agreement, an "Ineligible Person" shall be any individual or entity who: (i) is currently excluded, debarred or otherwise ineligible to participate in the Federal health care programs; or (ii) has been convicted of a criminal offense related to the provision of health care items or services but has not yet been excluded, disbarred or otherwise declared ineligible.

2. *Screening Requirements.* Heritage and Green Tree shall not hire or engage as contractors any Ineligible Person. To prevent hiring or contracting with any Ineligible Person, Heritage and Green Tree shall screen all prospective employees and prospective contractors prior to engaging their services by (i) requiring applicants to disclose whether they are Ineligible Persons, (ii) reviewing the General Services Administration's List of Parties Excluded from Federal Programs (available through the Internet at http://epls.arnet.gov) and the HHS/OIG List of Excluded Individuals/Entities (available through the Internet at http://www.hhs.gov/oig) (these lists will hereinafter be referred to as the "Exclusion Lists") and (iii) reviewing the IDPA terminated/suspended listing maintained by the IDPA-OIG. In addition, Heritage and Green Tree shall require employees to disclose immediately any debarment, exclusion or other event that makes the employee into an Ineligible Person.

3. *Review and Removal Requirement.* Within ninety (90) days of the effective date of this Agreement, Heritage and Green Tree will review their lists of current employees and contractors against the Exclusion Lists. Thereafter, Heritage and Green Tree will review the list semi-annually. If Heritage or Green Tree has notice that an employee or contractor has become an Ineligible Person, the corporation will remove such person from responsibility for, or involvement with, Heritage's or Green Tree's business operations related to the Federal health care programs and shall remove such person from any position for which the person's salary or the items or services rendered, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds at least until such time as the person is reinstated into participation in the Federal health care programs.

4. *Pending Charges and Proposed Exclusions.* If Heritage or Green Tree has notice that an employee or contractor is charged with a criminal offense related to any Federal health care program, or is proposed for exclusion during his or her employment or contract, Heritage or Green Tree shall take all appropriate actions to ensure that the responsibilities of that employee or contractor have not and will not adversely affect the quality of care rendered to any patient or resident, or the accuracy of any claims submitted to any Federal health care program.

H. NOTIFICATION OF PROCEEDINGS

Within thirty (30) days of discovery, Heritage or Green Tree shall notify HHS-OIG, in writing, of any ongoing investigation or legal proceeding conducted or brought by a governmental entity or its agents (including all Medicare/Medicaid carriers, fiscal intermediaries, or fraud contractors) involving an allegation that Heritage or its affiliated companies, corporation, divisions, parents, and subsidiaries has or have committed a crime or has or have engaged in fraudulent activities or any other knowing misconduct. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. Heritage or Green Tree shall also provide written notice to HHS-OIG within thirty (30) days of the resolution of the matter, and shall provide HHS-OIG with a description of the findings and/or results of the proceedings, if any.

I. REPORTING

1. *Overpayments*

a. Definition of Overpayments. For purposes of this Agreement, an "overpayment" shall mean the amount of money Heritage or Green Tree has received in excess of the amount due and payable under the Federal health care programs' statutes, regulations or guidelines, including carrier and intermediary instructions. Heritage or Green Tree may not subtract any underpayments for purposes of determining the amount of relevant "overpayments."

b. Reporting of Overpayments. If, at any time, Heritage or Green Tree identifies or learns of any billing, coding or other policies, procedures and/or practices that result in overpayments, Heritage or Green Tree shall notify the payor (e.g., Medicare fiscal intermediary or carrier, Medicaid) and repay any overpayments within thirty (30) days of discovery and take remedial steps within sixty (60) days of discovery (or such additional time as may be agreed to by the payor) to correct the problem, including preventing the underlying problem and the overpayments from recurring. Notification to the contractor should be done in accordance with the contractor policies, and for

Medicare contractors, can be done pursuant to a form similar to the Overpayment Refund Form, provided as Attachment A to this Agreement. This notice requirement does not apply, however, to matters discovered during routine audits by IDPA.

2. *Material Deficiencies.*

a. Definition of Material Deficiency. For purposes of this Agreement, a "Material Deficiency" means anything that involves:

i) a substantial overpayment relating to any Federal health care program;

ii) a matter that a reasonable person would consider a potential violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion are authorized; or

iii) a violation of the obligation to provide items or services of a quality that meets professionally recognized standards of health care where such violation has occurred in one or more instances that presents an imminent danger to the health, safety, or well-being of a Federal health care program beneficiary or places the beneficiary unnecessarily in high-risk situations.

A Material Deficiency may be the result of an isolated event or a series of occurrences.

b. Reporting of Material Deficiencies. If Heritage or Green Tree determines that there is a material deficiency, Heritage or Green Tree shall notify HHS-OIG within thirty (30) days of making the determination that the Material Deficiency exists. The report to the HHS-OIG shall include the following information:

i) If the Material Deficiency results in an overpayment, the report to the HHS-OIG shall be made at the same time as the notification to

the payor required in section I.1, and shall include all of the information on the Overpayment Refund Form, as well as:

(1) the payor's name, address, and contact person to whom the overpayment was sent; and

(2) the date of the check and identification number (or electronic transaction number) on which the overpayment was repaid/refunded.

ii) a complete description of the Material Deficiency, including the relevant facts, persons involved, and legal and program authorities implicated;

iii) a description of Heritage's or Green Tree's actions to correct the Material Deficiency; and

iv) any further steps Heritage or Green Tree plans to take to address such a Material Deficiency and prevent it from recurring.

J. RECORD KEEPING REQUIREMENT FOR NURSING HOMES

All of Heritage's nursing homes shall be required to implement a record keeping system to document the process whereby unused medication(s) are returned to its pharmacy services provider or destroyed. These records shall document the types of medication(s) involved, the quantity returned or destroyed, the entity the medication(s) were returned to (if applicable), and the manner in which the medication(s) were returned or destroyed. These records will be maintained for a minimum of five (5) years from their creation and will be available to HHS-OIG, IDPA-OIG, and the Illinois Department of Professional Regulation ("IDPR") upon request.

IV. REQUIREMENTS FOR ESTABLISHMENT OF GREEN TREE PHARMACY

Heritage agrees that it will send a letter explaining the facts and circumstances that led to the exclusion of LTC Pharmacy Inc. to each of the former vendors, contractors, and nursing homes with which LTC had contracted. The form and content of this letter will be submitted for review and approval to the HHS-OIG within five (5) business days of the effective date of this Agreement. Thereafter, Heritage agrees that it will send these letters to LTC Pharmacy, Inc.'s former vendors, contractors, and nursing homes within five (5) days of receipt of HHS-OIG's approval of the form and content of such letter.

V. NEW LOCATIONS

In the event that Heritage, its parents, subsidiaries or divisions purchase(s) or establish(es) new business units after the effective date of this Agreement, Heritage shall notify HHS-OIG of this fact within thirty (30) days of the date of purchase or establishment. This notification shall include the location of the new operation(s), phone number, fax number, Federal health care program number(s) (if any), and the corresponding payor(s) (contractor specific) that has issued each Heritage number. At the HHS-OIG's discretion, all employees at such locations shall be subject to the requirements in this Agreement that apply to new employees (e.g., completing certifications and undergoing training).

VI. IMPLEMENTATION AND ANNUAL REPORTS

A. IMPLEMENTATION REPORT

Within one hundred and twenty (120) days after the effective date of this Agreement, Heritage and Green Tree together shall submit a written report to HHS-OIG summarizing the status of its implementation of the requirements of this Agreement. This Implementation Report shall include:

1. the names and positions of the members of the Compliance Committee required by section III.A;

2. the name, address, phone number and position description of the corporations' Compliance Officers required by section III.B;

3. a copy of Heritage's and Green Tree's respective Codes of Conduct required by section III.C.1;

4. a summary or copy of each corporations' Policies and Procedures required by section III.C.2 , a copy of which shall be made available upon request by HHS-OIG;

5. a description of the training programs required by section III.D, including a description of the targeted audiences and a schedule of when the training sessions were held;

6. a certification by the corporations' Compliance Officers that:

   a. the Policies and Procedures required by section III.C.2 have been developed, are being implemented, and have been distributed to all pertinent employees;

   b. all employees have completed the Code of Conduct certification required by section III.C.1; and

   c. all employees have completed the training and executed the certification required by section III.D.

7. a description of the confidential disclosure program required by section III.F;

8. the identity of the Independent Review Organization(s) and the proposed start and completion date of the first audit;

9. a summary of personnel actions taken pursuant to section III.G; and

10. a list of locations (including mailing addresses) of all nursing homes which Heritage owns, operates and manages, including joint ventures in which Heritage participates, the corresponding name under which each location is doing business, the corresponding phone numbers and fax numbers, each location's Federal health care program

provider identification number (s), and the name, address, and telephone number of the payor (specific contractor) that issued each provider identification number.

B. ANNUAL REPORTS

Heritage and Green Tree together shall submit to HHS-OIG an Annual Report with respect to the status and findings of the two corporations' compliance activities.

The Annual Reports shall include:

1. any change in the identity or position description of the Compliance Officers and/or members of the Compliance Committee described in sections III.A and III.B;

2. a certification by the corporations' Compliance Officers that:

   a. all employees have completed the annual Code of Conduct certification required by section III.C.1; and

   b. all employees have completed the training and executed the certification required by section III.D.

3. notification of any changes or amendments to the Policies and Procedures required by section III.C.2 and the reasons for such changes (e.g., change in contractor policy);

4. a complete copy of the original report prepared pursuant to the Independent Review Organization's billing and compliance engagements, including a copy of the methodology used;

5. any substantive revisions or amendments made to Heritage's or Green Tree's Policies and Procedures or Code of Conduct subsequent to the effective date of this Agreement;

6. Heritage's or Green Tree's response/corrective action plan to any issues raised by the Independent Review Organization;

7. a summary of material deficiencies and reported throughout the course of the previous twelve (12) months pursuant to sections III.E.3 and III.I;

8. a report of the aggregate overpayments that have been returned to the Federal health care programs that were discovered as a direct or indirect result of implementing this Agreement. Overpayment amounts should be broken down into the following categories: Medicare, Medicaid (report each applicable state separately) and other Federal health care programs;

9. a summary of communications received from the confidential disclosure program required by section III.F;

10. a description of any personnel action (other than hiring) taken by Heritage or Green Tree as a result of the obligations in section III.G;

11. a summary describing any ongoing investigation or legal proceeding conducted or brought by a governmental entity involving an allegation that Heritage or Green Tree has committed a crime or has engaged in fraudulent activities, which have been reported pursuant to section III.H. The statement shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation, legal proceeding or requests for information;

12. a corrective action plan to address any probable violations of law identified in section III.I; and

13. a description of all changes to the most recently provided list (as updated) of Heritage's locations (including mailing addresses), the corresponding name under which each location is doing business, the corresponding telephone numbers and fax numbers, each location's Federal health care program provider identification number(s), and

the name, address, and telephone number of the payor (specific contractor) that issued each provider identification number.

The first Annual Report shall be received by the HHS-OIG no later than one year and thirty (30) days after the effective date of this Agreement. Subsequent Annual Reports shall be submitted no later than the anniversary date of the due date of the first Annual Report.

C. CERTIFICATIONS

The Implementation Report and Annual Report shall include a certification by the Compliance Officers, under penalty of perjury, that: (1) Heritage and Green Tree are in compliance with all of the requirements of this Agreement, to the best of his or her knowledge; and (2) the Compliance Officers have reviewed the Report being submitted and have made reasonable inquiry regarding its content and believes that, upon such inquiry, the information is accurate and truthful.

VII. NOTIFICATIONS AND SUBMISSION OF REPORTS

Unless otherwise stated in writing subsequent to the effective date of this Agreement, all notifications and reports required under this Agreement shall be submitted to the entities listed below:

HHS-OIG:

Civil Recoveries Branch - Compliance Unit
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
Cohen Building, Room 5527
330 Independence Avenue, SW
Washington, DC 20201
Phone: 202.619.2078
Fax: 202.205.0604

EXHIBIT A

IDPA:

Compliance Unit
Office of the Inspector General
Illinois Department of Public Aid
404 North Fifth Street
Springfield, Illinois 62702
Phone: 217.524.7658
Fax: 217.524.6037

IDPR:

Edward Duffy
Drug Compliance Coordinator
320 West Washington
Springfield, Illinois 62786

HERITAGE ENTERPRISES, INC.:

Joseph F. Warner, President
Heritage Enterprises, Inc.
115 West Jefferson Street, Suite 401
P.O. Box 3188
Bloomington, Illinois 61702-3188
Phone: 309.828.4361
Fax: 309.829.5477
Medicare Provider Number: See Attachment 1

GREEN TREE PHARMACY, INC.:

David Wegman, Pharmacist-in-Charge
Green Tree Pharmacy, Inc.
110 E. Fifth St., Suite 2
Minonk, Illiniois 61760
Phone: 309.432.3451
Fax: 309.432.2575

VIII. HHS-OIG AND IDPA/IDPR INSPECTION, AUDIT AND REVIEW RIGHTS

A. HHS-OIG INSPECTION, AUDIT AND REVIEW RIGHTS

In addition to any other rights HHS-OIG may have by statute, regulation, or contract, HHS-OIG or its duly authorized representative(s) may examine, subject to a properly asserted legal privilege, Heritage's or Green Tree's books, records, and other documents and supporting materials and/or conduct an onsite review of Heritage's or Green Tree's operations for the purpose of verifying and evaluating: (a) Heritage's or Green Tree's compliance with the terms of this Agreement; and (b) Heritage's or Green Tree's compliance with the requirements of the Federal health care programs in which they participate. The documentation described above shall be made available by Heritage or Green Tree to HHS-OIG or its duly authorized representative(s) at all reasonable times for inspection, audit or reproduction. Furthermore, for purposes of this provision, HHS-OIG or its duly authorized representative(s) may interview any of Heritage's or Green Tree's employees who consent to be interviewed at the employee's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the employee and HHS-OIG. Heritage or Green Tree agrees to assist HHS-OIG in contacting and arranging interviews with such employees upon HHS-OIG's request. Heritage's or Green Tree's employees may elect to be interviewed with or without a representative of Heritage or Green Tree present.

B. IDPA AND IDPR INSPECTION, AUDIT AND REVIEW RIGHTS

In addition to any other right that the IDPA or IDPR may have by statute, regulation, contract or pursuant to this Agreement, IDPA, IDPR or their duly authorized representative(s) may examine the books, records, and other company documents and supporting materials related to Heritage's Illinois operations at any time of its choosing during regular business hours in Illinois. Furthermore, for purposes of this provision, IDPA-OIG or its duly authorized representative(s) may interview any of Heritage's or Green Tree's employees who consent to be interviewed at the employee's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the employee and IDPA-OIG. Heritage or Green Tree agrees to assist the IDPA-OIG in contacting and arranging interviews with such employees upon IDPA-OIG's request. Heritage's or Green Tree's employees may elect to be interviewed with or

without a representative of Heritage or Green Tree present. In the event IDPA or IDPR executes an unscheduled inspection of Heritage's or Green Tree's pharmacy operations, IDPA or IDPR personnel will make known their identity and the purpose of their inspection or visit. By this Agreement, Heritage and Green Tree consent to such unannounced inspections without prior notice.

IX. DOCUMENT AND RECORD RETENTION

Heritage, Green Tree or their respective successor(s) shall maintain for inspection documents and records relating to reimbursement from the Federal health care programs for a period of six (6) years following the effective date of this Agreement or one (1) year longer than the duration of this Agreement.

X. DISCLOSURES

Subject to HHS's Freedom of Information Act ("FOIA") procedures, set forth in 45 C.F.R. Part 5, HHS-OIG shall make a reasonable effort to notify Heritage or Green Tree prior to any release by HHS-OIG of information submitted by Heritage or Green Tree pursuant to their obligations under this Agreement and identified upon submission by Heritage or Green Tree as trade secrets, commercial or financial information and privileged and confidential under the FOIA rules. Heritage and Green Tree shall refrain from identifying any information as trade secrets, commercial or financial information and privileged and confidential that does not meet the criteria for exemption from disclosure under FOIA.

XI. BREACH AND DEFAULT PROVISIONS

Heritage and Green Tree are expected to fully and timely comply with all of the obligations herein throughout the term of this Agreement or other time frames herein agreed to.

A. STIPULATED PENALTIES FOR FAILURE TO COMPLY WITH CERTAIN OBLIGATIONS

As a contractual remedy, Heritage, Green Tree and HHS-OIG hereby agree that failure to comply with certain obligations set forth in this Agreement may lead to the imposition of the following monetary penalties (hereinafter

referred to as "Stipulated Penalties") in accordance with the following provisions.

1. A Stipulated Penalty of $2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day, beginning one-hundred and twenty (120) days after the effective date of this Agreement and concluding at the end of the term of this Agreement, Heritage or Green Tree fails to have in place any of the following:

    a. a Compliance Officer;

    b. a Compliance Committee;

    c. written Code of Conduct;

    d. written Policies and Procedures;

    e. a training program; and

    f. a Confidential Disclosure Program;

2. A Stipulated Penalty of $2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Heritage or Green Tree fails meet any of the deadlines to submit the Implementation Report or the Annual Reports to the HHS-OIG.

3. A Stipulated Penalty of $2,000 (which shall begin to accrue on the date the failure to comply began) for each day Heritage or Green Tree employs or contracts with an Ineligible Person and that person: (i) has responsibility for, or involvement with, Heritage's or Green Tree's business operations related to the Federal health care programs or (ii) is in a position for which the person's salary or the items or services rendered, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds (this Stipulated Penalty shall not be demanded for any time period during which Heritage or Green Tree can demonstrate that it did not discover the person's

exclusion or other ineligibility after making a reasonable inquiry (as described in section III.G) as to the status of the person).

4. A Stipulated Penalty of $1,500 (which shall begin to accrue on the date that Heritage or Green Tree fails to grant access) for each day Heritage or Green Tree fails to grant access to the information or documentation as required in section VIII of this Agreement.

5. A Stipulated Penalty of $1,000 (which shall begin to accrue ten (10) days after the date that HHS-OIG provides notice to Heritage or Green Tree of the failure to comply) for each day Heritage or Green Tree fails to comply fully and adequately with any obligation of this Agreement. In its notice to Heritage or Green Tree, the HHS-OIG shall state the specific grounds for its determination that Heritage or Green Tree has failed to comply fully and adequately with the Agreement obligation(s) at issue.

B. PAYMENT OF STIPULATED PENALTIES

1. *Demand Letter.* Upon a finding that Heritage or Green Tree has failed to comply with any of the obligations described in section XI.A and determining that Stipulated Penalties are appropriate, HHS-OIG shall notify the affected corporation by personal service or certified mail of (a) that corporation's failure to comply; and (b) the HHS-OIG's exercise of its contractual right to demand payment of the Stipulated Penalties (this notification is hereinafter referred to as the "Demand Letter").

   Within fifteen (15) days of the date of the Demand Letter, Heritage or Green Tree shall either (a) cure the breach to the HHS-OIG's satisfaction and pay the applicable stipulated penalties; or (b) request a hearing before an HHS administrative law judge ("ALJ") to dispute the HHS-OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth below in section XI.D. In the event Heritage or Green Tree elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until Heritage or Green Tree cures, to the HHS-OIG's satisfaction, the alleged breach in

dispute. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this Agreement and shall be grounds for exclusion under section XI.C.

2. *Timely Written Requests for Extensions*. Heritage or Green Tree may submit a timely written request for an extension of time to perform any act or file any notification or report required by this Agreement. Notwithstanding any other provision in this section, if HHS-OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after Heritage or Green Tree fails to meet the revised deadline as agreed to by the HHS-OIG-approved extension. Notwithstanding any other provision in this section, if HHS-OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until two (2) business days after Heritage or Green Tree receives HHS-OIG's written denial of such request. A "timely written request" is defined as a request in writing received by HHS-OIG at least five (5) business days prior to the date by which any act is due to be performed or any notification or report is due to be filed.

3. *Form of Payment*. Payment of the Stipulated Penalties shall be made by certified or cashier's check, payable to "Secretary of the Department of Health and Human Services," and submitted to HHS-OIG at the address set forth in section VII.

4. *Independence from Material Breach Determination*. Except as otherwise noted, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for the HHS-OIG's determination that Heritage or Green Tree has materially breached this Agreement, which decision shall be made at the HHS-OIG's discretion and governed by the provisions in section XI.C, below.

C. EXCLUSION FOR MATERIAL BREACH OF THIS AGREEMENT

1. *Notice of Material Breach and Intent to Exclude.* The parties agree that a material breach of this Agreement by Heritage or Green Tree constitutes an independent basis for Heritage's or Green Tree's exclusion from participation in the Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)). Upon a determination by HHS-OIG that Heritage or Green Tree has materially breached this Agreement and that exclusion should be imposed, the HHS-OIG shall notify the affected corporation by certified mail of: (a) its material breach; and (b) HHS-OIG's intent to exercise its contractual right to impose exclusion (this notification is hereinafter referred to as the "Notice of Material Breach and Intent to Exclude").

2. *Opportunity to Cure.* Heritage or Green Tree shall have thirty five (35) days from the date of the Notice of Material Breach and Intent to Exclude Letter to demonstrate to the HHS-OIG's satisfaction that:

   a. Heritage or Green Tree is in full compliance with this Agreement;

   b. the alleged material breach has been cured; or

   c. the alleged material breach cannot be cured within the thirty-five (35) day period, but that Heritage or Green Tree: (i) has begun to take action to cure the material breach, (ii) is pursuing such action with due diligence, and (iii) has provided to HHS-OIG a reasonable timetable for curing the material breach.

3. *Exclusion Letter.* If at the conclusion of the thirty-five (35) day period, Heritage or Green Tree fails to satisfy the requirements of section XI.C.2, HHS-OIG may exclude the affected corporation from participation in the Federal health care programs. HHS-OIG will notify Heritage or Green Tree in writing of its determination to exclude Heritage (this letter shall be referred to hereinafter as the "Exclusion Letter"). Subject to the Dispute Resolution provisions in

section XI.D, below, the exclusion shall go into effect thirty (30) days after the date of the Exclusion Letter. The exclusion shall have national effect and will also apply to all other federal procurement and non-procurement programs. If Heritage or Green Tree is excluded under the provisions of this Agreement, the affected corporation must seek reinstatement pursuant to the provisions at 42 C.F.R. §§ 1001.3001-.3004.

4. *Material Breach.* A material breach of this Agreement means:

   a. a failure by Heritage or Green Tree to report a material deficiency, take corrective action and pay the appropriate refunds, as provided in section III.E;

   b. repeated or flagrant violations of the obligations under this Agreement, including, but not limited to, the obligations addressed in section XI.A of this Agreement;

   c. a failure to respond to a Demand letter concerning the payment of Stipulated Penalties in accordance with section XI.B above; or

   d. a failure to retain and use an Independent Review Organization for review purposes in accordance with section III.E.

5. *Presumed Material Breach.* The parties agree that in the event that the Independent Review Organization determines pursuant to the billing engagement set forth in section III.E.1 that Green Tree has improperly billed any Federal Health care program with an error rate in excess of 10 percent of the total billings of Green Tree to Federal health care programs for the audit period, no cure period will be provided and such a violation will be presumed to be a material breach of this Agreement. Heritage or Green Tree will bear the burden of rebutting this presumption and if they fail to do so, the HHS-OIG may exclude Green Tree from participation in the Federal health care programs. Notwithstanding the above language in this

paragraph, any finding by the Independent Review Organization that Green Tree has an error rate below 10 percent in no way precludes the HHS-OIG from determining that such improper claims constitute a material breach of this Agreement.

D. DISPUTE RESOLUTION

1. *Review Rights.* Upon the HHS-OIG's delivery to Heritage or Green Tree of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under the obligation of this Agreement, the affected corporation shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. § 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this Agreement. Specifically, the HHS-OIG's determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an ALJ and, in the event of an appeal, the Departmental Appeals Board ("DAB"), in a manner consistent with the provisions in 42 C.F.R. §§ 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving stipulated penalties shall be made within fifteen (15) days of the date of the Demand Letter and the request for a hearing involving exclusion shall be made within thirty (30) days of the date of the Exclusion Letter.

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for stipulated penalties under this Agreement shall be (a) whether Heritage or Green Tree was in full and timely compliance with the obligations of this Agreement for which the HHS-OIG demands payment; and (b) the period of noncompliance. Heritage or Green Tree shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. If the ALJ finds for the HHS-OIG with regard to a finding of a breach of this Agreement and orders Heritage or Green Tree to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable twenty (20) days after the

ALJ issues such a decision notwithstanding that Heritage or Green Tree may request review of the ALJ decision by the DAB.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this Agreement shall be (a) whether Heritage or Green Tree was in material breach of this Agreement; (b) whether such breach was continuing on the date of the Exclusion Letter; and (c) the alleged material breach cannot be cured within the 35 day period, but that Heritage or Green Tree: (i) has begun to take action to cure the material breach, (ii) is pursuing such action with due diligence, and (iii) has provided to HHS-OIG a reasonable timetable for curing the material breach..

   For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision that is favorable to the HHS-OIG. Heritage's or Green Tree's election of its contractual right to appeal to the DAB shall not abrogate the HHS-OIG's authority to exclude Heritage or Green Tree upon the issuance of the ALJ's decision. If the ALJ sustains the determination of the HHS-OIG and determines that exclusion is authorized, such exclusion shall take effect twenty (20) days after the ALJ issues such a decision, notwithstanding that Heritage or Green Tree may request review of the ALJ decision by the DAB.

4. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this Agreement agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered a final decision for all purposes under this Agreement. Nothing in this provision is intended to expand or restrict Heritage's or Green Tree's right to seek judicial or administrative review of an adverse decision by an ALJ or the DAB or to otherwise seek review by any court or other adjudicative forum.

XII. EFFECTIVE AND BINDING AGREEMENT

Consistent with the provisions in the Settlement Agreement pursuant to which this Agreement is entered, and into which this Agreement is incorporated, Heritage, Green Tree and HHS-OIG agree as follows:

A. This Agreement shall be binding on the successors, assigns and transferees of Heritage and Green Tree;

B. This Agreement shall become final and binding on the date the final signature is obtained on the Agreement;

C. Any modifications to this Agreement shall be made with the prior written consent of the parties to this Agreement; and

D. The undersigned Heritage and Green Tree signatories represent and warrant that they are authorized to execute this Agreement. The undersigned HHS-OIG signatory represents that he is signing this Agreement in his official capacity and that he is authorized to execute this Agreement.

EXHIBIT A

ON BEHALF OF HERITAGE ENTERPRISES, INC.

Joseph F. Warner, President
Heritage Enterprises, Inc.

6/6/2000
DATE

Rocco J. deGrasse, Counsel
Heritage Enterprises, Inc.

6/6/00
DATE

EXHIBIT A

ON BEHALF OF GREEN TREE PHARMACY, INC.

Joseph F. Warner, President
Green Tree Pharmacy, Inc.

6/6/2000
DATE

Rocco J. deGrasse, Counsel
Green Tree Pharmacy, Inc.

6/6/00
DATE

EXHIBIT A

ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

LEWIS MORRIS
Assistant Inspector General for Legal Affairs
Office of Inspector General
U. S. Department of Health and Human Services

7/10/00
DATE