

**Solicitation Number: 111623****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Empyrean Benefit Solutions, Inc., 3010 Briarpark Drive, Suite 8000, Houston, TX 77042 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Employee Benefits Administrative Software Platforms; Member and Provider Advocacy Services; Transparency, Fraud, Waste and Abuse Products and Related Services from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

**1. TERM OF CONTRACT**

A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.

**EXPIRATION DATE AND EXTENSION.** This Contract expires February 5, 2028, unless it is cancelled sooner pursuant to Article 22. This Contract allows up to three additional one-year extensions (each a "Renewal Term, and all such periods collectively the "Term) upon the request of Sourcewell and written agreement by Supplier. Sourcewell retains the right to consider additional extensions beyond seven years as required under exceptional circumstances.

B. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

**2. SERVICES**

A. **SERVICES.** Supplier will provide the Services as stated in its Proposal submitted under the Solicitation Number listed above. Supplier's Services Proposal (Proposal) is attached and incorporated into this Contract.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Supplier warrants that all Services furnished are free from liens and encumbrances. In addition, Supplier warrants the Services are suitable for and will perform in substantially in accordance with the ordinary use for which they are intended as defined in the Statement of Work and Requirements Documents between Supplier and Participating Entity.

### **3. PRICING**

All Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

Sourcwell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Services.

A. **SALES TAX.** Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

### **4. PRODUCT AND PRICING CHANGE REQUESTS**

Supplier may request Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcwell Price and Service Change Request Form to the assigned Sourcwell Supplier Development Administrator. This approved form is available from the assigned Sourcwell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcwell contract number;

- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Change Request Form will become an amendment to this Contract and will be incorporated by reference.

## **5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS**

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

## **6. PARTICIPATING ENTITY USE AND PURCHASING**

A. ORDERS AND PAYMENT. To access the contracted Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier. If a Participating Entity

issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

**B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum, the terms of which will be negotiated directly between the Participating Entity and the Supplier or its authorized dealers, distributors, or resellers, as applicable. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

**C. SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

**D. REFERENCE TO ATTACHMENTS.**

Master Services Agreement. Exhibit A as attached includes a sample Master Services Agreement (MSA) which may be part of the standard transaction documents between a Participating Entity and Supplier, subject to Section 6A above.

Scope of Work. Exhibit A as attached includes a sample Scope of Work, which may be part of the standard transaction documents between a Participating Entity and Supplier, subject to Section 6A above.

**E. GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

## **7. CUSTOMER SERVICE**

A. PRIMARY ACCOUNT REPRESENTATIVE. Supplier will assign an Account Representative to Sourcwell for this Contract and must provide prompt notice to Sourcwell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcwell and Participating Entity inquiries; and
- Business reviews to Sourcwell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcwell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, performance issues, supply issues, customer issues, and any other necessary information.

## **8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT**

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcwell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcwell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcwell, the Supplier will pay an administrative fee to Sourcwell on all Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the

#### Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

### **9. AUTHORIZED REPRESENTATIVE**

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

### **10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE**

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement to any subsidiary or affiliate under its control, without the other Party's consent, provided that such Party effectuating the assignment shall provide notice to the other Party within 30 days of such assignment and the assignee agrees to execute any amendments or other documents, if appropriate. In the event Sourcewell, in its

sole discretion, determines the Assignment to be detrimental, Sourcewell reserves the right to terminate this Contract. Any prohibited assignment will be invalid.

C. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. WAIVER. Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. CONTRACT COMPLETE. This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of this Contract will govern.

F. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

## **11. INDEMNITY AND HOLD HARMLESS**

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any third-party claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any allegation of infringement or misappropriation that arises out of or relates to materials, data or services owned or furnished by Supplier, provided Sourcewell and/or its Participating Entities entitled to indemnification hereunder did not use such materials, data or services in an unauthorized manner or in a manner not otherwise provided for under the Contract; (ii) bodily injury, death, or damage to real property, to the extent caused by the gross negligence or willful misconduct of the other Party; (iii) negligence or willful misconduct in performing its obligations under this Agreement; and/or (iv) material and uncured breach of its obligations under the Contract. In the event of an event of Supplier simple negligence, human error, or omission, the sole remedy shall be reperformance of the impacted task. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

## **12. GOVERNMENT DATA PRACTICES**

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell

under this Contract and as it applies to all data created, collected, received, maintained, or disseminated by the Supplier under this Contract.

### **13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT**

#### **A. INTELLECTUAL PROPERTY**

1. *Grant of License.* During the term of this Contract:

a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.

b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.

2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers, resellers, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

a. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.

b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

**B. PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.



C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Supplier must not claim that Sourcewell endorses its or Services.

#### **14. GOVERNING LAW, JURISDICTION, AND VENUE**

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

#### **15. FORCE MAJEURE**

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

#### **16. SEVERABILITY**

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

#### **17. PERFORMANCE, DEFAULT, AND REMEDIES**

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 60 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for other damages if the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

## **18. INSURANCE**

A. **REQUIREMENTS.** At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for products liability-completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability.* During the term of this Contract, Supplier will maintain coverage for all claims the Supplier may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Supplier's professional services required under this Contract.

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance.* During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the

Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. **ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE.** Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

## **19. COMPLIANCE**

A. **LAWS AND REGULATIONS.** All Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Services are sold.

B. **LICENSES.** Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

## **20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION**

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during

this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

## **21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS**

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The

decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations

issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier cannot use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by a Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and



Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

**22. CANCELLATION**

Sourcewell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

Empyrean Benefit Solutions, Inc.

DocuSigned by:  
*Jeremy Schwartz*  
C0FD2A139D06489...  
By: \_\_\_\_\_  
Jeremy Schwartz  
Title: Chief Procurement Officer  
Date: 3/6/2024 | 1:08 PM CST

DocuSigned by:  
*Richard Wolfe*  
6835AEB62C0F4F1...  
By: \_\_\_\_\_  
Richard Wolfe  
Title: President & CEO  
Date: 3/6/2024 | 10:20 AM PST

Exhibit A  
Standard Transaction Documents

## EMPYREAN BENEFIT SOLUTIONS MASTER SERVICES AGREEMENT

This **MASTER SERVICES AGREEMENT**, (the "Agreement"), dated this \_\_\_ day of \_\_\_\_\_, 202\_ (the "Effective Date") is made and entered into by and between **Empyrean Benefit Solutions, Inc.** ("Empyrean"), a Delaware corporation with its principal place of business located at **3010 Briarpark Drive, Suite 8000, Houston, TX 77042**, and \_\_\_\_\_ ("Client"), a \_\_\_\_\_ corporation with its principal place of business located at \_\_\_\_\_ (each a "Party" and collectively herein the "Parties").

WHEREAS, Client sponsors certain employee benefit plan for its employees and those of certain operating divisions, (each, a "Division") as may be applicable and identified in written documents provided to Empyrean; and

WHEREAS, Empyrean provides a proprietary internet-based technology platform and various administrative, analytical and/or other services which together assist client employers and plan sponsors in administering their health and welfare benefit plans; and

WHEREAS, Client desires to engage Empyrean to provide such technology platform and services.

NOW, THEREFORE, for and in consideration of the above, and the mutual promises set forth in this Agreement, Empyrean and Client hereby agree as follows:

### 1. DEFINITIONS, INCORPORATION AND INTERPRETATION

A. Definitions. Capitalized terms used in this Agreement shall have the meanings ascribed to them herein.

B. Incorporation and Interpretation. All referenced exhibits or addendums herein, (including any Statement of Work as defined in Section 2.A) are incorporated into and made a part of this Agreement. Unless otherwise expressly provided herein or expressly provided in any exhibit or addendum, the terms of this Agreement shall control in the event of a conflict between this Agreement and any exhibitor addendum.

### 2. SERVICES AND SCOPE OF SERVICE

A. Services. Empyrean will provide Client with access to Empyrean's internet-based technology platform and certain administrative, analytical and other services (the platform and the services, collectively the "Services") as more particularly described in one or more Statements of Work entered into in connection with this Agreement (each an "SOW"), which are hereby incorporated herein and attached hereto as Exhibit A. Each such SOW executed by the Parties will be deemed a two-party agreement between Empyrean and Client, and nothing contained in an SOW or in this Agreement shall be construed to require that Empyrean contract with any third party, whether carrier or other vendor of Client's in order to perform the Services.

B. Updates. Empyrean may, from time to time, develop and install updates to the Services ("Updates"), including but not limited to general system maintenance, security updates, bug fixes, upgrades or improvements to the Services.

### 3. CLIENT RESPONSIBILITIES

A. Plan Administration. Client shall be responsible for overseeing the operations and administration of the employee benefit plans for its employees as listed in the applicable SOW (Individually, a "Plan" and collectively, the "Plans"). Client acknowledges and agrees that the Service(s) to be performed by Empyrean are being performed on behalf of the Client as an employer and/or plan sponsor and are ministerial in nature. Client shall not make non-trivial misrepresentations about the Services. All Services are performed by Empyrean (or its subcontractors where applicable) within the framework of policies, interpretations, rules, practices and procedures made or established by Client and will be specified in one or more SOWs, requirements documents, processing documents, and/or other written documentation that Client will provide to Empyrean and/or create in conjunction with the Services, or any other written directions from Client that

may come during the Term of this Agreement ("Client Direction(s)"). Empyrean will not have any discretionary authority with respect to the administration, management or operation of the Plans and will operate in accordance with the Client Direction(s) from Client, or with respect to determining or changing the rules or policies pertaining to eligibility or entitlement of any participant in any Plan to benefits under such Plan. Empyrean is not a "plan administrator" or fiduciary" within the meaning of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Plans or Services. Empyrean also shall not have any control or authority with respect to any assets of any Plan, including the investment or disposition thereof. Empyrean cannot be relied upon to discover noncompliance with laws, errors, irregularities or illegal acts, including fraud or falsifications that may exist in the Plans or in the administration thereof. Empyrean will not be liable for any actions taken, or not taken, as directed by or caused by actions of Client or its customers or employees, the plan administrator(s) of the Plans, or any other person(s) authorized to provide Client Direction(s) to Empyrean (or its subcontractors where applicable).

B. Client Data. Client shall provide to Empyrean or its designee, and shall cause each of Client's Divisions referenced in an SOW and any third parties, including carriers or service providers, that currently or previously provided services with respect to the Plans or any carrier Client may use, to provide to Empyrean or its designee such data necessary for Empyrean to perform the Service(s) as outlined under the SOW, including but not limited to individually identifiable data relating to participants and beneficiaries of the Plans whether as initial data files to Empyrean or as part of a reconciliation process in response to files sent by Empyrean, and employee and Client source data (collectively "Client Data") as is necessary for Empyrean to properly perform the Services. Client assumes full responsibility for the Client Data, including, but not limited to, the condition, content, format, usability or correctness of the Client Data. Client shall provide, and shall cause each Division and each third party service provider or any carrier Client may use, as applicable, to provide, all such Client Data that is legible and correct, in the form and format reasonably requested by Empyrean. Empyrean shall not be liable or responsible for loss of or damage to, the Client Data before Empyrean has taken possession of the Client Data. Client shall retain the necessary backup for the Client Data to protect against such loss or damage. Empyrean shall not be liable for errors or delays in the Services due to errors or omissions in Client Data. Empyrean will return to Client, Division, or third-party service provider, as applicable, for correction before processing any Client Data that is incorrect, illegible or not in proper form, in which event Empyrean shall not be required to meet the deadlines, if any, prescribed in the applicable SOW, but shall use reasonable efforts to process the data promptly after resubmission of corrected Client Data.

C. Client Reports. In connection with providing the Service(s), Empyrean will, from time to time, prepare certain summaries, reports, analyses, as provided in any SOW or Change Order and deliver such documents to Client ("Client Reports"). Client agrees to review such Client Reports within 30 days of receipt. Unless Client notifies Empyrean in writing of any errors or objections within such 30 day period, all information contained therein shall be deemed accurate, complete and acceptable and thereafter Empyrean shall have no liability with respect to such Client Reports.

D. No Derivative Works. Client, its affiliates, officers, employees, subcontractors, agents, representatives, brokers and/or consultants shall not (i) modify, copy or make derivative works based on the Service(s), any software (whether in source code or object code form) used with the Service(s), Empyrean Proprietary Property (as defined in Section 5.D) or any portion thereof; (ii) disassemble, reverse engineer, or decompile the Service, any software (whether in source code or object code form) used with the Service(s), Empyrean Proprietary Property; (iii) create Internet "links" to or from the Service(s), or "frame" or "mirror" any of Empyrean's content which forms part of the Service (other than on Clients' own internal intranets); (iv) re-license, rent, lease, timeshare, or act as a service bureau or provide subscription services for the Empyrean Service(s); (v) use the Empyrean Service(s) to provide third-party training except for training agents and contractors that Empyrean has authorized in writing; (vi) remove or modify any program or service markings or any notice of Empyrean's Proprietary Property; (vii) disclose results of any benchmark or other tests without Empyrean's prior written consent; (viii) knowingly transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs; (ix) knowingly interfere with or disrupt the integrity or performance of the Service(s) or the data contained therein; (x) attempt to gain unauthorized access to the Service(s), computer systems or networks related to the Service(s).

E. Passwords. Client shall be solely responsible for maintaining the confidentiality of any password(s) issued and is fully responsible for all activities that occur under Client's authorized user accounts.

Client must hold confidential its login, password and any information obtained from Empyrean and use the log-in password and information solely to access and use the Service(s). Client agrees to immediately notify Empyrean of any unauthorized use of any of Client's authorized passwords or accounts or any other breach of security.

#### **4. FEES AND BILLING**

A. Payment for Services. Client shall pay to Empyrean all fees set forth in an SOW. All fees are stated and payable in United States dollars and are nonrefundable. Client shall ensure that Empyrean has complete, accurate and up-to-date billing and contact information.

B. Payment Due Dates. Except as otherwise provided in a SOW, on or before the 1st day of each month, Empyrean will invoice Client in advance for all fees due for Service(s) to be rendered during that month, and for any reimbursable expenses incurred by Empyrean in connection with the performance of the Service(s). Except as provided under Section C below, all amounts invoiced hereunder will be due and payable within 30 days of the invoice date or as otherwise provided in an SOW. Any amount not paid when due pursuant to this Agreement shall thereafter bear interest until paid at a rate equal to the lesser of 1.5% per month or the maximum rate allowed by applicable law. If Client in good faith disputes any amount on an invoice, Client will use commercially reasonable efforts to provide written notice of such dispute to Empyrean within 30 days of the invoice date, and pay all undisputed sums in full by the applicable due date. Client and Empyrean shall negotiate promptly and in good faith to resolve any such dispute pursuant to terms of this Agreement, such negotiation and resolution not to take longer than within 60 days of the date Client notifies Empyrean of such dispute, or such longer time as may be agreed to by the Parties.

Notwithstanding the above, Client shall be given the opportunity to review and notify Empyrean in writing of any errors in or objections to any invoices discovered outside the initial payment or invoice date, and shall have 90 days to inform Empyrean of any such objections or discrepancies. Unless Client notifies Empyrean in writing of any errors or objections within the 90 day period, all information contained therein for any document received by Client, will be deemed accurate, complete, and acceptable to Client, and thereafter Empyrean shall have no liability related thereto. Client shall not short-pay invoices due under this Agreement.

C. Taxes. Client shall be solely responsible for the payment of any and all federal, state and local taxes applicable to the Service(s) or products provided under this Agreement, including, without limitation, any and all sales, use, excise, ad valorem, or value-added taxes, other than taxes based on Empyrean's income.

#### **5. OWNERSHIP AND RIGHTS IN INTELLECTUAL PROPERTY, WORK PRODUCT AND DATA**

A. Intellectual Property Rights. Intellectual Property Rights means on a world-wide basis, any and all intangible rights associated with (i) works of authorship including, without limitation, copyrights, moral rights and mask works; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents, designs, algorithms and other industrial property rights; (v) all other intellectual and industrial property rights of every kind and nature and however designated, whether arising by operation of law, contract, license or otherwise; and (vi) all registrations, applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

B. No Other Rights or Ownership. Except as outlined in this Agreement, no transfer of ownership of any Intellectual Property Rights will occur under this Agreement. Client grants Empyrean a non-exclusive, worldwide, royalty-free right and license to any Intellectual Property Rights that are necessary for Empyrean and its designees to perform Services. Other than as expressly set forth in this Agreement, no license or other rights in the Service(s), the Empyrean Proprietary Property or Empyrean's Confidential Information are granted to the Client. All rights not expressly granted in this Agreement are hereby reserved by Empyrean.

C. Client Proprietary Property. Client owns all right, title and interest in and to all Client Data; Client Reports (except as provided below), Client's Intellectual Property Rights, as may now exist or hereafter come into existence, under the laws of any state, country, territory or other jurisdiction throughout the world (collectively "Client Proprietary Property"). In the event that any Empyrean Confidential Information (as

defined in Section 6) or Empyrean Proprietary Property (as defined Section 5.D) are contained in any Client Reports, Empyrean shall maintain ownership of said information and Client agrees to keep the Empyrean Confidential Information and Empyrean Proprietary Property for its own internal business uses and not for third party consumption (other than for Client to maintain its internal business operations. Notwithstanding Client shall not sell, transfer, publish, disclose, develop, display, license, or otherwise make available, any part of the Client Reports that contains Empyrean Proprietary Property and/or Empyrean Confidential Information without the express written permission of Empyrean.

D. Empyrean Proprietary Property. Empyrean owns all rights, title, and interest in and to all Empyrean Intellectual Property Rights, Empyrean Creations as defined below, any de-identified data as defined below, and any other intellectual property rights as may now exist or hereafter come into existence under the laws of any state, country, territory or other jurisdiction throughout the world (collectively "Empyrean Proprietary Property").

E. Empyrean Creations. Client hereby grants and assigns to Empyrean all of Client's right, title and interest in and to any suggestions, ideas, enhancement requests, feedback, recommendations or other information as well as any resulting work product or derivative works, inventions, ideas, designs, source or object codes received during the term of this Agreement to the extent that Empyrean Creations do not constitute any Client Data ("Empyrean Creations"). Empyrean Creations also mean a new or modified work that is based on or derived from all or any part of the Service(s), including without limitation, a revision, modification, translation, localization, adaptation, abridgment, port, condensation or expansion, in any form, of the Service(s), source or object code, designs, process, concepts, discoveries, inventions, etc. and shall be the sole and exclusive property as Empyrean Proprietary Property.

F. De-identified Information. Client acknowledges and agrees that solely for the purposes of Empyrean improving the services it supplies to clients, Empyrean may de-identify (meaning that individual specific information has been removed from the data in such a way that the identity of such person is no longer reasonably discoverable) any employee source data provided by or on behalf of Client, and aggregate such de-identified source data with other data, and such de-identified and aggregated data will be the sole property of Empyrean and Empyrean Proprietary Property, notwithstanding that it may be derived from the Client Data.

## 6. CONFIDENTIALITY AND HIPAA COMPLIANCE

A. General Confidentiality. Except as specifically provided in this Agreement, Empyrean and Client agree that any and all information, data or knowledge concerning Empyrean or Client that is not otherwise publicly available, regardless of form, including, without limitation, a Party's Proprietary Property or any other information that may be disclosed that a reasonable person would consider confidential ("Confidential Information") communicated (whether in writing, orally, or through visual or electronic means) by or on behalf of one Party or its employees or agents ("Disclosing Party") to the other Party or its employees or agents ("Receiving Party"), whether disclosed before or after the Effective Date, (i) shall be treated as the confidential, proprietary, and trade secret information of the Disclosing Party; (ii) shall be used only for purposes of this Agreement by Receiving Party, and (iii) that no Confidential Information, including without limitation, the provisions of this Agreement and the Empyrean Proprietary Property shall be disclosed by the Receiving Party, its affiliates, subsidiaries or contractors, and each of their respective directors, officers, employees, third party consultants and service providers, agents, or representatives (collectively, "Representatives"), without the prior written consent of the Disclosing Party, except as may be necessary by reason of legal, accounting or regulatory requirements beyond the reasonable control of the Receiving Party. The Receiving Party shall limit access to the Disclosing Party's Confidential Information to only those of its Representatives that are bound by written agreements providing for the protection of Confidential Information by means no less restrictive than those contained in this Section 6.A. The Receiving Party shall safeguard Confidential Information with at least the same degree of care that it uses to safeguard its own confidential, proprietary, and trade secret information of a similar nature, and in no event shall it exercise less than a reasonable degree of care. This section shall not apply to information (iv) which is in the public domain (other than through its unauthorized disclosure by Receiving Party or its Representatives), (v) which the Receiving Party had in its possession prior to it being furnished by or on behalf of the Disclosing Party, (vi) which the Receiving Party obtained from a third party who rightfully acquired such information without breach of

any duty owed to the Disclosing Party, or (vii) which the Receiving Party independently developed without reference to the Confidential Information received from the Disclosing Party. If the Receiving Party must disclose any such Confidential Information pursuant to applicable law, regulation or court order, the Receiving Party may disclose only such information as is legally required, and, provided further, that the Receiving Party shall provide reasonable notice to the Disclosing Party of such requirement and a reasonable opportunity to object to such disclosure (unless prevented by applicable law, regulation or court order). In any event, Receiving Party shall be fully liable for any breach of this Section 6.A. by its Representatives and agrees, at its sole expense, to take all reasonable measures to restrain its Representatives from prohibited or unauthorized disclosure or use of the Disclosing Party's Confidential Information.

B. Injunctive Relief. The Parties acknowledge that a breach by either Party of Section 5 or 6 may give rise to irreparable injury to the other Party, inadequately compensable in damages. Accordingly, each Party hereby agrees that the other Party may seek injunctive relief against the breach or threatened breach of the undertakings of the Parties contained in Section 5 or 6. The Parties further agree that such an order so enjoining a Party may be issued pending final determination thereof, without the requirement to post bond.

C. Return of Confidential Information. Upon termination or expiration of this Agreement, the Receiving Party shall return or destroy all Confidential Information of the Disclosing Party in its possession. Empyrean shall not retain any copies of the Client Confidential Information, except for encrypted back-up data, and shall not make further use of Client Confidential Information, except where such Client Confidential Information has been de-identified and aggregated. For any Confidential Information that cannot be destroyed or returned (including encrypted back up data), the Receiving Party possessing such Confidential Information shall extend all confidential protections to the Client Data, as outlined in this Agreement, until such time as the Client Data may be destroyed or returned. Notwithstanding, Empyrean shall not have any obligation to return Client Data, including Client Confidential Information, unless and until Client pays all undisputed sums due to Empyrean pursuant to this Agreement.

D. Compliance with HIPAA. Each Party agrees that it will comply with its respective applicable obligations under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, all as may be amended from time to time ("HIPAA"), and the Health Information Technology for Economic and Clinical Health Act and any regulations promulgated thereunder, all as may be amended from time to time ("HITECH"). Notwithstanding any provision of this Agreement to the contrary, the protection, use and disclosure of any Protected Health Information, as such term is defined by HIPAA, shall be governed by the Business Associate Agreement attached hereto as Exhibit B.

## 7. TERM AND TERMINATION

A. Term. This Agreement shall commence on the Effective Date and shall continue for a period of { number, no less than 36} months following the Go-Live Date (the "Initial Term"). The parties may extend the agreement upon written agreement, each such period a "Renewal Term", and collectively the Initial Term and all Renewal Terms shall be the "Term" of this Agreement.

B. Material Breach Notice and Cure. Either Party may terminate this Agreement immediately upon delivery of written notice to the other Party in the event that the other Party materially breaches any provision(s) of this Agreement and fails to cure such breach within 30 days after receiving written notice specifying the default, or for those defaults that cannot be reasonably be cured within 30 days, promptly to commence curing such default and thereafter proceed with all due diligence to cure the default. Nothing contained in this Section 7.B shall be construed to limit the remedies available to the Parties hereunder, by law or otherwise.

C. Termination Events. Either Party may terminate this Agreement immediately upon delivery of written notice to the other Party in the event that the other (i) voluntarily suspends transaction of business; (ii) becomes insolvent, unable to pay any indebtedness as it matures, or is forced into involuntary bankruptcy; (iii) makes an assignment for the benefit of creditors; (iv) applies for or consents to the appointment of a receiver or trustee for it or for any substantial portion of its property; (v) makes an assignment to an agent authorized to liquidate any substantial part of its assets; (vi) by an order of any court or other authority, has appointed any receiver or trustee for it or for any substantial portion of its property; or (vii) has a writ or warrant of

attachment or any similar process issued by any court or other authority against any substantial portion of its property and such involuntary petition seeking liquidation, reorganization or a creditor's arrangement or such order appointing a receiver or trustee is not vacated or stayed, or such writ, warrant of attachment or similar process is not vacated, released or bonded off within 90 days after its entry or levy.

D. Termination for Convenience. Provided Client is not in default under this Agreement, beginning no less than 12 months from the Go-Live Date, and should Client fail to receive the necessary appropriations to further fund this Agreement, Client may terminate this Agreement by providing at least ninety (90) days prior written notice to Empyrean and paying to Empyrean thirty-five percent (35%) of the Monthly Average Payment (as defined below) specified in the table below for each calendar month remaining in the then-current Term.

"Monthly Average Payment" means the total amount of fees for all services paid or payable by Client under this Agreement from the Effective Date through the end of the whole calendar month immediately preceding the date of the early termination, divided by the number of whole calendar months from the Effective Date to the date of the early termination.

E. Suspension of Services and Termination for Failure to Pay Fees. Client's failure to pay all undisputed amounts within sixty (60) days of the invoice date will entitle Empyrean, in addition to any other rights or remedies it may have, to suspend performance of the Service(s). In addition to other termination rights contained herein, Empyrean shall also have the right to terminate this Agreement upon written notice to Client, if Client fails to pay to Empyrean the undisputed fees in accordance with the terms and conditions set forth in this Agreement and Client fails to cure such breach within 90 days after receipt from Empyrean of written notice of such non-payment. In the event of non-payment, Empyrean reserves all rights permitted by law and under this Agreement.

F. Transition Assistance. Upon termination of this Agreement, as long as Client is current on any amounts due for Services under this Agreement and otherwise is not in breach of this Agreement or insolvent, Empyrean agrees to provide to Client, for a period of time not to exceed 90 days following the termination of this Agreement, the reasonable assistance requested by Client to facilitate the orderly transition of the Service(s) to Client, or a third party selected by Client (the "Transition Assistance"). As part of such Transition Assistance, Empyrean will, at Client's written request, continue to perform the Service(s) for all or part of such 90 day period, and Client shall pay Empyrean for such Service(s) at the rates set forth in the applicable SOW. For any other Transition Assistance provided by Empyrean, outside those stated in an SOW as may be applicable, Client shall pay Empyrean on a time and materials basis at Empyrean's then-current standard rates. No conversion out data or files will be provided until all fees dues under this Agreement have been paid in full.

## 8. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS

A. Authority. Each Party represents to the other that (i) it has all requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder, and (ii) its execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by all requisite corporate action on the part of such Party.

B. No Third Party Breach and Enforceability. Each Party represents to the other that (i) its entry into this Agreement does not violate or constitute a breach of any of its contractual obligations with any third party and (ii) this Agreement is a valid and binding obligation of such Party, enforceable against it in accordance with its terms.

C. Client Data Ownership and Lawful Use. Client represents and warrants that it owns, is lawfully authorized to provide to Empyrean, and Empyrean may lawfully use all Client Data for the purposes of providing Service(s) under this Agreement.

D. **Services "As-Is"**. **Except as expressly provided herein, the scope of work provided and the Services rendered by Empyrean under the Agreement are provided on an "as is" and "where is" basis, without**



any warrant, express or implied or otherwise regarding such scope of work or services, accuracy, performance, or any other matter.

E. **No Express or Implied Warranties.** Except as expressly set forth in this Agreement, Empyrean disclaims, to the extent allowable by local law, all other warranties, express or implied, in fact or by operation of law or otherwise, with respect to this Agreement and/or the Services provided hereunder, including but not limited to the implied warranties of merchantability and fitness for a particular purpose and does not warrant that the Services will be uninterrupted or error-free.

## 9. INDEMNIFICATIONS

A. **Mutual Indemnifications.** Each Party will, at its own expense, defend, indemnify and hold harmless the other Party and its affiliates, and each of its respective officers, directors, employees and subcontractors from and against all liability, loss, judgment, expense (including reasonable attorney's fees and costs) or damages as any are incurred (collectively "Losses") arising out of or in connection with any third party claim, demand, cause of action, or proceeding ("Claim") to the extent arising out of or related to (i) any allegation of infringement or misappropriation that arises out of or relates to materials, data or services owned or furnished by one Party to the other Party, provided the Party entitled to indemnification hereunder did not use such materials, data or services in an unauthorized manner or in a manner not otherwise provided for under the Agreement; (ii) a Party's bodily injury, death, or damage to real property, to the extent caused by the gross negligence or willful misconduct of the other Party; (iii) a Party's gross negligence or willful misconduct in performing its obligations under this Agreement; and/or (iv) a Party's material and uncured breach of its representations, warranties.

Notwithstanding, if any materials or services are likely to become or do become the subject of a claim of infringement or misappropriation of an Intellectual Property Right of a third party, the indemnifying Party may, at its sole option and reasonable expense, either: (1) promptly replace the infringing materials or service(s) with a substantially compatible and functionally equivalent non-infringing materials or service(s); (2) promptly modify the infringing materials or service(s) to make them non-infringing and functionally equivalent; or (3) promptly procure the right of the other Party to continue using the infringing materials or service(s). This right shall not be construed to diminish, reduce or extinguish the indemnifying Party's obligations otherwise to indemnify under the provisions of this Section 9.

**Further notwithstanding, the foregoing paragraphs state a Party's exclusive liability and remedy for any claims of infringement or misappropriation of an Intellectual Property Right.**

B. **Additional Client Indemnifications.** Client will also, at its expense, defend, indemnify and hold harmless Empyrean and its affiliates, and each of their respective officers, directors, employees, agents, representatives, and Empyrean subcontractors who perform any portion of the Services (the "Empyrean Group") from and against all Losses resulting from any Claim brought by any third party against any of the Empyrean Group, arising out of or related to the Services due to (i) Client Group (as defined in paragraph C below) having made a material misrepresentation regarding the Services to its own employees and/or Plan participants; (ii) Empyrean Group having followed Client's Directions; (iii) errors in Client Data not caused by Empyrean.

C. **Additional Empyrean Indemnifications.** Empyrean will also, at its expense, defend, indemnify and hold harmless the Client and its affiliates, and each of their respective officers, directors, employees, agents and representatives (the "Client Group") from and against all Losses resulting from any Claim brought by any third party against the Client Group arising out of or related to (i) Empyrean Group having made a material misrepresentation with respect to the Service(s); and (ii) Empyrean's use of Client Data not in accordance with the terms of this Agreement.

D. **Cooperation.** In the event of any occurrence which may constitute grounds for indemnification under this Section 9, the Party seeking indemnification shall: (i) promptly notify the other Party of any occurrence with respect to which indemnification is sought, provided that any delay shall only relieve the indemnifying Party of its obligations hereunder to the extent that the defense of such Claim is prejudiced by such delay; (ii) cooperate with the indemnifying Party in the defense of any Claim with respect to which

indemnification is sought; (iii) tender to the indemnifying Party the right to assume and control the defense of any Claim with respect to which indemnification is being sought, provided that the indemnifying Party may not settle a Claim unless it unconditionally releases the indemnified Parties of all liability); and (iv) not to cause or contribute to any occurrence, nor to take any action, or fail to take any action, which causes, contributes to or increases the indemnifying Party's liability hereunder.

E. Disclaimer of Interference. Empyrean expressly disclaims all responsibility and liability, and Client hereby agrees to forever release and hold Empyrean harmless, for damages, interruptions, interference, down time or other interference with the Service(s) caused by circumstances beyond Empyrean's reasonable control, including without limitation, (i) Force Majeure Events as described in Section 13.C.; (ii) telecommunications network or electrical failures (including those of wireless telecommunications companies); (iii) Client network intrusions or denial of service attacks; (iv) delays or interruptions caused by integration with any Client asset or third party APIs, networks, databases, or content.

## 10. LIMITATION OF LIABILITY

A. Exclusions. Neither Party shall be liable for third party fines or penalties, indirect, incidental, consequential, special, exemplary, or punitive damages, excise taxes, loss of use, data, business, revenue or profits, or for the cost of procuring substitute products or services, arising out of or in connection with this Agreement, (including, without limitation, any service or work product rendered hereunder or the non-performance or breach of this Agreement), regardless of the form of action including without limitation breach of warranty, breach of contract, tort (including negligence), strict liability or statutory liability, and whether or not the Party has been informed of or might otherwise have anticipated the possibility of such damages.

B. Limits of Liability. Empyrean's maximum liability (whether in contract, tort, negligence, strict liability in tort or by statute or otherwise) to Client for any and all claims concerning performance or non-performance by Empyrean or any other person or entity for which Empyrean is legally responsible, or in any manner related to this Agreement or the Services, shall not in the aggregate exceed the fees paid by the Client to Empyrean under the applicable SOW for the 12 months immediately preceding the month in which the claim or claims arise, or in the case of Empyrean's breach of PHI as outlined in the BAA, 4 times the fees paid by the Client to Empyrean under the applicable SOW for the 12 months immediately preceding the month in which the claim(s) arise(s).

C. Other Liability. Notwithstanding anything to the contrary herein, if Client's Services include Safeharbor and/or Code Section 6055/6056 Reporting, and/or state specific mandated reporting, Client's sole and exclusive remedy for any and all errors, claims, or damages that may arise as a result of such same Services provided by Empyrean and/or any of its subcontractors, shall be limited to the reprocessing of the work for the applicable service, or a refund to Client of the amount paid for such applicable service in the 12 months immediately preceding the month in which the errors, claims, or damages arise, if reprocessing is deemed impossible by Empyrean in its reasonable discretion. At no time will Empyrean and/or its subcontractors be liable for any fines or penalties associated with any errors relating to Safeharbor or 6055/6056 tax reporting services.

D. Right to Mitigate. In the event of an error caused by Empyrean and/or its subcontractor(s) that give rise to a Claim under this Agreement (or that may give rise to a Claim), Empyrean and/or its subcontractor(s) will be given the opportunity to mitigate any error to the fullest extent under the Agreement, provided such mitigation is not prohibited by law. Client agrees to reasonably cooperate in such mitigation efforts.

## 11. DISPUTE RESOLUTION

A. Dispute Resolution. In addition to any other applicable provision in this Agreement, the Parties will make initial informal efforts to resolve any claim or controversy arising out of or relating to this Agreement or an alleged breach hereof. The Parties will start with an informal meeting between an executive or officer of each Party. If the informal meeting fails to reach an amenable result for both Parties, the dispute will escalate to formal mediation. If a satisfactory resolution is not achieved from informal discussions or mediation, the only other dispute resolution method permitted under this Agreement shall be binding arbitration by

Commercial Arbitration Rules of the American Arbitration Association (the "AAA Rules"). No arbitrators have the authority to award any additional types of damages except those damages permitted under this Agreement.

B. Attorneys' Fees. The prevailing Party in any judicial or legal proceedings brought by or against the other Party to enforce any provision of this Agreement shall be entitled to recover against the non-prevailing Party the reasonable attorneys' fees, court costs and other expenses incurred by the prevailing Party, in addition to any damages or other relief to which the Party may be entitled pursuant to such proceeding.

C. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflict of law principles. Any proceeding to resolve any issue, breach, or otherwise under this Agreement shall be brought exclusively in Harris County, Texas. Each Party consents to the personal jurisdiction of the state and federal courts of Harris County, Texas and waives any objection that such courts are an inconvenient forum.

D. Limitation Period. Neither Party may assert any cause of action against the other Party arising under or in connection with this Agreement where more than 1 year has elapsed from the date of the action giving rise to the claim.

## **12. AUDIT AND DATA SECURITY STANDARDS**

A. Client Audit. Client, or a third party on Client's behalf, may engage a third party auditor to, conduct an audit at Client's expense to determine whether Empyrean is fulfilling the terms of this Agreement subject to the terms herein. With respect to any audit request, Client must advise Empyrean in writing at least 30 days in advance of the proposed date of such audit and shall specify in reasonable detail the nature and proposed scope of such audit, such scope being reasonable and suitable for the intended purpose of such audit. The place, time, type, duration, and frequency of all audits must be reasonable, and in no case may any audit exceed 3 business days. In connection with any audit requested by Client of Empyrean, and prior to any such audit, Client's third party auditor will be required to enter into a separate confidentiality agreement with Empyrean in the form of Empyrean's standard nondisclosure agreement. Under no circumstances will Empyrean be required to disclose information about proprietary systems, software, or business practices or for any matter unrelated to the Service(s) provide to Client, including other Empyrean client information. Client will provide Empyrean a copy of any written report of findings and recommendations from the third party auditor that is provided to Client. Empyrean and Client shall discuss the feasibility of any changes recommended by such audit report, provided that Empyrean shall be under no obligation to implement any changes recommended by such audit report. Such report will be treated by Client as Confidential Information. Any such audit will be at Client's expense and may not occur more than once per 12 month period.

B. Information Security Program. Empyrean shall maintain an information security program (the "Security Program") that includes appropriate administrative, physical and technical security safeguards to prevent and guard against the unauthorized access, disclosure, destruction, loss or alteration of Client's Confidential Information in the possession or control of Empyrean. The Security Program shall include safeguards that are, at all times, at least as good as those used by top tier providers of services identical or similar to the Services provided by Empyrean, and include, but not be limited to: (i) use of identity access management software (e.g., user name and password); (ii) use of reasonable firewalls, anti-virus, anti-spyware, and intrusion detection systems; and (iii) industry standards regarding physical building security.

C. Data Centers. Empyrean shall host Client's Confidential Information in primary and secondary SSAE 18 SOC 2 Type II or certified (or equivalent) data centers located within the United States. Each data center shall include full redundancy for access to Client Confidential Information.

D. Additional Requirements. In the event Empyrean is provided access to Client's network as part of performing the Services contemplated herein, then in addition to the Security Program requirements set forth in above, Empyrean shall: (i) take all reasonable precautions to ensure that login credentials and password are kept confidential; (ii) such login credentials and passwords are regularly changed according to

customary security practices; (iii) immediately terminate login credentials and passwords for individuals who have resigned their employment, have been terminated by Empyrean or no longer work on Client's account; and (iv) implement any other reasonable security procedures as may be required by Client from time-to-time.

E. SOC Audit. Empyrean will continue during the term of this Agreement to conduct annual SOC audits based on the SSAE 18 standards and complete a SOC1 Type II and a SOC2 Type II annual report for the previous year. Any independent auditor's report regarding same shall be provided to Client upon request.

**13. MISCELLANEOUS**

A. Waiver. Neither Party hereto shall be deemed to have waived any rights or remedies hereunder unless such waiver is in writing and signed by the authorized representative of the Party. No delay or omission by either Party hereto in exercising any right shall operate as a waiver of such right. A waiver of a right on one or more occasion shall not be construed as a waiver of such right on any future occasion.

B. Notices. Whenever, under the terms of this Agreement, written notice is required or permitted to be given, such notice shall be deemed to have been delivered upon receipt if delivered personally or by confirmed facsimile, or on the third business day after such notice is deposited in the United States mail in a properly stamped envelope, certified mail, return receipt requested, addressed to the Party to whom it is to be given at the address set forth below:

TO EMPYREAN:           Empyrean Benefit Solutions, Inc.  
                              3010 Briarpark Drive, Suite 8000  
                              Houston, Texas 77042  
                              Attention: Compliance & Contracts Department

TO CLIENT:             \_\_\_\_\_  
                              \_\_\_\_\_  
                              \_\_\_\_\_  
                              Attention: \_\_\_\_\_

C. Force Majeure. Either Party shall be excused from the performance of its obligations under this Agreement, including but not limited to any service level agreements, if applicable, except Client's obligation to pay amounts due hereunder for Services performed, and it shall not constitute a breach if such is due to: acts of God, acts or omissions of the other Party, acts of any government or regulatory body (whether civil or military, domestic or foreign) fires, explosions, floods, earthquakes or other natural or man-made disasters, epidemics, sabotage, terrorism, wars, riots, civil disturbances, loss of electrical or other power or telecommunications equipment or line failures, or any other event or circumstance (whether similar or dissimilar to any of the foregoing), whether or not foreseeable, that was not caused by that party and any consequences of that event or circumstance. (each a "Force Majeure Event"); provided the Party claiming a Force Majeure Event: (i) promptly gives the other Party written notice of such event; (ii) uses its reasonable best efforts to correct such failure or reduce the delay in its performance; and (iii) follows commercially prudent standards for mitigating the risk associated with such event, in light of the severity of damages such event could cause the other Party

D. Severability. In the event any provision or part of this Agreement is held to be unenforceable, the remainder of this Agreement shall continue in effect.

E. Relationship of the Parties. The Parties acknowledge that Empyrean is an independent contractor, and that the Parties are not joint venturers, partners, or employees of each other by virtue of this Agreement. Neither Party is an agent of the other or has control over the manner or method by which the other meets its obligations under this Agreement.

F. Assignment. Neither Party may assign this Agreement or any rights hereunder without the prior written approval of the other Party which such approval will not be unnecessarily withheld. Notwithstanding the foregoing, either Party may assign this Agreement to any subsidiary or affiliate under its control, or as part of the sale of any substantial portion of its assets, or pursuant to any merger or consolidation, without the other

Party's consent, provided that such Party effectuating the assignment shall provide notice to the other Party within 30 days of such assignment and the assignee agrees to execute any amendments or other documents, if appropriate. To the extent that there are successors or assigns permitted under this Section, this Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and assigns.

G. Amendments. To be effective, any amendments to this Agreement must be in writing and signed by an authorized representative of the Parties.

H. Headings. The headings of this Agreement are solely for the convenience of the parties and do not affect the meaning or interpretation of any provision of this Agreement.

I. Survival. The provisions of Sections 5, 6, and 8-11, 13 shall survive the expiration or termination of this Agreement.

J. Hiring Employees of Other Party. Neither Party will directly or indirectly recruit or solicit the other's personnel or employees that have become known to such Party as a result of the Services performed hereunder, until the earlier of 1 year after (i) the termination of this Agreement, or (ii) such person is no longer employed by the other Party. The foregoing shall not preclude either Party from employing any such employee (iii) who seeks employment with the other Party in response to any general advertisement or solicitation that is not specifically directed toward employees of such Party or (iv) who contacts the other Party on his/her own initiative, and without any direct or indirect solicitation by such Party.

K. No Third Party Beneficiaries. The Parties agree that this Agreement is for the benefit of the Parties hereto only and is not intended to confer any legal rights or benefits on any third party, and that there are no third party beneficiaries to this Agreement or any part or specific provision of this Agreement.

L. Entire Agreement. This Agreement constitutes the entire understanding and complete agreement between the Parties with respect to the subject matter hereof and supersedes in all respects, all prior proposals, negotiations, conversations, discussions and agreements between the Parties concerning the subject matter hereof.

M. Execution. This Agreement may be executed in multiple counterparts, and each signed copy shall be deemed an original, but all signed copies together shall be deemed one and the same instrument. A portable document format (PDF), facsimile, or other similar reproduction of a signature of this Agreement shall constitute an original signature for all purposes.

**IN WITNESS WHEREOF**, the Parties have executed and agreed to the terms and conditions set forth in this Agreement, and the terms and conditions set forth in all related documents, including but not limited to, the SOW and the Business Associate Agreement, by their authorized representatives as of the Effective Date.

**Empyrean Benefit Solutions, Inc.**

**Client:**

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

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

Name: Richard L. Wolfe

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

Title: Chief Executive Officer

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**STATEMENT OF WORK—SEE ATTACHED DOCUMENT**

**EXHIBIT B  
BUSINESS ASSOCIATE AGREEMENT**

**THIS BUSINESS ASSOCIATE AGREEMENT ("BAA")**, is by and between \_\_\_\_\_, ("Client"), as Plan Sponsor and/or on behalf of its group health plan(s) and **Empyrean Benefit Solutions, Inc.**, ("Empyrean"), the Business Associate (each a "Party" and collectively the "Parties").

**WHEREAS**, the Client and Empyrean have entered or desire to enter into an agreement for the provision of certain services by Empyrean to Client (the "**Agreement**"); and

**WHEREAS**, the Parties wish to comply with the provisions of the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, all as amended from time to time (herein, "**HIPAA Privacy and Security**") and the HITECH Act, Subtitle D of the American Recovery and Reinvestment Act of 2009 and its implementing regulations (herein, "**The Act**" and together with HIPAA Privacy and Security "**HIPAA**"); and

**WHEREAS**, pursuant to the Agreement, Client may send Protected Health Information to Empyrean, and Empyrean may create or receive Protected Health Information on behalf of Client (collectively, "**Client PHI**"), and the Parties agree that a BAA is needed.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intended to be legally bound hereby, the Parties hereto agree as follows:

**Definitions:** Unless otherwise specified herein, terms in this BAA have the same meaning as those terms in the HIPAA privacy and security rules at 45 C.F.R. § parts 160 and 164.

**BAA Provisions:**

1. **HIPAA Business Associate Agreement.** This BAA establishes the permitted and/or required uses and disclosures of Client PHI by Empyrean. Client acknowledges that it holds appropriate business associate agreements with its other contracted vendors and that Empyrean shall not be forced to enter into other business associate agreements or trading partner agreements with Client's other contracted vendors in order for Empyrean to be able to meet its service obligations to Client under the Agreement unless such additional agreement between Empyrean and Client's other contracted vendor is required by law. The Parties further acknowledge that for purposes of this BAA, Empyrean is an independent contractor and not an agent of Client, and Client has no right to control the conduct of Empyrean in the performance of its services on behalf of Client, nor is Client an agent of Empyrean.

2. **Duties of Business Associate.** Empyrean agrees that it will:

a. Use or disclose Client PHI solely (i) in connection with the performance, management, obligations and administration of the services on behalf of or to benefit Client as set forth in the Agreement, provided that such use or disclosure would not violate HIPAA or HITECH if done by Client, or (ii) as otherwise specifically permitted or required by this BAA, or (iii) as required by law.

b. Use appropriate safeguards to prevent the use or disclosure of Client PHI other than as provided for by this BAA or as required by law; implement and maintain reasonable and appropriate administrative, technical and physical safeguards to protect Client PHI from loss, misuse and unauthorized access, disclosure, alteration and destruction; and implement and maintain administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Client PHI in compliance with the security requirements of HIPAA set forth in 45 C.F.R. § Part 164 and any guidance issued by the Secretary.

c. Report to Client any use or disclosure of Client PHI other than as permitted by this BAA within

the following timeframes:

(i) Verbally or by email, timely notify Client, but no less than annually, of any discovered Security Incident, and/or no less than within 10 business days of discovery of a Breach, as such terms are defined by HIPAA. At the time of reporting, Empyrean shall provide Client as much information as may be known at the time. A Security Incident or Breach will be treated as discovered as of the first day that such Security Incident or Breach is known or reasonably should have been known by Empyrean in its sole discretion. For purposes of this BAA, a Security Incident shall not include "trivial incidents" that are not successful or do not represent a material threat to the confidentiality, integrity, or availability of Client PHI (including but not limited to basic scans, "pings" or unsuccessful attempts to penetrate computer networks or servers maintained by Business Associate). For such unsuccessful Security Incidents as described, no further notice will be provided.

(ii) Thereafter, to the extent known and to the extent not already provided under Section 2(c)(i) above, Empyrean will provide a full written report containing the items provided below to the Client's designated official within 15 business days after discovering the Breach:

- (A) the nature of the incident and how it occurred;
- (B) the individuals whose PHI was involved in the Breach, including names and state of residence;
- (C) a description of the PHI that was improperly used or disclosed;
- (D) a description of the party or parties who received the non-permitted disclosure;
- (E) a description of how Empyrean mitigated or will mitigate any harmful effects of the non-permitted use or disclosure;
- (F) a description of the corrective action taken by Empyrean or to be taken by Empyrean to prevent further non-permitted uses or disclosures;
- (G) a contact person at Empyrean; and
- (H) any other information as Client may reasonably request pertaining to such Breach.

d. In addition to the full written report provided for above, and to the extent appropriate if requested by Client, Empyrean shall, at its own cost, notify the individuals whose PHI was involved in the Breach caused by Empyrean within 60 days of discovery (or such earlier date, as agreed upon by the Parties), in accordance with HITECH, provided that Client shall be able to approve the content, timing, method and all other aspects of any such notification. Notwithstanding, Empyrean reserves the right to charge reasonable, cost based fees to the Client for mitigation and notification related costs should a Breach be due to the actions or omissions of Client, Plan, or another entity associated with Client.

e. Empyrean shall enter into appropriate Sub-Business Associate Agreements ("Sub BAA(s)") containing the same terms with any of its subcontracted vendors who create, receive, maintain or transmit Client PHI and/or perform any of the services outlined in the Agreement that are subject to HIPAA regulations.

f. Mitigate, to the extent practicable, any harmful effect that is known to Empyrean of any use or disclosure of Client PHI by Empyrean in violation of the requirements of this BAA, HIPAA or HITECH.

g. Provide access to Client PHI maintained in a Designated Record Set at the request of Client, or as directed by Client, to an Individual or such Individual's delegate as provided to Empyrean by Client as may be necessary for Client to satisfy its obligation under 45 C.F.R. § 164.524.



h. Make amendments to Client PHI maintained in a Designated Record Set as directed by Client as may be necessary for Client to satisfy its obligation under 45 C.F.R. § 164.526.

i. Document and make available disclosures of Client PHI and information relating to the disclosures of Client PHI as would be required for Client to respond to a request by an Individual for an accounting of disclosures of Client PHI in accordance with 45 C.F.R. § 164.528.

j. Subject to attorney-client or other legal privileges if applicable, make Empyrean's internal practices, books and records relating to the use and disclosure of Client PHI available to the Secretary of the United States Department of Health and Human Services for purposes of determining Client's group health plan's compliance with HIPAA.

k. Empyrean, its agents, employees and subcontractors, are prohibited from directly or indirectly receiving any remuneration in exchange for any Client PHI.

### **3. Permitted Uses and Disclosure by Empyrean**

a. Except as otherwise limited in this BAA, Empyrean may use or disclose Client PHI to perform functions, activities, or services for, or on behalf of, Client as specified in the Agreement and in this BAA, provided that such use or disclosure of PHI would not violate HIPAA privacy or security rules, including the Minimum Necessary requirement as stated in 45 C.F.R. § 164.502(b), if done by Client. Empyrean shall not be held liable for the use of Client PHI in a manner instructed by Client as long as such use or disclosure would not violate HIPAA privacy or security rules if done by Client.

b. Except as otherwise limited in this BAA, Empyrean may use Client PHI for the proper management and administration of Empyrean or to carry out any legal or regulatory responsibilities placed on Empyrean as a result of the Agreement or this BAA. Empyrean shall not use Client PHI in any manner that Empyrean knows will violate the HIPAA privacy or security rules.

c. Except as otherwise specifically limited in this BAA, Empyrean may disclose to third parties Client PHI as necessary to provide services under the Agreement, provided that disclosures are otherwise permitted under HIPAA or under this BAA.

d. Except as otherwise limited in this BAA, Empyrean may use Client PHI to provide Data Aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

e. Empyrean may use Client PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. § 164.502(j)(1).

f. Empyrean may disclose information as may be requested by an Individual through Client under 45 C.F.R. § 164.508.

### **4. Obligations of Client.** Client agrees that it shall:

a. Notify Empyrean of any limitation(s) in its notice of privacy practices of Client in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Empyrean's use or disclosure of Client PHI.

b. Not request that Empyrean use or disclose Client PHI in any manner that would not be permissible under applicable laws.

c. Notify Empyrean of any changes in, or revocation of, permission by Individual to use or disclose PHI to the extent that such changes may affect Empyrean's use or disclosure of Client PHI.

d. Notify Empyrean of any restriction to the use or disclosure of Client PHI that Client has agreed

to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Empyrean's use or disclosure of PHI.

e. In the event that Client cannot or is unwilling to meet the security standards for electronic transmission as required by HIPAA, HITECH, and Empyrean's policies for encrypted transmissions, Client shall hold Empyrean harmless and without liability for any Security Incident or Breach that occurs due to Client's inability to meet these standards as long as Empyrean operated within Client's reasonable directions and/or Empyrean was not at fault.

## **5. Term and Termination**

a. This BAA shall be effective as of the date executed by both parties and shall terminate on the later of the (i) expiration or termination of the Agreement, or (ii) when all of the Client PHI provided by Client to Empyrean is destroyed or returned to Client in accordance with paragraph c. below.

b. Without limiting any right or remedy of either Party provided for in the Agreement, or available under applicable law (including but not limited to HIPAA) or in equity, either Party may terminate this BAA without penalty or recourse to the other Party, if it is determined that the other Party has breached any material term of this BAA, provided that such Party has failed to cure and mitigate such breach within 30 days (or within a reasonable time thereafter) or in the event the breach is of a type that cannot reasonably be cured and mitigated within 30 days, provided that said Party has commenced taking steps to effectuate a cure and mitigate and then thereafter takes reasonable steps to complete the cure within 90 days) of its receipt of the affected Party's notice of such breach, describing the alleged breach with specificity, or immediately upon notice if cure is not possible.

c. Upon termination of this BAA and the Agreement, Empyrean will, if feasible, destroy or return to Client, all Client PHI that Empyrean still maintains in any form and retain no copies of Client PHI, and upon request of Client, Empyrean will certify in writing to Client that it has so returned or destroyed all such Client PHI. Prior to returning or destroying the Client PHI, Empyrean further agrees to recover any Client PHI in the possession of its subcontractors, if applicable. If such destruction or return is not feasible as to all or some of Client PHI, Empyrean shall extend the protection of this BAA to such Client PHI and limit further uses and disclosures to those purposes that do not make the destruction or return of such Client PHI feasible (such as with encrypted, archived data files). If it is not feasible for Empyrean to obtain from a subcontractor any Client PHI in the possession of the subcontractor, Empyrean shall require the subcontractor to agree in writing to extend any and all protections, limitations and restrictions in this BAA to the subcontractor's use and disclosure of any Client PHI retained after the termination of the BAA, and to limit any further uses and disclosures to the purposes that make the return of the Client PHI unfeasible.

6. **Amendment.** No changes, amendments or alterations of this BAA shall be effective unless signed by duly authorized representatives of both Parties, except as expressly provided herein. In order to assure that this BAA at all times remains consistent with HIPAA, Empyrean agrees to execute written amendments to this BAA from time to time, upon written notice from Client, if and to the extent, revisions are required to make this BAA consistent with HIPAA.
7. **No Rights of Third Parties.** This BAA is between Client and Empyrean and shall not be construed, interpreted, or deemed to confer any rights whatsoever to any third party.
8. **Counterparts.** This BAA may be executed in multiple counterparts, each of which is to be considered an original, and both of which will constitute one and the same agreement.
9. **Notices.** All notices related to any provision of this BAA shall be mailed to the designated contact of each Party as provided in the Agreement.
10. **Indemnification and Liability.** Any indemnification or liabilities relating to violations of this BAA by either Party (including a Sponsor on behalf of the Plan) shall be addressed to the extent applicable by the Agreement.

11. **Interpretation/Construction.** Any ambiguity in this BAA shall be resolved to permit Client's group health plan to comply with HIPAA and HITECH.
12. **Conflict.** In the event of a conflict with the provisions of this BAA and the Agreement, the provisions of this BAA shall prevail. This BAA will be governed by and construed in accordance with the laws of the State of Texas to the extent not preempted by the Privacy and Security Rules or other applicable federal law.
13. **Applicable Law.** The provisions of this BAA shall be construed and administered to, and its validity and enforceability determined under HIPAA. To the extent that HIPAA is not applicable in a particular circumstance, the provisions of this BAA shall be construed under and administered to Texas Law.
14. **Confidentiality.** Except as expressly provided for under HIPAA or this BAA, neither Party will disclose the terms of this BAA to any third party without the written consent of the other Party.
15. **Entire Agreement.** There are no other agreements or understandings, either oral or written, between the Parties relating to the subject matter hereof, except for the Agreement.

# Exhibit A

## Statement of Work and Performance Guarantees

MM dd, YYYY

### Benefits Administration Outsourcing Solution Implementation

This Statement of Work (SOW) more particularly describes the Services Empyrean is to provide to Client under the Agreement. In the event that Client wishes to change the scope or priority of the Services, the Parties may agree to such scope and/or cost changes via a separate document called a Change Order. No Change Order will be effective unless Client provides written instructions to begin the work associated with any such Change Order and Empyrean agrees in writing to begin such work, or both Parties execute a written amendment to the relevant SOW, as needed.

Empyrean will manage all aspects of requirements definition and system setup in support of an effective transition of services to Empyrean. The implementation will require Client resources to interact with the Empyrean team to effectively transition services to Empyrean, including meeting agreed upon implementation milestones. During the implementation, the following resources and services will be provided to Client:

- Project Management

Client is assigned a Client team from day one of our relationship. A Client Service Manager will be assigned to Client to manage the day-to-day relationship and service delivery starting with the implementation and continuing through ongoing service delivery. An Implementation Manager will also be assigned to Client at the same time. The Implementation Manager is the subject matter expert for all requirements definition and build out of Empyrean's platform per the specifications of the Client for the benefit plans and the administration thereof as defined within the Requirements Document. Additional personnel will be assigned as well in support of ongoing delivery of services to Client.

- Requirements Documents

Documents will be created and managed by Empyrean that define all client-specific requirements relating to the Services provided by Empyrean (collectively the "Requirements Documents"). Client must provide written sign-off on the accuracy of Requirements Documents. As changes are made to the Requirements Documents, additional Client sign-offs will be required. Changes made after the initial Client sign-off may require additional fees and/or result in delayed deliverables and/or timelines.

- Testing

Empyrean will test the system upon completion of setup, prior to Client Acceptance Testing, to ensure expected functionality. Client will be required to participate in Client Acceptance Testing and to sign-off on test results to ensure that the setup was done correctly and accurately reflects the requirements as captured within the Requirements Documents. All testing will take place in a test environment and will occur prior to the system provisions being migrated to the production environment.

### **Client Responsibilities**

Client will share in the responsibilities and workflows with Empyrean in the following areas:

- Provide indicative data to Empyrean in a timely manner in a mutually agreeable format and free of errors;
- Process payroll deductions based on data provided by Empyrean;
- Assist and support Empyrean with Client's carrier/third party relationships;
- Perform acceptance testing of the system prior to live date, including review of participant self-service site and related materials;
- Support service center training, including annual Client culture training; and
- Provide sign-off on Requirements Documents, Change Orders, Testing and other deliverables in a timely manner.

## Benefits Administration Fees

The fees for the Services are as follows and are valid as of the Agreement Effective Date:

Implementation Fees <sup>1</sup>	Volume	Fee
Implementation Fee <sup>2</sup> <i>Billed in full at project kickoff.</i>	N/A	\$TBD
<b>Benefits Administration Fees</b>	<b>Volume</b>	<b>Fee</b>
Fees Per Eligible Participant Per Month (PEPM) Includes all benefits-eligible participants, including active employees, retirees, direct billed, COBRA participants once elected in COBRA, etc.	X,XXX	\$TBD  * PEPM will be offset with any carrier technology fees, if applicable, in accordance with the terms provided in footnote <b>3</b> below
Call Center Services (PEPM) <i>The annual call volume is capped at the number of benefit eligible participants. Calls over this threshold will be reviewed and subject to fees as agreed to by both Parties.</i>	X,XXX	Included in PEPM
Monthly MINIMUM Flat Care Service Fee	N/A	\$TBD

<sup>1</sup> Ongoing fees for all services are billed monthly with payment terms as provided for under the Agreement. Fees for all services will begin on the earlier of the first month in which Empyrean receives a production conversion file or services begin.

<sup>2</sup> Relationship Credit: Empyrean will provide a fee credit in the total of \$\$\$\$ to XYZ to support the procurement of a non-Empyrean Project Management resource. This resource will assist client in their activities interacting with Empyrean. The credit will be invoiced by XYZ to Empyrean over ## installments.

<sup>3</sup> [NAME OF CARRIER] has agreed to contribute a technology fee to be applied towards Client's Services and will pay XX% of the monthly ongoing Fees due for Client directly to Empyrean. To the extent a Carrier has agreed to pay a technology fee related to their product, an agreed upon percentage of such technology fee Empyrean receives from such Carrier will be applied as a credit towards the Fees related to the administration of such products, except where prohibited by applicable law. Any technology fee will be applied on the next available invoicing cycle after the technology is received and journalized by Empyrean. Carrier technology fees are at the discretion of the Carrier and may be discontinued or modified without notice at any time. In the event a Carrier revokes any technology fee, Client may continue the Services and provide any new funding instructions as it may have agreed to with a new Carrier within ten (10) days of the revocation of the previous Carrier technology fee.

ACA Services	Volume	Fee
SAFEHARBOR License Fee (Per Tracked Employee Per Month)	Estimate SAFEHARBOR Headcount: X,XXX	PEPM (inclusive of License Fee and Processing Fee)
	<= 750	\$1,500/month minimum
	751 – 2,000	\$1.75
	2,001 – 4,000	\$1.45
	4,001 – 6,000	\$1.35
	6,001 – 8,000	\$1.25
	8,001 +	TBD
<p>1094/1095 Reporting and State Individual Mandate Reporting</p> <ul style="list-style-type: none"> <li>- Full Service (Option 3), including online forms access</li> <li>- Forms-ready File (Option 2)</li> <li>- Raw Data Output File (Option 1)</li> <li>- State Mandate Reporting – in all states where required (optional)</li> </ul> <p>All annual fees are billed in September each year. Print/fulfillment, postage, and tax are pass through costs. *Per form fee is billed annually in September (pre-filing) based on estimated forms volume and trued up in February or March based on actual forms volume.</p> <p>See Caveats and Assumptions – ACA Administration.</p>	<p>Estimated # of Forms: [redacted]</p> <p># of FEINs: [redacted]</p>	<p>Implementation Fee (inclusive of historic hours data conversion)</p> <p>\$5,000</p> <p>\$10,000</p> <p>\$10,000</p> <p>\$10,000</p> <p>\$10,000</p> <p>TBD</p> <p>TBD</p> <p>Option: 3</p> <p>Annual Per Form Fee: \$ [redacted]*</p> <p>Exchange Appeal (Per case): \$250</p> <p>OR</p> <p>Option 1 or 2</p> <p>Annual Per File Fee: \$ [redacted]</p> <p>Ongoing Per File Fee: \$ [redacted]/month/quarter</p> <p>State Individual Mandate Reporting Per Filing Fee: \$2,500 per state</p>



Ancillary Administration Services	Volume	Fee
Personalized Precision Benefits (claims-based decision support and engagement) Implementation Fee <sup>1</sup> - <i>Billed in full at project kickoff</i> Ongoing Fees	N/A XX,XXX medical enrolled employees	\$XX,XXX \$X.XX Per Medical Enrolled Employee Per Month (PEPM)
COBRA Administration <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Takeover Fee (per account transitioned – estimated at XX)</li> <li>- Monthly Minimum Fee</li> <li>- PEPM Fee – per eligible participant per month (applies to entire benefits-eligible population, including active employees, retirees, COBRA participants once elected in COBRA, etc.)</li> <li>- Empyrean retains 2% administrative fee</li> </ul>	Implementation: N/A Takeover accounts: XXX	\$TBD \$50 \$500 \$TBD
FSA/HRA Administration through Preferred Partner HSA Bank <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Per Account Per Month</li> <li>- Non-discrimination testing (Section 129 testing)</li> <li>- Plan document creation</li> </ul>	HC FSA: XXX DC FSA: XXX HRA: XXX LU HC FSA: XXX	\$500 per account type \$4.50 \$450 per test \$400 per plan
Commuter & Transit Account Administration through Preferred Partner HSA Bank <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Per Account Per Month</li> <li>- Plan document creation</li> </ul>	Commuter: XXX Transit: XXX	\$500 per account type \$5.00 \$400 per plan
Health Savings Account Administration through Preferred Partner HSA Bank <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Per Account Per Month</li> <li>- Non-discrimination testing (Section 125 testing for HSA contributions through cafeteria plan)<sup>1</sup></li> </ul>	Health Savings Accounts: XXXX	Included \$TBD \$450 per test

<sup>1</sup> Any fees charged by medical or pharmacy carriers for data feeds will be the responsibility of Client.



Ancillary Administration Services	Volume	Fee
Direct Billing <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Takeover Fee (Per Account Transitioned)</li> <li>- Monthly Minimum</li> <li>- Ongoing Fee (per participant per month; excludes COBRA)</li> </ul>	Takeover accounts: XXX Estimated ongoing accounts: XXX	\$TBD \$50 \$500 \$6.00
Qualified Medical Child Support Orders (QMCSO) – System Functionality <ul style="list-style-type: none"> <li>- Platform will have available appropriate QMCSO code designed to restrict changes</li> <li>- Online QMCSO report</li> </ul>	N/A	Included
QMCSO Administration <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Order Qualification</li> <li>- Insurance Coverage Information Requests</li> <li>- Takeover Fee (Per Order Transitioned)</li> </ul>	Annual volume estimate: XXX Takeover volume: XXX	\$10,000 \$500 \$350 \$150
Premium Payments Based on Empyrean Generated Premium Data  Service includes Empyrean providing standard premium total and detail reports and wiring instructions to client for consolidated carrier payment total for a given month. Empyrean will allocate payment to individual carriers. Standard premium total and detail reports are provided to each carrier, as required, for carrier to perform reconciliation against carrier generated premium data.	Number of carriers: XX	\$350 per carrier per month
Total Compensation Online Statements <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Refresh fee per data source per quarter</li> </ul>	Number of data sources: XX	\$10,000 \$500
Single Sign-On (SSO; assumes SAML 2.0)	Number of SSOs: X	X included Additional: \$7,500 each
API Integrations for Evidence of Insurability (EOI) (assumes SAML 2.0)	Number of EOI Integrations: 1	1 included Additional: \$10,000 each
Event Verification Pends all changes made within the event.	Annual volume estimate: X,XXX	\$20.00 per dependent No charge when the client owns the review and approval/denial process.

Ancillary Administration Services		Volume	Fee
Dependent Verification <i>Pends the coverage for new dependents on a per benefit level.</i>		Annual volume estimate: X,XXX	\$20.00 per dependent No charge when the client owns the review and approval/denial process.
Closed Loop for Spending/Savings Accounts with True-up Process <i>Client will send actual payroll contributions to Empyrean to be used in quarterly true-up process. See Caveats and Assumptions section for further details.</i>		N/A	Included
Retroactive Deduction Reporting via Administrative Portal <i>Pay period reporting made available to Client to calculate and apply retroactive deduction amounts. See Caveats and Assumptions section for further details.</i>		N/A	Included
Retroactive Payroll Adjustment File <i>Empyrean will calculate retroactive deduction amounts and send to Client along with regular payroll instructions. See Caveats and Assumptions section for further details.</i>		N/A	Included
Closed Loop for All Benefits with Arrears Balances <i>Empyrean will calculate retroactive deduction amounts and manage overall arrears balance using actual payroll contribution files from Client. See Caveats and Assumptions section for further details.</i>		N/A	Implementation Fee: \$ Ongoing PEPM Fee: \$
COBRA General Notice Form Generation - Implementation Fee (included) - Ongoing Fee Per Form Generated		Annual forms volume estimate: X,XXX	Included \$5.00 per form
COVID-19 Vaccination and Testing Tracking (in partnership with Qualtrics) - Implementation Fee - Ongoing Vaccination Status and Testing Tracking documentation collection (PEPM) - Vaccine Card Verification (optional) - Test Result Verification (optional)		Annual verification volume estimate: X,XXX	\$XX,XXX \$X.XX \$X.XX \$X.XX
Identity Theft Protection through NortonLifeLock – Employee Paid Coverage Per Employee Per Month Credit <sup>4</sup>		N/A	(\$0.05)
Identity Theft Protection through NortonLifeLock – Employer Paid Coverage Per Employee Per Month Credit <sup>4</sup>		N/A	(\$0.25)

<sup>4</sup> Provided certain NortonLifeLock criteria are met, NortonLifeLock has agreed to pay a technology fee directly to Empyrean in exchange for the administrative efficiencies Empyrean provides on the NortonLifeLock product. Provided Empyrean receives this fee, Empyrean agrees to offset the Core Per Employee Per Month Ongoing Fee based upon \$0.05 per employee per month for employee paid coverage and \$0.25 per employee per

month for employer paid coverage. Carrier technology fees are at the discretion of the Carrier and may be discontinued or modified without notice at any time.

Pass-through Items	Cost
Language Support	Pass-through
Toll-free Charges	Pass-through
Banking Fees	Pass-through
Print/Fulfillment, Shipping, Assembly, & Postage	Pass-through
Text Messages to Participants	Pass-through
Travel	Pass-through
Other Pass-through Costs <sup>3</sup>	Pass-through

<sup>3</sup> Other pass-through costs and expenses for which Client will reimburse Empyrean in connection with the delivery of the Services include but are not limited to reasonable travel expenses (which may include the cost for remote Empyrean team members to travel to an Empyrean office for meetings with Client present), long distance charges, third party subpoenas related to Client's benefit plans, etc.

## Caveats and Assumptions

Item	Description
Agreement Period	The Initial Agreement (and any corresponding SOWs) are established for a term of three (3) years. This SOW remains in effect through December 31, 2026. Changes or additions to the scope of services will be priced as requested.
Project Scope	Project scope is fixed according to the terms of the Agreement between Client and Empyrean. Deviation from scope or activity exceeding estimated volumes will require review and may result in additional fees to adequately support Client.
Project Dates	<p>Project initiation is scheduled upon the execution of an agreement for Empyrean Benefits Administration services.</p> <ul style="list-style-type: none"> <li>- Services (except for Personalized Precision Benefits) go "live" on November 1, 2023 for annual enrollment and January 1, 2024 for ongoing</li> <li>- Personalized Precision Benefits go "live" on November 1, 2023</li> </ul>
Minimum Billable Population	The minimum billable population is assumed to be the Eligible Headcount stated above less 20%. Client will be billed ongoing PEPM fees at no less than Eligible Headcount less 20%.
Empyrean Billable Hourly Rate	Empyrean may charge Client out-of-scope fees for project work not covered within the fees and assumptions presented within this SOW. Client will be informed of the fees and must approve the applicable Change Order prior to Empyrean starting work. The hourly rate is \$200 per hour.
Change Order Fee Inclusion	<p>Empyrean will include all one-time change order fees over the life of the contract term for Client's routine benefit and plan changes/updates. Although there will be no fees tied to the work effort related to the routine benefit and plan changes/updates, Client will still be presented with a documented change order form requiring Client's sign-off prior to commencement of Empyrean project activities.</p> <p>Projects that are not considered to be routine benefit and plan changes/updates and which may require additional out-of-scope fees include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. Acquisitions that include new benefits/plans and eligibility; conversion of prior elections, dependents, or beneficiaries; and/or new HRIS or payroll interface files to support the acquired group;</li> <li>2. Additional customer service staffing in support of a material increase in the expected call volume to support Client's annual enrollment strategy;</li> <li>3. Additional services not previously included in this SOW such as, for example, the addition of FSA administration, ACA Reporting Services, or the addition of Pilot+.</li> </ol>
Annual Client Conference	Empyrean invites all clients to attend our annual client conference, EVOLVE, the location of which changes each year. Clients are responsible for their own travel expenses for the annual conference; however, Empyrean will include the cost of 1 hotel room for 1 client conference for the initial duration of this agreement.

Item	Description
Inbound Electronic Conversion Interfaces	<p>Empyrean agrees to accept data in a mutually agreed upon format to include all necessary data (such as employee indicative data, employee elections, dependent indicative data, dependent elections, and ACA forms and/or hours data) to support the conversion process.</p> <p>Data provided to Empyrean is expected to be accurate, error free, and in a consistent format. Bad data will not be loaded. Errors will be provided to Client for review. Client will be responsible for resolving any errors found through this process. Significant additional work required by Empyrean to clean incoming data will be billed at Empyrean's billable hourly rate.</p>
Inbound Electronic HRIS Interface	<p>Empyrean agrees to accept <b>X</b> incoming HRIS data file(s) in a mutually agreed upon format, preferably Empyrean's standard format, from the Client's HR system(s) on a <b>weekly</b> basis. The data will be received in a full-file format. Data provided to Empyrean is expected to be accurate and error free. Bad data will not be loaded. Errors will be provided to Client for review. Client will be responsible for resolving any errors found through this process within an agreed-upon timeframe. Significant additional work required by Empyrean to clean incoming data will be billed at Empyrean's billable hourly rate.</p> <p>If the number of incoming HRIS files exceeds the number above, Empyrean and Client will work in good faith to determine the appropriate ongoing fee(s) adjustment to support the additional file processing, if necessary.</p> <p>Empyrean assumes that all data necessary to load employees into the Benefits Administration platform will be included in the ongoing incoming data file from Client. Necessary data elements will be defined within the administrative requirements. In the event not all data is included and additional programming/calculations are required, additional programming and/or manual data cleanup hours will apply.</p>
Outbound Eligibility Interfaces	<p>Empyrean agrees to provide election data to <b>XX</b> carriers/third parties through electronic eligibility interfaces in a mutually agreed upon format. Interfaces are full files and sent weekly via secure transmission. Expected number of files is <b>YY</b>.</p> <p>Empyrean includes the development of initial electronic interfaces for carriers identified at the start of implementation. Additional interfaces required, but not included in the SOW, will require out-of-scope costs and may result in revised project timelines. The cost of new interfaces or modification of existing interfaces after Go Live will be provided to Client in a Change Order.</p> <p>If the number of outbound files exceeds the number above, Empyrean and Client will work in good faith to determine the appropriate ongoing fee(s) adjustment to support the additional file processing, if necessary.</p>

Item	Description
Outbound Electronic Payroll Interface	<p>Empyrean agrees to provide <b>X</b> payroll interface(s) in a mutually agreed upon format, preferably Empyrean's standard format, to Client or Client's Payroll Provider(s) per the payroll schedule. The file is a full file at Open Enrollment and will be a changes only file throughout the year. Client/Payroll Provider is responsible for end-dating all deductions in the payroll system at plan year end in preparation for the full Open Enrollment file.</p> <p>Empyrean will provide change effective dates along with the per pay period deduction amount to aid Client with retroactive payroll.</p> <p>If the number of outbound payroll files exceeds the number above, Empyrean and Client will work in good faith to determine the appropriate ongoing fee(s) adjustment to support the additional file processing, if necessary.</p>
Closed Loop for Spending/Savings Accounts with True-up Process	<p>Client is responsible for sending payroll actuals confirming deductions taken for spending and savings accounts only in Empyrean's standard file format. Empyrean will store contributions from each paycheck in the employee's account to accumulate a year-to-date total. The loaded data is then used to calculate employee pay period amounts in two situations:</p> <ol style="list-style-type: none"> <li>1) When an employee experiences a life event and makes an election change to the spending or savings account, the YTD contributions will be used to calculate the per pay period cost for the remaining pay periods in the calendar year.</li> <li>2) On a quarterly basis, Empyrean will run a true-up process ensuring that employees are on schedule to meet their annual goal amount elected. Any adjustments are made to the per pay period costs and sent on the next payroll file.</li> </ol>
Retroactive Deduction Reporting via Administrative Portal	<p>At the time of event completion, Empyrean will calculate the number of pay periods that were missed (if any) based on the effective date of the deduction, the date it was written to Empyrean's system, and the employee's payroll calendar. If pay periods were missed, Empyrean will dynamically calculate the number of missed pay periods and the deduction or credit amount that is retroactive.</p> <p>Empyrean will provide reporting for each pay period made available to the Client through the administrative portal. Reporting includes all retroactive deduction amounts or credits for a given pay period calculated by the Empyrean system. Client can choose to have Empyrean's system amortize retroactive deduction amounts via a single amortization method across all deductions. Client is responsible for retrieving the report from the administrator portal and applying any retroactive deduction or credit to their payroll system. Significant customization of the report may incur additional fees.</p>

Item	Description
Retroactive Payroll Adjustment File	<p>At the time of event completion, Empyrean will calculate the number of pay periods that were missed (if any) based on the effective date of the deduction, the date it was written to Empyrean's system, and the employee's payroll calendar. If pay periods were missed, Empyrean will dynamically calculate the number of missed pay periods and the deduction or credit amount that is retroactive.</p> <p>Empyrean will send the retroactive deduction or credit amount to the Client on the next payroll file using Empyrean's standard payroll file format, inclusive of all other deduction changes for the given pay period. Significant customization of the payroll file may incur additional fees. Client can choose to have Empyrean's system amortize retroactive deduction amounts via a single amortization method across all deductions.</p>
Closed Loop for All Benefits with Arrears Balances	<p>Each facet of the Retroactive Payroll Adjustment File section above applies in this service. Additionally, the Client is responsible for sending Empyrean confirmation of all deductions taken for all employees after the pay period closes in the Client's payroll system. Empyrean will then reconcile the deductions that were expected to be taken against the confirmed deductions from the Client. If an Empyrean-expected deduction was not taken or a deduction was taken and not expected by Client, Empyrean will create an arrears balance or credit for the employee. The difference in the expected and actual amounts will be accumulated in the arrears balance and sent to the Client on subsequent payroll file(s). Amortization rules for the arrears balance will be applied based on Client's requirements.</p>
Data Reconciliation Processes	<p>Client and any of its third parties, whether other third party administrators or carriers, are expected to supply Empyrean with necessary data as may be applicable and engage in data reconciliation processes as Empyrean may prescribe as needed to support the services under this SOW. Client understands and agrees that for any Client plan or program requiring Evidence of Insurability (EOI), (1) Empyrean will require Client's carrier to support Empyrean processes to reconcile both EOI and "in-force" coverage amounts to ensure that Empyrean and Client's carrier(s) systems match with respect to such items, and (2) that if Client's carrier will not support such routine auditing described in (1) above, Empyrean cannot properly support EOI/in-force coverage processing as provided for in this SOW and will not be held liable for EOI/in-force coverage errors. The language in this Data Reconciliation Processes section will supersede conflicting language in the Agreement, if any, to ensure this section is given full effect.</p>
Data Transmission Standard	<p>Empyrean will provide data to Client and third parties in support of the services described within this SOW. Unless otherwise agreed upon, all data file transmissions, whether Client to Empyrean or Empyrean to Client or other third party must be made using PGP encryption via a United States based FTP or SFTP site. FTP/SFTP site may be Empyrean's, Client's, and/or a third party's based on the transmission file. If Client or Client's third party carriers/partners cannot agree to these transmissions standards, Client will be expected to execute a security release before Empyrean will agree to use alternate standards. Notwithstanding, Empyrean will not transfer data files to an FTP/SFTP outside of the United States (or otherwise upload Client data to a Client or Client third party portal located outside of the United States) even with a security release.</p>
FSA Claims Run-out	<p>When Client contracts with Empyrean's Preferred Partner HSA Bank for FSA services as of the beginning of the plan year, the prior administrator shall support the run-out for the prior year FSA accounts.</p>

Item	Description
FSA, HSA, HRA Calculations	Empyrean collects, at the time of election, the annual goal amount associated with spending/savings and reimbursement accounts and reports this amount to the Client via the outbound electronic payroll interface. Using the Client's payroll calendar, Empyrean will determine the number of pay periods for each election and the estimated per-pay-period amount to be deducted from participants based on their election and payroll cycles provided to Empyrean by Client.
Participant Communications	Empyrean includes the development of basic participant communications and notices needed to support transaction processes. Basic communications include confirmation statements (standard template must be used – customization may require additional fees), COBRA General Notice (if applicable) and electronic email alerts. Pass through fees apply for any mailing costs.
Required Participant Actions	It is the participant's sole responsibility to understand and follow the required terms of the plan. Empyrean will not be liable for actions required of the participant by the plan that have not been taken, such as enrolling by required deadlines or submitting evidence of insurability applications, etc. The language in this Required Participant Actions section will supersede conflicting language in the Agreement, if any, to ensure this section is given full effect.
Reports	Empyrean will provide the Client with access to information with the use of standard reports. Standard reports are created and reviewed during the implementation. Custom reports required by the Client will be discussed during the implementation and may require additional fees. Premium reports are also included as standard reports. These reports are available to the Client to run on a monthly basis.
Annual Enrollment	Empyrean agrees to provide support for a two-week annual enrollment period annually, for each year of the agreement. Annual Enrollment is not in scope for plan years Empyrean is not contracted to support under the Agreement. Empyrean includes the additional service center staffing to support a standard, passive Annual Enrollment call volume expectation within fees. Out of Scope fees may be incurred for additional service center staffing required to support an increase in the expected call volume based on Client's Annual Enrollment strategy.  Annual enrollment changes included in the scope of services include rates, zip codes, minor benefit updates (such as changes to deductibles, co-pays), updating Annual Enrollment specific participant communications, and adding new URLs or PDFs to the self-service site. Additional changes such as new/modified eligibility rules, plan design changes, implementing new carriers or the addition of new plans or options will be considered out-of-scope and provided to Client in a Change Order utilizing the rate listed in the Empyrean Billable Hourly Rate section above.
Compliance	General core system changes required to address applicable U.S. federal legislative changes that can be applied uniformly across the Empyrean system are included in the scope of services. Fees may apply for the client-specific implementation of such changes. Empyrean's platform and related services support administration of benefits in accordance with the U.S. federal regulations. Fees may apply for support of state and/or local specific rules.
Call Center Services	A full service call center will be deployed for Client. The call center will be open Monday through Friday except for Empyrean holidays. The call center hours will be available for a nine-hour window between 7 AM to 7 PM Central Standard Time. Client specific window will be defined during the implementation process. Calls into the call center will be through a toll-free number procured by Empyrean.



Item	Description
Language Support	Empyrean provides direct English language services to callers. Additional language support for callers is available through a translation service. The Empyrean online tool and related enrollment materials are provided to benefit eligible participants in English.
Total Compensation Online Statements	Client provides data in Empyrean standard format. Data can be refreshed on a periodic basis per fee agreed upon schedule and associated fees. Empyrean agrees to configure up to <b>four</b> data sources.

## Caveats and Assumptions – ACA Administration

Item	Description
Final Regulations	<ul style="list-style-type: none"> <li>- Any changes in guidance will be evaluated as released, and the impact on reporting for the applicable year will be determined on a change by change basis.</li> </ul>
Data/Populations Maintained Outside Empyrean Systems	<ul style="list-style-type: none"> <li>- Data and/or populations (e.g., retirees, unions, COBRA, etc.) not maintained on Empyrean systems which must be reported are not in scope. Where Empyrean is providing COBRA Administration, COBRA is considered to be in scope.</li> <li>- It is assumed that the benefits administrators/record keepers of this data will handle the reporting requirement for these populations and/or will supply the data to Client's chosen forms provider if not Empyrean.</li> <li>- Empyrean will incorporate these populations into the process with Thomson Reuters (if Client selects to use Empyrean) as long as data is supplied in forms ready format to Empyrean. It is expected that any third party data sources will contain the information necessary (in the required format) to meet state reporting obligations.</li> <li>- Empyrean is not responsible or liable for any non-Empyrean provided data.</li> </ul>
Acquisitions	<ul style="list-style-type: none"> <li>- For acquisitions, Empyrean will assume support for the acquired company from the effective date of administration on Empyrean's systems and the previous company/ administrator will be responsible for issuing 1095s for the previous period of ownership.</li> </ul>
Divestitures	<ul style="list-style-type: none"> <li>- For divestitures, Empyrean will include the divesting entity in its reporting as required up through the time of the divestiture and will supply data, if required, to the client and/or their 3rd party forms provider for any applicable time periods through the time of divestiture in the Empyrean standard raw data file format (for additional fees).</li> </ul>
Mid-Year Implementations	<ul style="list-style-type: none"> <li>- For mid-year implementations, the prior administrator is expected to supply the required data to the 3rd party forms provider for the prior administration period. Empyrean will supply data for the remaining administration period of the year as noted above in Empyrean's standard reporting format.</li> <li>- Optionally, Empyrean can take a forms ready data file in Empyrean's required forms ready file layout for the period of administration prior to Empyrean becoming the record keeper from the prior record keeper to support Empyrean performing the full year of reporting.</li> <li>- Conversion of data from/to another third party system is not in scope given the highly variable nature of the third party reporting systems and resulting data requirements.</li> </ul>

Item	Description
Affordability Determination	<ul style="list-style-type: none"> <li>- Assumes Client or their consultant performs the affordability determination and that Empyrean will derive the proper code(s) for the tax form file based on the Client's chosen method (which applies uniformly to all classes of participants on the file).</li> </ul>
State Individual Mandate Filings (Optional)	<ul style="list-style-type: none"> <li>- Any state that has indicated the reporting requirement will utilize the Federal Forms 1094/1095 filed with the IRS to satisfy ACA requirements will be reported by Empyrean.</li> <li>- Based on 1095 forms created for the federal filing process, Empyrean will determine if a filing is required in an applicable state. If a filing is not required, there will not be a filing for that state and no fee will be assessed. This will also be true for corrections filings.</li> <li>- To the extent that states deviate from these requirements, additional fees may apply.</li> </ul>
Additional Assumptions	<ul style="list-style-type: none"> <li>- Changes to the Client's plans, affordability safe harbor, overall reporting method, or other requirements may result in additional fees and will be managed via the change order process.</li> <li>- Additional scope considerations relevant to this reporting (e.g., dependent SSN solicitation, etc.) will be addressed and managed as part of the overall implementation process.</li> <li>- These fees do not include hours tracking/full-time eligibility determination services provided via Empyrean's SAFEHARBOR solution.</li> </ul>

# Statement of Work Approval

Client:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Printed Name, Title

Empyrean:

\_\_\_\_\_  
Richard Wolfe, CEO  
Empyrean Benefit Solutions, Inc.

\_\_\_\_\_  
(Date)

# Benefits Administration Responsibilities Matrix

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## Benefits Administration Detailed Scope Matrix

### Section 1: Health and Welfare Administration

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.1	Covered Populations		<ul style="list-style-type: none"> <li>■ Provide H&amp;W administration support as required for the following populations:               <ul style="list-style-type: none"> <li>— Active employees</li> <li>— Spouses, domestic partners, and dependents</li> <li>— Inactive employees</li> <li>— Retirees</li> <li>— COBRA continuants</li> <li>— Severance employees</li> <li>— Surviving spouses/dependents</li> </ul> </li> </ul>	
1.2	Covered Plans	<ul style="list-style-type: none"> <li>■ Plan design</li> <li>■ Fiduciary responsibility</li> <li>■ Eligibility determination</li> </ul>	<ul style="list-style-type: none"> <li>■ Enrollment and participant support for:               <ul style="list-style-type: none"> <li>— Health care plans (medical, dental, vision, prescription drug, etc.)</li> <li>— Insurance plans (life insurance, AD&amp;D)</li> <li>— Disability plans (STD, LTD)</li> <li>— Account based plans (FSA, HSA, HRA, commuter)</li> <li>— Other plans such as business travel accident, prepaid legal, etc.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>■ Claims adjudication and payment</li> <li>■ Provide debit cards</li> <li>■ Account administration</li> </ul>
1.3	Eligibility Determination	<ul style="list-style-type: none"> <li>■ Send required data elements on HRIS file to Empyrean to support eligibility determination</li> </ul>	<ul style="list-style-type: none"> <li>■ Determine eligibility for participation in H&amp;W plans</li> <li>■ Support waiting periods</li> <li>■ Support zip code eligibility</li> </ul>	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.4	Enrollment Support	<ul style="list-style-type: none"> <li>■ Provide options and prices</li> </ul>	<ul style="list-style-type: none"> <li>■ Capture enrollment elections</li> <li>■ Monitor elections requiring evidence of insurability and communicate to participants accordingly</li> <li>■ Accept and retain beneficiary designations</li> <li>■ Send summary of enrollment elections to carrier (via electronic files)</li> <li>■ Collect supporting documentation for qualified status changes</li> </ul>	<ul style="list-style-type: none"> <li>■ Process evidence of insurability</li> <li>■ Provide approvals and denials</li> <li>■ Process eligibility updates (health and welfare plans)</li> <li>■ Support Empyrean's routine data reconciliation processes comparing EOI approvals/denials and in-force coverage amounts to ensure carrier and Empyrean systems for such items match</li> </ul>
1.5	Payroll Deduction Processing	<ul style="list-style-type: none"> <li>■ Provide payroll calendars for each pay frequency</li> <li>■ Apply deductions against payroll</li> <li>■ Retroactivity calculations</li> </ul>	<ul style="list-style-type: none"> <li>■ Calculate payroll deductions based on enrollment elections</li> <li>■ Calculate imputed income amounts for health benefits and life insurance</li> <li>■ Notify Client of employee elections and deductions via secure file transmission</li> </ul>	
1.6	Retroactive Deduction Reporting	<ul style="list-style-type: none"> <li>■ Retrieve retroactive payroll deduction reporting from administrator portal as needed</li> <li>■ Apply retroactive deductions/credits to payroll system</li> </ul>	<ul style="list-style-type: none"> <li>■ Calculate retroactive deduction or credit – using new recurring amount, prior recurring amount, and number of missed pay periods – at the time that an event is completed on an employee's account</li> <li>■ Amortize retroactive deduction amount (if needed per requirements)</li> <li>■ Provide report of retroactive deductions via administrator portal (significant report customization may incur additional fees)</li> </ul>	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.6	Closed Loop for Spending / Savings Accounts Payroll Processing	<ul style="list-style-type: none"> <li>■ Provide actual payroll contributions for spending/savings account plans via electronic file</li> <li>■ Review and approve (if desired) true-up amounts for each employee account</li> </ul>	<ul style="list-style-type: none"> <li>■ Accumulate actual payroll contributions for each spending/savings account plans</li> <li>■ Provide "dry run" analysis and reporting to Client on a quarterly basis of employees who are not on track to meet annual goal amounts</li> <li>■ Adjust per pay period deduction amounts for any employees outside of the variance threshold agreed upon with Client</li> <li>■ Send new recurring instruction to payroll system reflecting updated per pay period amount and effective date</li> </ul>	
1.7	Retroactive Payroll Adjustment File Processing	<ul style="list-style-type: none"> <li>■ Apply retroactive deductions and credits to payroll system</li> <li>■ Create and manage arrears balance created by instructed deductions not taken</li> </ul>	<ul style="list-style-type: none"> <li>■ Calculate retroactive deduction or credit – using new recurring amount, prior recurring amount, and number of missed pay periods – at the time that an event is completed on an employee's account</li> <li>■ Amortize retroactive deduction amount (if needed per requirements)</li> <li>■ Report retroactive deduction or credit amount per amortization rules via payroll instruction file in Empyrean's standard format</li> </ul>	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.8	Closed Loop for All Benefits with Arrears Balances Processing	<ul style="list-style-type: none"> <li>■ Apply retroactive deductions and credits to payroll system</li> <li>■ Provide actual payroll contributions for all benefits via electronic file</li> <li>■ Apply one-time or recurring deduction or credit amounts coinciding with arrears balance management</li> </ul>	<ul style="list-style-type: none"> <li>■ Calculate retroactive deduction or credit – using new recurring amount, prior recurring amount, and number of missed pay periods – at the time that an event is completed on an employee's account</li> <li>■ Amortize retroactive deduction amount (if needed per requirements)</li> <li>■ Create and manage arrears balance based on confirmation of actual deductions taken in Client's payroll system</li> <li>■ Utilize separate deduction and financial codes, as required, to communicate recurring amounts, retroactive amounts, and arrears amounts on payroll instruction file to Client</li> </ul>	
1.9	Premium Reporting	<ul style="list-style-type: none"> <li>■ Transmit premium payments to carriers</li> <li>■ Generate premium report(s) monthly through Empyrean's online reporting tool</li> </ul>	<ul style="list-style-type: none"> <li>■ Calculate premiums based on current eligibility</li> <li>■ Configure premium calculation rules</li> <li>■ Provide Client access to standard summary-level and participant-level detail reports available via the online reporting tool</li> </ul>	<ul style="list-style-type: none"> <li>■ Accept premiums</li> <li>■ Reconcile premiums against eligibility file</li> </ul>
1.10	Premium Payment Services (Optional)	<ul style="list-style-type: none"> <li>■ Wire consolidated payment amount to Empyrean based on Empyrean generated premium reports</li> </ul>	<ul style="list-style-type: none"> <li>■ Generate standard premium report(s) monthly through Empyrean's online reporting tool</li> <li>■ Transmit premium payments to carriers via ACH (additional fees required for payments transmitted via wire)</li> </ul>	<ul style="list-style-type: none"> <li>■ Accept premiums</li> <li>■ Reconcile premiums against eligibility file and/or premium total and detail reports as required</li> </ul>



#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.11	Event Processing	<ul style="list-style-type: none"> <li>■ Notify Empyrean of employee events</li> </ul>	<ul style="list-style-type: none"> <li>■ Process the following events:                             <ul style="list-style-type: none"> <li>— New hire / rehire</li> <li>— Family status change</li> <li>— Change of residence</li> <li>— Leave of absence</li> <li>— HSA Change</li> <li>— Eligibility Change</li> <li>— Termination</li> <li>— Disability</li> <li>— Death</li> <li>— Retirement</li> <li>— Qualified Medical Child Support Orders (QMCSOs) based on instructions received from Client</li> <li>— Salary updates</li> <li>— Age-based coverage updates (e.g. age-based life insurance reductions)</li> </ul> </li> <li>■ Notify Client of changes to payroll deductions</li> <li>■ Notify carrier of changes in status</li> </ul>	<ul style="list-style-type: none"> <li>■ Process eligibility updates</li> </ul>
1.12	Participant Communications		<ul style="list-style-type: none"> <li>■ Generate email alerts</li> <li>■ Generate Confirmation Statements</li> <li>■ Generate additional communications (letters, reminders, etc.) as defined for ongoing administration</li> </ul>	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.13	QMCSSO Administration	<ul style="list-style-type: none"> <li>■ Qualify orders and provide enrollment instructions to Empyrean</li> <li>■ Insurance coverage information request processing</li> <li>■ Wage/state withholding verification</li> <li>■ Handle participant/agency communications and interactions</li> </ul>	<ul style="list-style-type: none"> <li>■ Manage enrollment in accordance with Client requirements and QMCSSO rules</li> </ul>	
1.14	QMCSSO Qualification Services (Optional)	<ul style="list-style-type: none"> <li>■ Forward valid orders</li> <li>■ Provide payroll data necessary for wage/state withholding verification</li> </ul>	<ul style="list-style-type: none"> <li>■ Review orders (including insurance coverage information requests) and determine appropriate enrollment based on eligibility/QMCSSO rules</li> <li>■ Complete Part A/B as required</li> <li>■ Complete wage/state withholding verification</li> <li>■ Manage enrollment in accordance with Client requirements and QMCSSO rules</li> <li>■ Process order terminations based on ongoing participant and/or dependent eligibility</li> <li>■ Provide communications to employee, agencies and custodial parents as needed</li> <li>■ Mail required plan information (optional)</li> <li>■ Service Center Support for participants/agency as required related to the order</li> </ul>	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
1.15	COVID-19 Vaccination and Testing Tracking (Optional)	<ul style="list-style-type: none"> <li>■ Send required census data to Qualtrics or Empyrean</li> <li>■ Exemption reviews</li> </ul>	<ul style="list-style-type: none"> <li>■ Provide link to technology platform (including website and mobile app) to collect documents required by client</li> <li>■ (optional) Review vaccine and test results requiring manual verification (Empyrean services performed using Qualtrics platform)</li> <li>■ (optional) Benefit surcharge and credit administration based on document collection</li> </ul>	<ul style="list-style-type: none"> <li>■ Provide technology platform (including website and mobile app) to administer symptom tracking, collection of vaccination status, proof of vaccine, and/or testing (and proof), and reporting as required by client (Qualtrics)</li> </ul>

## Section 2: Compliance

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
2.1	Notification of Legislative Changes	<ul style="list-style-type: none"> <li>■ Identify legislative changes not specifically impacting health and welfare benefits administration</li> <li>■ Make decisions and provide direction to Empyrean regarding Client's benefits administration</li> </ul>	<ul style="list-style-type: none"> <li>■ Identify and notify Client of federal legislative changes that directly impact health and welfare benefits administration</li> </ul>	
2.2	Discrimination Testing	<ul style="list-style-type: none"> <li>■ Section 79 testing</li> <li>■ Section 105(h) testing</li> <li>■ Section 125 testing</li> </ul>	<ul style="list-style-type: none"> <li>■ A single Section 129 preliminary test is included when Empyrean performs full account based administration; additional fees may apply for actual testing</li> </ul>	
2.3	Communications	<ul style="list-style-type: none"> <li>■ Creation of notice content</li> </ul>	<ul style="list-style-type: none"> <li>■ Post online and/or print and mail the following notices: <ul style="list-style-type: none"> <li>— Summaries of Benefits and Coverage (SBCs)</li> <li>— Women's Health and Cancer Rights Annual Notice</li> <li>— CHIP Notice</li> <li>— Marketplace Notice</li> <li>— Notice of Creditable Coverage for Medicare</li> </ul> </li> </ul> <p>Additional fees apply for print and fulfillment</p>	
2.4	Reporting		<ul style="list-style-type: none"> <li>■ Support PCORI reporting via premium reports</li> <li>■ Support W-2 reporting via payroll file; separate reports can be provided for additional fees</li> </ul>	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
2.5	ACA Reporting (additional fees)	<ul style="list-style-type: none"> <li>■</li> </ul>	<ul style="list-style-type: none"> <li>■ Select applicable support model:                             <ul style="list-style-type: none"> <li>— Non-print-ready data file (Option 1): Empyrean will track data necessary for reporting and create a "raw" data file in Empyrean's standard format that includes all of the data elements necessary to create the 1095 Forms</li> <li>— Form-ready data file (Option 2): Empyrean will track data necessary for reporting, derive applicable codes for the 1095 Forms, and create a form-ready data file in Empyrean's standard format</li> <li>— Full service (Option 3): Empyrean will track data necessary for reporting, derive applicable codes for the 1095 Forms, create a print-ready data file, coordinate with Thomson Reuters to generate and distribute the 1095 Forms, provide participant online 1095 view/print access via Compass/mobile app, and submit the 1094 transmittal form(s) to the IRS</li> </ul> </li> <li>■ Reporting for any year during which the Client transitions out shall be the Non-print ready data file Option 1, unless otherwise agreed to in writing by the Parties.</li> <li>■ State mandate reporting: Empyrean will track data necessary for reporting by state by month as required per individual state rules, and coordinate with Thomson Reuters to generate and submit the state's 1094 transmittal and associated 1095-C form(s) to each state.</li> </ul>	<ul style="list-style-type: none"> <li>■ Reporting as required for participants enrolled in fully insured plans</li> </ul>

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
2.6	SAFEHARBOR Hours Tracking (additional fees)	<ul style="list-style-type: none"> <li>■ Provide hours data in Empyrean standard format</li> </ul>	<ul style="list-style-type: none"> <li>■ Load hours data</li> <li>■ Perform determination calculations in accordance with requirements</li> <li>■ Load SAFEHARBOR outbound determination file to Empyrean benefits administration platform</li> <li>■ Trigger benefit events (including enrollments and terminations) based on determination file</li> <li>■ Provide suite of SAFEHARBOR reports, including:                             <ul style="list-style-type: none"> <li>○ Determination Changes</li> <li>○ Determination History</li> <li>○ Current Determination Status</li> <li>○ 12 Month Summary</li> <li>○ Mid-Measurement Period</li> <li>○ Measurement Period Forecast</li> <li>○ Mid-Measurement Period Summary</li> <li>○ Hours Aggregation</li> <li>○ Hours Extract</li> <li>○ Group and Episode Support</li> <li>○ Permissions Roster</li> </ul> </li> </ul>	

## Section 3: Data, Reports and Interfaces

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
3.1	Data Sources – Health and Welfare Plans Eligibility and Enrollment	<ul style="list-style-type: none"> <li>■ Maintain employee basic data</li> <li>■ Provide participant data and changes to Empyrean</li> <li>■ Process payroll data from Empyrean</li> </ul>	<ul style="list-style-type: none"> <li>■ Load employee and dependent data and changes to enable IVR, Internet, and Customer Service support</li> <li>■ Provide eligibility and enrollment data to carriers and third parties</li> <li>■ Provide payroll data changes to Client or Client's payroll administrator</li> </ul>	<ul style="list-style-type: none"> <li>■ Maintain indicative data per employer instructions</li> <li>■ Maintain coverage and enrollment data per Empyrean instructions</li> <li>■ Process Empyrean file within agreed upon timeframe</li> <li>■ Report errors to Empyrean for clarification or resolution</li> <li>■ Engage in routine data reconciliation processes with Empyrean</li> </ul>
3.2	Premium Generation and Reports	<ul style="list-style-type: none"> <li>■ Run premium reports on demand per premium schedule</li> </ul>	<ul style="list-style-type: none"> <li>■ Generate premium and adjustment data per Client requirements</li> <li>■ Provide premium reports for Client to run on-demand</li> </ul>	
3.3	COBRA Administration	<ul style="list-style-type: none"> <li>■ Notify Empyrean of employee terminations</li> </ul>	<ul style="list-style-type: none"> <li>■ Process terminations and send to COBRA administrator</li> <li>■ Process life event changes and send dependent data to COBRA administrator, as applicable</li> </ul>	<ul style="list-style-type: none"> <li>■ Initiate COBRA processing</li> </ul>
3.4	Management Dashboard Reports		<ul style="list-style-type: none"> <li>■ Provide operating volume statistics, including call volumes, Internet usage, and enrollment status changes</li> </ul>	
3.5	Administrative Reports	<ul style="list-style-type: none"> <li>■ Generate and download reports and demand when desired</li> </ul>	<ul style="list-style-type: none"> <li>■ Provide standard eligibility reports for Client to run on-demand</li> <li>■ Provide online ad-hoc report generation capabilities</li> </ul>	

## Section 4: Internet Services

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
4.1	General		Participant and HR User access: <ul style="list-style-type: none"> <li>■ Responsive design allows users to access it from mobile devices as well as computers</li> <li>■ Protected with Transport Layer Security (TLS) 1.2 (or greater) utilizing RSA2048 encryption with SHA256 signatures</li> <li>■ Supports all current versions of modern browsers as well as the previous two versions</li> </ul>	
4.2	Availability		Participant and HR User access: <ul style="list-style-type: none"> <li>■ Available 24x7x365 with 99% availability outside of scheduled maintenance windows</li> </ul>	
4.3	Security		Employee self-service: <ul style="list-style-type: none"> <li>■ Includes Username and Password along with security questions</li> <li>■ Password reset available</li> </ul> HR User access: <ul style="list-style-type: none"> <li>■ Role-based security for access for self-service users and administrative users</li> <li>■ Includes Username and Password along with security questions</li> <li>■ Password reset available</li> </ul>	



#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
4.4	Inquiry Support		<ul style="list-style-type: none"> <li>■ Provide general plan information</li> <li>■ Provide participant demographic information</li> <li>■ Provide administrative rules</li> <li>■ Provide links to relevant third party web sites (i.e. carriers)</li> <li>■ Provide Client specific third party contact information, including URLs, phone numbers, and group numbers</li> <li>■ Provide online chat (during service center hours) and secure participant messaging</li> <li>■ Provide video library</li> <li>■ Provide access to FSAstore.com link to provide participants with easy access to IRS-eligible purchases (at no cost to Client)</li> </ul>	
4.5	Transaction Support		<ul style="list-style-type: none"> <li>■ Support password changes</li> <li>■ Support H&amp;W plan enrollment and elections</li> <li>■ Support life event processing</li> <li>■ Support beneficiary maintenance</li> <li>■ Provide EOI support</li> <li>■ Support dependent/event verification</li> </ul>	
4.6	Employee Communications		<ul style="list-style-type: none"> <li>■ Provide Client-specific messaging capability specific to population</li> <li>■ Provide alerts for employees</li> </ul>	
4.7	MAP Reports	<ul style="list-style-type: none"> <li>■ Generate reports</li> </ul>	<ul style="list-style-type: none"> <li>■ Allow on-demand report generation 24 x 7, 365 days a year</li> <li>■ Restrict access to reports and population in reports per Client requirements</li> <li>■ Provide a library of standard reports for ongoing administration</li> <li>■ Provide a library of standard reports for open enrollment</li> <li>■ Provide a library of standard premium reports</li> </ul>	



## Section 5: IVR and Customer Service Center

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
5.1	IVR Services		<ul style="list-style-type: none"> <li>■ Provide toll-free number</li> <li>■ Provide call routing system with client specific greeting</li> <li>■ Includes user identification</li> <li>■ Available 24x7x365, except for scheduled maintenance</li> </ul>	
5.2	Call Handling		<ul style="list-style-type: none"> <li>■ Provide call routing system (when applicable) available 24x7x365</li> <li>■ Provide customer service representatives (CSR's)</li> <li>■ Create and use a web-based Knowledge Base</li> </ul>	
5.3	Online Inquiry Support		<ul style="list-style-type: none"> <li>■ Support online chat from authenticated participants during service center hours</li> <li>■ Support secure participant messaging, allowing authenticated participants to submit inquiries/requests at all hours</li> <li>■ Handle inquiries and if necessary, request participant to call to handle transaction</li> <li>■ Available outside of Annual Enrollment window</li> </ul>	
5.4	Security Maintenance		<ul style="list-style-type: none"> <li>■ Identify caller's employer via authentication process</li> <li>■ Verify caller's identity</li> <li>■ Follow Client-specific alternate security procedures, including dependent security procedures</li> </ul>	
5.5	Service Center Hours		<ul style="list-style-type: none"> <li>■ Available for a 9 hour window between the hours of 7:00 a.m. – 7:00 p.m. CT, Monday through Friday</li> </ul>	

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
5.6	Representative Supported Actions		<p>Examples of supported actions include:</p> <ul style="list-style-type: none"> <li>■ Inquiries               <ul style="list-style-type: none"> <li>— Internet navigation support</li> <li>— General plan information</li> <li>— Eligibility determination</li> <li>— Current coverage</li> <li>— Plan rates</li> <li>— Administrative rules</li> <li>— Claim filing procedures</li> <li>— Appeal procedures</li> </ul> </li> <li>■ Transactions               <ul style="list-style-type: none"> <li>— Enrollment support</li> <li>— Life event processing</li> </ul> </li> <li>■ Transfers to third parties</li> </ul>	<ul style="list-style-type: none"> <li>■ Accept transfers</li> </ul>
5.7	Call Monitoring	<ul style="list-style-type: none"> <li>■ Review quality monitoring results with Empyrean</li> </ul>	<ul style="list-style-type: none"> <li>■ Quality monitoring and evaluation of customer service representatives</li> <li>■ Provide Client with call monitoring results</li> </ul>	
5.8	Case Management		<ul style="list-style-type: none"> <li>■ Log any unresolved calls for additional research and/or processing</li> <li>■ Log all incoming correspondence</li> <li>■ Interact with participant, employer and carrier as required to resolve open item</li> <li>■ Date and time stamp all cases upon establishment and resolution</li> </ul>	
5.9	Performance Reporting		<ul style="list-style-type: none"> <li>■ Provide summary of performance, including call handling and case management</li> <li>■ Provide call quality reporting quarterly</li> </ul>	
5.10	Ongoing Training	<ul style="list-style-type: none"> <li>■ Participate in annual Culture Training</li> </ul>	<ul style="list-style-type: none"> <li>■ Participate in and organize annual Culture Training</li> </ul>	

## Section 6: COBRA Administration

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
6.1	Covered Populations		<ul style="list-style-type: none"> <li>■ Provide COBRA administration support as required for the following populations:               <ul style="list-style-type: none"> <li>— Active employees</li> <li>— Terminated employees</li> <li>— COBRA continuants</li> </ul> </li> </ul>	
6.2	COBRA Rights Notification	<ul style="list-style-type: none"> <li>■ Notify Empyrean of change in employment</li> </ul>	<ul style="list-style-type: none"> <li>■ Identify COBRA-eligible participants due to change in employment or family status</li> <li>■ Provide initial COBRA rights notification to participant, covered spouse, and/or dependents</li> </ul>	
6.3	COBRA Enrollment	<ul style="list-style-type: none"> <li>■ Notify Empyrean of employee terminations</li> </ul>	<ul style="list-style-type: none"> <li>■ Capture data and initiate COBRA processing</li> <li>■ Support COBRA decision-making process</li> <li>■ Process COBRA elections</li> </ul>	
6.4	COBRA Administration		<ul style="list-style-type: none"> <li>■ Perform COBRA direct billing and collections</li> <li>■ Track and remit collected premiums to employer monthly</li> <li>■ Process annual enrollment and coverage changes</li> <li>■ Track COBRA coverage periods and process COBRA coverage terminations</li> </ul>	

Section 7: Account Administration via Preferred Partner, HSA Bank

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
7.1	Covered Populations		<ul style="list-style-type: none"> <li>■ Coordinate HSA, FSA, and Commuter account administration support through Preferred Partner, HSA Bank, as required for the following account types:                             <ul style="list-style-type: none"> <li>— Health Care</li> <li>— Dependent Care</li> <li>— HSA</li> <li>— Transit/Commuter</li> </ul> </li> </ul>	
7.2	Debit Card			<ul style="list-style-type: none"> <li>■ Produce and distribute debit cards to all applicable participants</li> <li>■ Provide access to the MasterCard/VISA network merchant network to support auto adjudication of claims/swipes</li> <li>■ Produce and distribute replacement cards as needed with the cost of the replacement card charged to participant</li> </ul>
7.3	HSA, FSA, and Commuter Account Enrollment		<ul style="list-style-type: none"> <li>■ Support HSA, FSA, and Commuter decision-making process</li> <li>■ Process HSA, FSA, and Commuter elections</li> <li>■ Send enrollment data files to HSA Bank</li> </ul>	
7.4	Account Administration			<ul style="list-style-type: none"> <li>■ Adjudicate claims</li> <li>■ Process and remit approved reimbursement to employee</li> <li>■ Distribute reimbursements via check or ACH</li> <li>■ Complete non-discrimination testing</li> </ul>



				and/or plan documents as requested
7.5	Invoicing		<ul style="list-style-type: none"><li>■ Ongoing per-account fees for HSA Bank will be included on the monthly invoice Empyrean sends to client</li></ul>	

## Section 8: Direct Bill Administration

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
8.1	Covered Populations		<ul style="list-style-type: none"> <li>■ Provide Direct Bill administration support as required for the following populations:               <ul style="list-style-type: none"> <li>— Leaves of Absence</li> <li>— Retirees</li> </ul> </li> </ul>	
8.2	Direct Bill Notification	<ul style="list-style-type: none"> <li>■ Notify Empyrean of change in employment</li> </ul>	<ul style="list-style-type: none"> <li>■ Identify Direct Bill-eligible participants due to change in employment or family status</li> <li>■ Provide notices to Direct Bill enrollees</li> <li>■ Allow for payment via check and ACH</li> </ul>	
8.3	Direct Bill Administration		<ul style="list-style-type: none"> <li>■ Perform direct billing and collections</li> <li>■ Track and remit premiums to employer monthly</li> <li>■ Process annual enrollment and coverage changes</li> <li>■ Provide appropriate notices for past due and cancellations</li> <li>■ Terminate coverage due to non-payment of premiums</li> </ul>	
8.4	Conversion	<ul style="list-style-type: none"> <li>■ Refund balances at time of conversion</li> </ul>		



## Section 9: Personalized Precision Benefits

#	Item	Client Responsibilities	Empyrean Responsibilities	Carrier Responsibilities
9.1	Enrollment decision support		<p>Provide enrollment decision support with recommended personalized benefit packages using your employees' medical and pharmacy claims data and consumer data, powered by predictive analytics, for the following benefits:</p> <ul style="list-style-type: none"> <li>■ Medical / pharmacy plan</li> <li>■ Health savings account</li> <li>■ Healthcare flexible spending account</li> <li>■ Hospital indemnity insurance</li> <li>■ Critical illness insurance</li> <li>■ Accident insurance</li> </ul>	<ul style="list-style-type: none"> <li>■ Provide historic and ongoing claims data that is timely and accurate</li> </ul>
9.2	Plan review feature		<p>Provide plan review feature showing feedback on the fit of current benefits upon claims review in mobile experience and within enrollment events as part of decision support features.</p> <ul style="list-style-type: none"> <li>■ Current year plan features and current year enrollment data must be loaded to the Empyrean system to support.</li> </ul>	
9.3	Standard mobile engagement features		<p>Provide standard engagement features via mobile experience, including:</p> <ul style="list-style-type: none"> <li>■ Healthcare expense navigation grouping related claims into medical events and presenting user's expected out of pocket costs.</li> <li>■ Care planning features to promote in-network providers as the most cost-effective care option, using the carrier's provider network data.</li> <li>■ Notification of opportunity to appeal charges on incoming claims directly with carrier.</li> </ul>	<ul style="list-style-type: none"> <li>■ Provide historic and ongoing claims data that is timely and accurate</li> <li>■ Provide ongoing provider network data that is timely and accurate</li> </ul>
9.4	Client-specific mobile engagement features	<ul style="list-style-type: none"> <li>■</li> </ul>	<p>Engagement via mobile experience tailored to employer's objectives and acquired services, configurable to the Client's specific offerings:</p>	<ul style="list-style-type: none"> <li>■ Provide historic and ongoing claims data that is timely and accurate</li> </ul>



			<ul style="list-style-type: none"> <li>■ Payout opportunity alerts for supplemental health carrier products as part of healthcare expense navigation</li> <li>■ Expense offset alerts for health savings accounts and/or flexible spending accounts as part of healthcare expense navigation.</li> <li>■ Notifications of savings potential by using telehealth instead of alternative care facilities such as office visits or emergency room visits.</li> <li>■ Diagnosis or treatment driven notifications promoting programs such as disease management or expert medical services.</li> <li>■ Notifications of opportunity to appeal charges on incoming claims with connection to claim advocacy service.</li> <li>■ Promotion of negotiated custom network providers to be highlighted to users as part of their cost-effective providers.</li> </ul>	<ul style="list-style-type: none"> <li>■ Provide ongoing provider network data that is timely and accurate</li> </ul>
9.5	Communications		<p>Provide full communications suite to employees educating members and promoting usage of the tools during enrollment events and through the mobile experience for year-round benefits engagement:</p> <ul style="list-style-type: none"> <li>■ Empyrean open enrollment campaign promotes the use of decision support during enrollment</li> <li>■ Empyrean year-round engagement launch campaign promotes mobile experience</li> </ul>	
9.6	Reporting Package		<p>Deliver Client reporting package:</p> <ul style="list-style-type: none"> <li>■ Decision support outcomes reporting usage, benefits adoption and plan migration</li> <li>■ Year round engagement and member utilization metrics</li> <li>■ Client and member performance analytics</li> </ul>	



## Performance Guarantees

### Purpose

The purpose of the Empyrean Subjective Service Level Agreements (SLAs) is to identify the specific performance standards that will be applied to evaluate the performance of Empyrean's administration of Client's H&W plans. Due to the subjectivity of the SLAs by definition, this policy will help both Parties understand the framework for these SLAs.

### Description

This policy is broken down into components to help define how to report, monitor and manage SLAs for both Empyrean and Client. The performance of Empyrean in its duties and how Client views this performance is based on a 1-5 rating scale on a quarterly basis (5 being best). Both Client and Empyrean will be expected to review and grade Empyrean's performance with respect to each of the identified measures. The results are used to facilitate a focused and constructive discussion, to calibrate any differences, to document Client's perceptions of Empyrean's service, and to develop an action plan that specifically addresses Client's feedback.

Empyrean has agreed to place up to 10% of ongoing administration fees at risk based on Client's evaluation of Empyrean's performance in a quarterly review. In no event will the total amount of performance based penalties exceed the amount specified above. For purposes of determining when services are not meeting Client's expectations, a score of 3 will be considered the minimum acceptable level of performance. A score of 1 or 2 will indicate that Empyrean's performance for the period was not acceptable. For any performance area where Empyrean receives a score of less than 3, Empyrean will, within 2 weeks of the quarterly review, present Client with a written plan for correcting the identified issues and restoring service performance to an acceptable level. If Client rates Empyrean's performance as unacceptable for the following quarter, Client may request, after the performance review meeting, payment of the performance based fee penalty which will appear as a credit on the next month's invoice. These fees at risk will apply beginning six months after the ongoing services live date.

### Survey

The survey questions and statements that will be sent to Client each quarter are below. The Client will be asked to rate Empyrean on a scale of 1 to 5 in response to the statements.

- How satisfied are you with Empyrean?
- Communications: The Empyrean team communicates proactively, timely, and clearly on all aspects of our benefits administration partnership.
- Responsiveness: The Empyrean team is responsive to my requests, shows a sense of urgency, and demonstrates creativity in meeting our business needs.
- Quality: The level of quality delivered consistently meets my expectations.
- Issue Resolution: When issues occur, I am notified timely and my Empyrean team drives the issue to resolution such that root cause is identified, documented, and I am confident they will not reoccur.

- Participant Service: Participants have the resources they need and are treated with the quality of care and respect we'd provide ourselves, and I am not spending my time on issues that should be handled by the service center. I am enabled with the support required if we do not leverage the Empyrean service center.
- Technology: The technology is dependable and supports our business goals/objectives.
- Team/Staffing: The Empyrean team is effectively and consistently resourced to meet my needs.
- Fees/Value: We receive appropriate value for the fees we pay.
- Innovative/Thought Leadership: Empyrean is a valuable partner that offers creative solutions, continues to ensure processes and tools are proactive, innovative, and strategic in the benefits administration space. They provide recommendations to solve our unique business needs and challenges regardless of their source.
- Empyrean Experience: Based on your experience, would you recommend Empyrean to a friend or colleague?

## Scoring

Each member of the team will be surveyed independently and respond using a 1-5 scale. Individual scores are averaged and feedback themes are summarized. Scores of 4 and 5 reflect good/excellent (green) performance. A score of 3 is average (yellow). Scores of 2 or 1 reflect below average to poor (red) performance. The survey contains a place for written feedback which will be essential to support the discussion and action plan development. A sub-standard performance on one portion of the survey does not constitute a penalty. The scores are totaled and then averaged. A total average score below 3 will trigger escalation to the assigned client sponsor and be subject to a penalty payout if the agreed upon action plan is not fully completed to the client's satisfaction. Results are submitted to an independent resource for collation.

## Quarterly Meetings

Quarterly meetings are held to review the results, as well as to review other aspects of our delivery and relationship. These review sessions also allow Empyrean and Client to reconcile the results in comparison to the desired state and to implement any action plan that may be necessary.

This Performance Guarantees section is intended to comply with the Master Services Agreement and this Statement of Work. If at any time the MSA and/or the SOW have conflicting terms to those provided in this Performance Guarantees section, the provisions of this Performance Guarantees section shall prevail.

# RFP 111623 - Employee Benefits Administrative Software Platforms; Member and Provider Advocacy Services; Transparency, Fraud, Waste and Abuse Products and Related Services

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## Vendor Details

Company Name: Empyrean Benefit Solutions  
3010 Briarpark Dr., Suite 8000  
Address: Houston, TX 75093  
Contact: J. Matt Absher  
Email: jabsher@goempyrean.com  
Phone: 214-564-8133  
Fax: 214-564-8133  
HST#: 20-3029813

## Submission Details

Created On: Thursday October 12, 2023 16:04:35  
Submitted On: Thursday November 16, 2023 13:14:08  
Submitted By: Elizabeth Jorn  
Email: ejorn@goempyrean.com  
Transaction #: aad1a09f-99db-46bd-adf6-da42d161f17d  
Submitter's IP Address: 72.46.96.131

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## Specifications

**Table 1: Proposer Identity & Authorized Representatives**

**General Instructions** (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Empyrean Benefit Solutions, Inc.
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	Not applicable. Empyrean does not have subsidiary entities.
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	Not applicable. Empyrean does not have subsidiary entities.
4	Provide your CAGE code or Unique Entity Identifier (SAM):	Not applicable. We do not currently have any federal contracts, but we are happy to pursue CAGE and/or UEI if Sourcewell requires for this award.
5	Proposer Physical Address:	3010 Briarpark Drive, Suite 8000, Houston, Texas 77042
6	Proposer website address (or addresses):	<a href="https://www.goempyrean.com/">https://www.goempyrean.com/</a>
7	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Richard Wolfe, President & CEO 3010 Briarpark Drive, Suite 8000, Houston, Texas 77042  jabsher@goempyrean.com (Matt Absher, on behalf of Richard Wolfe) 214.564.8133
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Matt Absher, Director of Sales 3010 Briarpark Drive, Suite 8000, Houston, Texas 77042 jabsher@goempyrean.com 214.564.8133
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	All proposal contact will be through Matt Absher.

**Table 2: Company Information and Financial Strength**

Line Item	Question	Response *
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10	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	<p>Since 2006, Empyrean has provided employers of all sizes, industries, and benefit plan complexities with the innovative technology and best in class service necessary to accelerate their benefit strategies and bring their benefit programs to life. Our platform and services were designed to not only empower employees to better understand the value of the benefit programs offered to them, but to then connect with these benefits in a way that drives better outcomes for themselves, their families, and your organization.</p> <p>Today, more than 3.6 million participants rely on Empyrean's cutting-edge systems and best in class support teams to inform and guide their benefit enrollment and utilization decisions. By combining innovative technology with employee-centric services, we seek to empower participants to better understand, access, and engage with their benefit programs not just at enrollment, but on a year-round basis.</p> <p>Empyrean specializes in supporting large and complex clients through their most difficult benefit challenges, including executing their benefit strategies in situations that include union environments, retiree populations, variable hour employees, multiple eligibility groups and FEINs, and scattered locations. Our technical architecture tailors to your specific requirements and populations, enabling quick, nimble, and cost-effective changes, while our client-dedicated service model and team structure deliver a higher quality of service and transparency over competitors' typical shared-services approach.</p> <p>In December 2019, Empyrean was acquired by Securian Financial Group, Inc., the third-largest direct writer of group life insurance in the country. We remain an independently operated organization while gaining access to a partnership that allows us to continue to execute our strategy of connecting benefits and enriching lives. Empyrean is recognized by leading industry analysts as a leading benefits technology firm, and we continue to experience year-over-year growth.</p>	*
11	What are your company's expectations in the event of an award?	Empyrean anticipates leveraging the Sourcewell agreement as our primary contracting vehicle for the Government and Education (GovEd) and non-profit markets. Where we are not prohibited by active RFP rules or non-disclosure agreement, we intend to introduce the Sourcewell relationship to all of our qualifying active prospects and qualifying clients with expiring contracts.	*
12	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	Empyrean has demonstrated consistent double-digit growth year over year. Our parent company Securian provides additional access to financial security; Securian, with more than \$1.4 trillion life insurance in force and \$97.8 billion assets under management, receives high ratings from independent rating agencies that analyze the financial soundness and claims-paying ability of insurance companies. Our financials are audited annually by an independent CPA firm. See the following link for Securian's financials: <a href="https://www.securian.com/about-us/financials-and-reports.html">https://www.securian.com/about-us/financials-and-reports.html</a>	*
13	What is your US market share for the solutions that you are proposing?	The total addressable market (TAM) that Empyrean serves is valued at \$8 billion and growing. For employers with 2,000 employees and above, Empyrean is one of the top three singularly focused benefits enrollment and administration providers. For each of those markets and segments, we proudly maintain a 98% client retention rate - among the highest in the industry.	*
14	What is your Canadian market share for the solutions that you are proposing?	<p>We have several U.S.-based clients with Canadian operations and participants. Canadian benefits are managed on the same platform as U.S. benefits. Our standard service delivery model for administration of eligibility, enrollments, communications, and participant contact center includes the following (typical) Canadian-based plans:</p> <ul style="list-style-type: none"> <li>• Supplemental health care plans (medical, dental)</li> <li>• Insurance plans (life Insurance, AD&amp;D)</li> <li>• Disability plans (STD, LTD)</li> <li>• Provide translations for the participant site in French for required Canadian provinces</li> </ul>	*
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No.	*



16	<p>How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.</p> <p>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?</p> <p>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?</p>	<p>b) Emphyrean does not have a reseller model. Emphyrean, via our own sales team, is responsible for all sales, distribution, procurement, business development, etc. Historically, our sales team has distributed direct to the employer/client, or in some cases via various technology advisors who are sometimes retained by large employers/customers to assist with the due diligence, vetting, and selection process. We continue to distribute this way and have expanded our distribution over the last 5 years through valued broker/consultant and carrier relationships. The Emphyrean sales team is geographically located throughout the U.S., and ultimately reports up to our CEO, Rich Wolfe.</p>	*
17	<p>If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.</p>	<p>None required for the Services contemplated in this RFP.</p>	*
18	<p>Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.</p>	<p>None.</p>	*

**Table 3A: Depth and Breadth of Offered Equipment Products and Services**

Line Item	Question	Response *
19	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	<p>Empyrean provides health and welfare benefits enrollment and administration services for clients across every size, industry, and complexity. Our mission is to enrich employees' lives by making benefits matter every day. We support enrollment in all traditional core benefits (i.e., medical, dental, vision, life, disability, wellness, FSA, HRA, HSA, etc.), along with a spectrum of voluntary benefits (i.e., critical illness, accident, hospital indemnity, ID theft protection, auto/home insurance, pet insurance, and many more). Empyrean also provides call center services, ACA compliance and reporting solutions, COBRA/FSA/HSA administration, direct bill administration, carrier premium payments, dependent verification services, and QMCSO administration as optional services.</p> <p>Empyrean's singular platform includes an employee self-service portal, HR administrator portal, and our proprietary configuration application to develop, populate, and maintain each client's solution. With Empyrean, Sourcewell participating entities will have call center services, market-leading decision support tools, data file imports, carrier file exports, eligibility, enrollments, COBRA/FSA/HSA administration, ACA compliance and reporting solutions, communications, case management, reporting, billing functionality, dependent verification services, QMCSO administration and more all integrated within one platform.</p> <p>Our decision-support tools are integrated with a data analytics engine and provide employees with personalized recommendations to help them better utilize their benefits year-round. Employees receive recommendations regarding coverage, care providers and facilities, prescriptions, claims filing, and savings account and voluntary benefit utilization. In addition, HR teams can reduce their administrative burden with Empyrean's single-point-of-contact solution to gather and analyze claims data to optimize your strategy.</p> <p>We provide the infrastructure, technology, and services Sourcewell entities need to confidently manage and automate a myriad of benefit responsibilities. Empyrean's technical architecture tailors to each client's specific requirements and populations, while enabling quick, nimble, and cost-effective changes and maintaining scalability as your business and strategy evolves. Our client-dedicated service model and team structure is unique among the industry and delivers a higher quality of service and transparency over competitors' typical shared-services approach.</p> <p>Empyrean has focused on creating a personalized and connected experience to meet participants where they are through our mobile experience. Our employer branded mobile app provides a single front door for the disparate technology environment within a client's benefits ecosystem to seamlessly connect participants to information and their benefits in the palm of their hand. Clients' benefit ecosystems often contain many different enrollment platforms, point solutions, carriers, etc. that are all brought together and accessed from one place via Empyrean's mobile app.</p>
20	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	<p>Empyrean's products and services can be subcategorized by the following:</p> <ul style="list-style-type: none"> <li>• Eligibility and enrollment in core health and welfare benefits</li> <li>• Decision support</li> <li>• Call center services</li> <li>• Employee communications services</li> <li>• Spending/Saving account administration</li> <li>• Direct bill administration</li> <li>• COBRA administration</li> <li>• ACA compliance and reporting</li> <li>• Carrier premium payments (remittance)</li> <li>• Payroll Reconciliation (retroactive payroll / closed loop services)</li> <li>• Dependent/Event verification services</li> <li>• QMCSO administration</li> <li>• Online Total Compensation Statements</li> <li>• Employer branded workplace benefits and communications mobile app</li> </ul>

**Table 3B: Depth and Breadth of Offered Equipment Products and Services**

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments
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21	Employee Benefit Administration digital platforms	<input checked="" type="radio"/> Yes <input type="radio"/> No	Empyrean provides employee benefits administration technology and services.	*
22	Transparency, fraud, waste and abuse services related to healthcare expenditures	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Services we provide that help plan sponsors prevent fraud, waste, and abuse include dependent verification, retroactive payroll, and full-closed loop payroll. Our ongoing dependent verification and full dependent audit services ensure that only eligible dependents can be covered by a participant. This prevents plan sponsors from paying claims under health plans for those that are not eligible dependents and can reduce the overall health plan spend of an employer.</p> <p>Additional capabilities include our retroactive payroll and full-closed loop payroll solutions, which recoup missed deductions from participants due to retroactive benefits changes, and our full-closed loop solution which automatically identifies and manages arrears balances to ensure all payroll missed payroll deductions are corrected. Our full-closed loop solution can return significant dollars to plan sponsors. As an example, a 7,000 life employer that utilized our full-closed loop solution recouped over \$400,000 per year.</p>	*

<p>23</p>	<p>Member Services and health care navigation: claims advocacy, eligibility verification, benefit and program guidance, referral support, claims assistance</p>	<p><input checked="" type="radio"/> Yes  <input type="radio"/> No</p>	<p>We offer a fully integrated and personalized enrollment experience that utilizes employee premium and individual claims data history in a recommendation to best fit health plan coverage and packaged product protections. This experience not only provides a more personalized benefit recommendation during enrollment, but also engages participants year-round through claims expense management and healthcare navigation features. The EmyreanGO mobile app continually updates and organizes individual claims experience with provider utilization data that actively reinforces plan performance for that year and nudges the employee to consider more effective cost and quality usage of provider care options, as well as gaps in care such as preventive screenings. Through the mobile app employees can also search for in-network providers and/or facilities to conveniently determine the most cost effective highest quality care options available.</p> <p>Emyrean's data driven, year-round health navigation tools deliver plan recommendations and care guidance via the service center, the online self-service portal, and their individualized benefits mobile app.</p> <p>Navigating life event changes requires guidance unique to the experience and our clients' benefit programs. With EmyreanGO, our predictive analytics capabilities do the hard work for participants, using the employee's own data to help predict future healthcare costs and find the best plan for them. This enables employees to make informed, confident benefit choices during major life changes. Employee care planning features guide the healthcare journey during times of change by promoting a path to care in alignment with our clients' healthcare strategy. Some examples of this may include promoting an EAP program that offers therapy or counseling at no charge to the employee, or a telehealth service with a fixed consult fee and immediate availability of appointments.</p>
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24	Claims utilization management; prior authorization, concurrent reviews and claims appeals management	<input type="radio"/> Yes <input checked="" type="radio"/> No	While we do not directly provide the services mentioned, we help participants navigate their benefits ecosystem and get to the right place to ensure they receive the information they need related to any of these services. We do this commonly through our call center where customer service representatives warm transfer participants to carriers and third parties, and also through single sign-on connections to carriers and third parties strategically placed throughout the benefits enrollment experience. If desired by a Sourcewell participating entity, we can partner with a third party to create a seamless participant experience to assist with claims appeals management.
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**Table 4: Performance Standards or Guarantees**

Describe in detail your performance standards or guarantees, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your performance materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
26	Describe any performance standards or guarantees that apply to your services.	We track and report SLA results to clients through quarterly meetings led and facilitated by Empyrean. SLAs are tracked monthly and reported quarterly. Objective metrics are also reported through ongoing status calls typically weekly and are available within the administrator portal. See attached Objective SLAs document.
27	Describe your customer satisfaction measuring tools and uses of the information.	<p>Our organizational focus is centered on quality and client satisfaction. From the beginning of our relationship, our teams will engage on a regular cadence to stay aligned on performance and quality measurements. This same focus and measurement of client satisfaction continues into the ongoing partnership with the client and is managed through the use of our industry-leading Subjective Service Level Agreement (SLA) framework.</p> <p>Our Subjective SLA process ensures that the client and Empyrean are in alignment concerning all aspects of our performance. The client will meet with their assigned Empyrean team every quarter to review service level agreements and their overall satisfaction. Ongoing fees at risk are tied directly to a subjective determination of our performance by the client team. The client team will rate our services across various subjective measures on a quarterly basis. Any area that receives a score that falls short of our goal results in the Empyrean team creating a plan of corrective action. This process positively reinforces cross-team engagement and partnership in working through issues. During quarterly meetings, the client and their Empyrean team will also review statistics, trends, future projects, continuous improvement ideas, product innovations, and service levels.</p> <p>In conjunction with our Subjective SLA process, we provide real-time performance metrics through the reports in our administrator portal. With the administrator portal, HR users have transparency and direct access to all of their data, including service center performance metrics, carrier files, carrier error reports, and employee records.</p>

**Table 5: Pricing Offered**

Line Item	The Pricing Offered in this Proposal is: *	Comments
28	d. other than what the Proposer typically offers (please describe).	This procurement is the first Government and Education (GovEd) cooperative purchasing agreement Empyrean has pursued, so we created custom pricing based on the prior expertise of our GovEd team. Our pricing model for core health and welfare benefits administration is a tier-based, per eligible participant per month fee. Many of the additional services that we offer are also tier-based per eligible participant per month, while others have a single price regardless of tier. The tiers and corresponding price are structured such that the per eligible participant per month fee decreases as the total number of eligible participants a participating entity has increases. Participating Agencies may choose which services they would like to purchase, but the pricing structure includes minimum annual revenue expectation for each participating entity. In compliance with the RFP instruction, all per-unit pricing is set as not to exceed pricing. Please see our attached proposal for detailed pricing.

**Table 6: Payment Terms and Financing Options**

Line Item	Question	Response *	
29	Describe your payment terms and accepted payment methods.	Our standard is Net-30 payment terms. Accepted payment methods are check, ACH, or wire transfers.	*
30	Describe any leasing or financing options available for use by educational or governmental entities.	Traditional leasing or financing does not apply to our business. However, we do offer flexibility for payment on items such as implementation fees. If preferred by a client, implementation fees may be amortized over the contract term and applied as a PEPM fee instead of being billed at the implementation project kick-off in their entirety.	*
31	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	We have included our sample Master Services Agreement (MSA) and Business Associate Agreement (BAA) template, as well as our sample Statement of Work (SOW) in the document upload section of the RFP.	*
32	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	We do not accept payment via P-card.	*

**Table 7: Pricing and Delivery**

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *
33	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	<p>Our pricing model for core health and welfare benefits administration is a tier-based, per eligible participant per month fee. Many of the additional services that we offer are also tier-based per eligible participant per month, while others have a single price regardless of tier. The tiers and corresponding price are structured such that the per eligible participant per month fee decreases as the total number of eligible participants a participating entity has increases. Participating entities may choose which services they would like to purchase, but the pricing structure includes minimum annual revenue expectation for each participating entity. In compliance with the RFP instruction, all per-unit pricing is set as not to exceed pricing Please see our attached proposal for detailed pricing.</p> <p>Additionally, we have an extensive network of carrier partners that any participating entity can leverage. This not only provides administrative efficiencies through pre-built integrations and plans, but these relationships can be leveraged by participating entities through the application of technology credits as a method of minimizing administrative expenses. We have also included as an attachment more information about our carrier partners.</p>
34	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	The pricing presented in our proposal is discounted from our list pricing by 5% – 15% depending on the service.
35	Describe any quantity or volume discounts or rebate programs that you offer.	We have provided tiered pricing for applicable services based on the total number of benefit eligible employees a participating entity has. Prices are discounted as the number of benefit eligible employees increases. Additional discounts may be negotiated based on the total services a participating entity determines are in-scope.
36	Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.	Any services requested that would be considered “nonstandard options” will be quoted and negotiated for each individual request based on complexity and scope of the requested service.
37	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	We do not have any additional charges for the total cost of acquisition that have not been included in the submitted pricing.
38	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	All freight, delivery, shipping, and postage/fulfillment cost is passed through to the Sourcewell participating entity.
39	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	All freight, delivery, shipping, and postage/fulfillment cost is passed through to the Sourcewell participating entity.
40	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Given the nature of our business as a b2b SaaS benefits administration solution, this does not apply.

**Table 8: Audit and Administrative Fee**

Line Item	Question	Response *								
41	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.	<p>We have established processes for the remittance of referral fees determined by a percentage of revenue received from a client and are able to provide all the required information for proper remittance of administrative fees to Sourcewell as described in the Contract template.</p> <p>Our invoicing and billing processes are automated and include extensive quality checks to ensure timely and accurate invoicing to our clients. Accurate remittance of administrative fees to Sourcewell begins with accurate monthly invoicing to each client, which is reviewed and checked for quality by those on the direct team responsible for the ongoing service delivery to the client. Once applicable clients have been invoiced, the appropriate line items directly from the clients' invoice are automatically and instantaneously included in reporting for the billing period for the remittance of referral fees. Once the billing period ends and the total to be remitted is finalized, our finance team performs quality checks to review and confirm the accuracy of the amount to be remitted. Once remitted, a separate member of the finance team reviews to confirm that the expected remittance is consistent with what was remitted and if necessary, reconciles any differences. The details and individual line items from past invoices are kept in perpetuity and are available for further review at any time.</p>								
42	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	We track and report SLA results to clients through quarterly meetings led and facilitated by Empyrean. SLAs are tracked monthly and reported quarterly. Objective metrics are also reported through ongoing status calls typically weekly and are available within the administrator portal.								
43	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	<table border="0"> <tr> <td>Annual Revenue Through Contracts</td> <td>Admin Fee</td> </tr> <tr> <td>\$0 - \$30,000,000</td> <td>2%</td> </tr> <tr> <td>\$30,000,001 - \$50,000,000</td> <td>1.50%</td> </tr> <tr> <td>\$50,000,001+</td> <td>1%</td> </tr> </table>	Annual Revenue Through Contracts	Admin Fee	\$0 - \$30,000,000	2%	\$30,000,001 - \$50,000,000	1.50%	\$50,000,001+	1%
Annual Revenue Through Contracts	Admin Fee									
\$0 - \$30,000,000	2%									
\$30,000,001 - \$50,000,000	1.50%									
\$50,000,001+	1%									



**Table 9: Industry Recognition & Marketplace Success**

Line Item	Question	Response *
44	Describe any relevant industry awards or recognition that your company has received in the past five years	Empyrean and its leaders have been recognized by numerous organizations for our service, dedication, and continued growth. In 2018, we received three Stevie Awards in Sales and Customer Service in the Contact Center of the Year (Over 100 Seats), National Sales Team of the Year, and Virtual Technology Sales Enablement of the Year categories. We were listed on the Inc. 5000 list for five consecutive years, an achievement less than 10% of all honored companies receive. We have also been named one of the largest software developers and fastest growing companies in the Greater Houston area by The Houston Business Journal and won a coveted place on the publication's Fast 100 List two years in a row. In addition, Empyrean CEO and Co-founder Richard Wolfe has been repeatedly recognized as an exceptional business leader by numerous local and national organizations and has been named an EY Entrepreneur of the Year finalist for the past four years. Mr. Wolfe also won the Employee Benefit News' Technology Innovator Award and was named as one of the industry's Benefit IT Power Players by Employee Benefit Adviser.
45	What percentage of your sales are to the governmental sector in the past three years	<p>Over the last three years, approximately 3% of our total sales have been clients in the governmental sector. This 3% represents percentage of total new clients won, not total revenue over the last three years.</p> <p>During this period, we have heavily invested in human capital and our platform to support the unique challenges presented by the public sector. As we look to the future, we plan to continue strong investments in our talent and platform to gain efficiencies that provide value to our existing and future public sector clients.</p>
46	What percentage of your sales are to the education sector in the past three years	<p>Over the last three years, approximately 6% of our total sales have been clients in the education sector. This 6% represents percentage of total new clients won, not total revenue over the last three years.</p> <p>During this period, we have heavily invested in human capital and our platform to support the unique challenges presented by the public sector. As we look to the future, we plan to continue strong investments in our talent and platform to gain efficiencies that provide value to our existing and future public sector clients.</p>
47	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	Not applicable. This procurement is the first Government and Education (GovEd) cooperative purchasing RFP we have responded to. Empyrean's initial focus in the GovEd market was to build the technology and service infrastructure necessary to support the market's large, complex organizations. This focus on exceptional delivery has allowed us to grow organically through client and consultant/broker referral and provided us with the resources to address the GovEd market aggressively and pursue opportunities that can create rapid growth, such as Sourcwell.
48	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	Not applicable.

**Table 10: Top Five Government or Education Customers**

**Line Item 49.** Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
State of North Carolina	Government	North Carolina - NC	Non-health benefits administration for state and university system employees.	Total Employees Supported: 60,000	We cannot provide exact dollar amounts, but all are in multi-year agreements.
Stanford University	Education	California - CA	Health and welfare benefits administration, retiree administration, call center, 1094/1095 reporting, premium remittance to carriers, dependent verification	Total Employees Supported: 28,000	We cannot provide exact dollar amounts, but all are in multi-year agreements.
Houston Independent School District	Education	Texas - TX	Health and welfare benefits administration, call center, ACA hours tracking, 1094/1095 forms reporting	Total Employees Supported: 25,000	We cannot provide exact dollar amounts, but all are in multi-year agreements.
Children's Health System of Texas	Non-Profit	Texas - TX	Health and welfare benefits administration, call center, ACA hours tracking, 1094/1095 forms reporting, COBRA administration, QMCSO order qualifications, FSA administration, HSA administration, dependent verification, total compensation statements	Total Employees Supported: 10,000+	We cannot provide exact dollar amounts, but all are in multi-year agreements.
City of Fort Worth	Government	Texas - TX	Health and welfare benefits administration, ACA hours tracking, 1094/1095 forms reporting, direct billing, QMCSO order qualifications, dependent verification	Total Employees Supported: 9,000+	We cannot provide exact dollar amounts, but all are in multi-year agreements.

**Table 11: References/Testimonials**

**Line Item 50.** Supply reference information from three customers who are eligible to be Sourcwell participating entities.

Entity Name *	Contact Name *	Phone Number *
City of Fort Worth	As a courtesy to our current clients, contact information for references will be provided should Emyrean be selected as a finalist.	As a courtesy to our current clients, contact information for references will be provided should Emyrean be selected as a finalist.
City of Tulsa	As a courtesy to our current clients, contact information for references will be provided should Emyrean be selected as a finalist.	As a courtesy to our current clients, contact information for references will be provided should Emyrean be selected as a finalist.
University of North Carolina System	As a courtesy to our current clients, contact information for references will be provided should Emyrean be selected as a finalist.	As a courtesy to our current clients, contact information for references will be provided should Emyrean be selected as a finalist.

**Table 12: Ability to Sell and Deliver Service**

Describe your company's capability to meet the needs of Sourcwell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
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51	Sales force.	Empyrean, via our own sales team, is responsible for all sales, distribution, procurement, business development, etc. Historically, our sales team has distributed direct to the employer/client, or in some cases via various technology advisors who are sometimes retained by large employers/customers to assist with the due diligence, vetting, and selection process. We continue to distribute this way and have expanded our distribution over the last 5 years through valued broker/consultant and carrier relationships. The Empyrean sales team is geographically located throughout the U.S., and ultimately reports up to our CEO, Rich Wolfe.	*
52	Dealer network or other distribution methods.	In addition to our internal sales team, we have expanded our distribution over the last 5 years through valued broker/consultant and carrier relationships.	*
53	Service force.	We currently have over 800 employees focused on total employee health and wellness and dedicated to delivering a scalable and tailored benefits experience. We support virtual work schedules for our employees, with many of our employees located in and around Houston, Nashville, and Minneapolis.	*
54	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	Not applicable. Empyrean employs a direct sales force comprised of industry experts in both Government and Education (GovEd) and benefits administration.	*
55	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	<p>Account Management: We will provide each client with a single cohesive team that is responsible for building out the client's solution during the implementation process and providing ongoing account support once daily service begins. Empyrean refers to this as the Day One Team, which consists of the same Client Service Manager, Implementation Manager, and Business Systems Analysts who will work together with the client starting on the very first day of our partnership. These resources will be the same both during the implementation process and throughout ongoing administration; there is no handoff to disjointed teams with Empyrean's Hi-Touch service model.</p> <p>Throughout Empyrean's relationship with the client, these team members will be involved in requirements workshops, configure and tailor their solution, facilitate client acceptance testing, process deliverables, and manage ongoing change requests. As a result, the Empyrean team will gain knowledge and expertise around the client's benefit programs, complexity, and culture - ensuring that the client receives consistently high-quality service and enabling Empyrean to become a true extension of the client's team.</p> <p>Specific service metrics and commitments are documented within each client's MSA and reported to clients on a quarterly basis.</p> <p>Service Center: We provide clients with a 100% in-house, U.S. based service center. All service center teams are designated to specific clients within a pod structure. Should a Sourcewell entity select Empyrean's call center services, a pod of individuals (up to 10 CSRs and 2 CSR Leads) will be identified and assigned to the entity from our Customer Service Representative group. These individuals will be trained on the entity's benefit plans, rules, and culture. Participants can reach CSRs through phone, web chat, and secure email on the self-service portal.</p> <p>Applying an understanding of the client's culture and people, the assigned service center team serves as a natural extension of the client's internal resources to provide participants with clear answers and unparalleled guidance. Our CSRs answer detailed benefit questions, help participants navigate enrollment on the self-service portal, make enrollments on behalf of participants, and warm transfer participants to carriers and third parties, as needed. CSRs document every participant case within the case system, set future actions if required, and identify call types for statistical reporting purposes. All cases are managed and "owned" by the CSR that originates the participant's case. With respect to claims, we assist participants in connecting to the right place within each carrier in order to get their issue resolved. If a participant is still unable to receive a satisfactory resolution with the carrier, we will escalate to the client.</p> <p>We have an average 93% first call resolution rate, meaning the inquiry is resolved on the initial call. If the participant's question is not able to be resolved right away, the CSR sends the detailed case to the service center CSR Lead. Most cases are resolved within 24 to 48 hours. Equipped with experience, empathy, and information provided by our system, our team is able to act as advocates for the participant and ensure their issue is resolved and their concerns are addressed.</p>	*
56	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	We are fully capable and willing to provide our technology and services to Sourcewell participating entities in the United States. We serve a wide range of client sizes, population complexities, and industries across the United States.	*

57	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	We have several U.S.-based clients with Canadian operations and participants. Canadian benefits are managed on the same platform as U.S. benefits. Our standard service delivery model for administration of eligibility, enrollments, communications, and participant contact center includes the following (typical) Canadian-based plans: <ul style="list-style-type: none"> <li>• Supplemental health care plans (medical, dental)</li> <li>• Insurance plans (life Insurance, AD&amp;D)</li> <li>• Disability plans (STD, LTD)</li> <li>• Provide translations for the participant site in French for required Canadian provinces</li> </ul>	*
58	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	Empyrean supports a plan sponsor's U.S. benefits. There are no geographic areas of the U.S. that we cannot fully service. Canadian capabilities are outlined above.	*
59	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Not applicable. Empyrean is a national company with clients across the US. Additionally, we have no other arrangement like Sourcewell for Public Sector and do not anticipate responding to similar solicitations from like groups to Sourcewell.	*
60	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	There are no variations in our contract requirements nor additional restrictions that would apply to Participating Entities in Hawaii, Alaska, and/or in US territories.	*

**Table 13: Marketing Plan**

Line Item	Question	Response *
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61	<p>Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.</p>	<p>Empyrean will endeavor to leverage the Sourcewell agreement across all our not-for-profit and Government and Education (GovEd) opportunities. We see the Sourcewell contracting relationship being a feature in our overall GovEd Go-to-Market strategy and therefore part of our everyday GovEd marketing and sales processes.</p> <p>To grow our presence in the GovEd markets, Empyrean has mapped the GovEd market to include the following sub-markets for the solutions contemplated in this offering:</p> <ul style="list-style-type: none"> <li>• Health Care Plan Sponsors <ul style="list-style-type: none"> <li>o State health plans</li> <li>o Cities, counties, and K-12 groups not covered by their state's health plan</li> <li>o Higher education groups not covered by their state's health plan</li> </ul> </li> <li>• Non-Core Health Benefit Enrollments <ul style="list-style-type: none"> <li>o Cities, counties, and K-12 groups covered by their state's health plan, but providing other employee benefits to their members</li> <li>o Higher education groups covered by their state's health plan, but providing other employee benefits to their members</li> </ul> </li> <li>• Benefit Application Communication Integration <ul style="list-style-type: none"> <li>o GovEd groups with dual enrollments, disparate technology environments, and/or antiquated technology environments</li> </ul> </li> </ul> <p>Empyrean Go-to-Market team for penetrating the GovEd market:</p> <ul style="list-style-type: none"> <li>• Dedicated and Shared Marketing Team <ul style="list-style-type: none"> <li>o Creates marketing pieces to GovEd</li> <li>o Creates and pushes direct monthly campaigns to GovEd</li> <li>o Promotes GovEd in conjunction with private sector marketing initiatives touching both markets</li> <li>o Research and book industry conferences and events</li> </ul> </li> <li>• Dedicated Public Sector Inside Sales <ul style="list-style-type: none"> <li>o Sets direct appointments for outside sales</li> <li>o Promotes Empyrean/Sourcewell message through direct communication</li> <li>o Drives participation in webinars and conferences</li> </ul> </li> <li>• Channel Enablement – Shared with private sector to leverage impact <ul style="list-style-type: none"> <li>o Promotes the Empyrean/Sourcewell message through brokers and consultants working with GovEd groups</li> <li>o Promotes the Empyrean/Sourcewell message through carrier partners</li> <li>o Promotes the Empyrean/Sourcewell message through technology integrators</li> </ul> </li> <li>• Dedicated GovEd outside sales <ul style="list-style-type: none"> <li>o Ultimately responsible for direct to market sales</li> <li>o Gain access and work directly with decision makers at GovEd groups to identify and scope solutions</li> <li>o Participates in national and regional trade shows</li> <li>o Works with internal stake holders to drive monthly campaigns</li> </ul> </li> </ul> <p>National Trade Shows and memberships in 2024 to Support GovEd Directly:</p> <ul style="list-style-type: none"> <li>• SALGBA (Targets decision makers for Healthcare Plan Sponsors)</li> <li>• PSHRA (Targets HR, IT and Finance for health plan sponsors, non-core health plans and benefit application integration)</li> <li>• NASPE (Targets HR, IT and Finance for health plan sponsors, non-core health plans, and benefit application integration)</li> </ul> <p>While Empyrean sees the Sourcewell contracting relationship being a core feature in our overall GovEd Go-to-Market strategy and therefore part of our everyday GovEd marketing activities, we anticipate the following activities to specifically target the Sourcewell relationship:</p> <ul style="list-style-type: none"> <li>• Press release to announce relationship (if approved by Sourcewell) <ul style="list-style-type: none"> <li>o Release to social media (LinkedIn, Facebook, X (Twitter), etc.)</li> <li>o Direct push campaign to current clients (of both Empyrean and our parent company Securian) and prospects</li> </ul> </li> <li>• Highlight how Empyrean's solutions can help Sourcewell members reduce the cost and risk of providing employee benefits while increasing employee satisfaction with these benefits. <ul style="list-style-type: none"> <li>o Direct email and call campaign to identified groups</li> <li>o Technology webinars targeted at Sourcewell members</li> </ul> </li> <li>• Educate all Empyrean and Securian Go-to-Market team members on the Sourcewell relationship <ul style="list-style-type: none"> <li>o Attend/sponsor Sourcewell sponsored events and conferences.</li> <li>o Engage with Sourcewell to build co-branded materials where applicable and allowed—booth signage, brochures, web-content, etc.</li> <li>o Create a blog post that discusses the different types of benefits that are available to Sourcewell members. This blog post could be shared on social media and in Empyrean's email newsletter.</li> </ul> </li> </ul> <p>Please see sample marketing materials attached and click this link for a sample client video from the University of North Carolina System <a href="https://vimeo.com/876543365">https://vimeo.com/876543365</a></p>
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62	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<p>For mass-marketing purposes, Empyrean uses social media to educate plan sponsors and their participants about the benefits of using our cloud-based benefits administration platform and solutions. We share news articles, blog posts, white papers, thought leadership and infographics that highlight how our solutions reduce the cost and risk of offering employee benefits while increasing participant satisfaction. We maintain a regular presence on X (Twitter), LinkedIn, and Facebook.</p> <p>For targeted marketing, Empyrean uses a technology stack consisting of CRM and sales engagement tools as well as metadata research tools specific to the Government and Education (GovEd) vertical. This combination of tools ensures that we communicate the right information at the right time to the right audience.</p> <p>GovWin IQ by Deltek - GovWin IQ provides Empyrean with detailed insight for all 50 states and more than 100,000 local governments and EDU institutions. It gives Empyrean access to expenditure data, employment and population trends, purchasing patterns, bid tabulations, proposal data, and more than 360,000 contacts. In addition, Empyrean has access to reports on market trends, industry insights, and overall strategy to ensure proper market approach and penetration. Empyrean receives updates daily on upcoming RFPs, potential bids, leads, changes in leadership, and overall employment trends. GovWin's reporting capabilities allow our sales and marketing team to research existing contracts including entities contracted with Sourcwell's competitors which will become a part of our overall marketing strategy.</p> <p>ZoomInfo Technologies Inc. – ZoomInfo Technologies, Inc. is a software and data company which provides data for companies and business individuals. Their main product is a commercial search engine, specialized in contact and business information. From the internet and other sources, the company collects contact and other information about individuals, companies, and other business entities, such as departments. Empyrean receives daily updates on industry trends, market forecasts and buyers' intent based on web searches conducted by public sector organizations. This ensures we firmly understand and focus on the most important and pressing needs for the public sector industry.</p> <p>Salesloft - Salesloft is an AI-powered revenue workflow platform helps entities close more deals and forecast more accurately.</p> <p>HubSpot – HubSpot is a cloud-based CRM that comprises a suite of tools that helps businesses capture and convert leads, manage customer interactions, automate processes, and close deals.</p> <p>Salesforce.com - Salesforce is cloud-based CRM software that provides our sales, service, marketing, commerce, and IT teams with a single, shared view of customer information. We use Salesforce to track all data related to an opportunity, giving us robust reporting on public sector industry prospects and actions relating to them.</p>
63	In your view, what is Sourcwell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcwell-awarded contract into your sales process?	<p>We see the Sourcwell contracting relationship being a feature in our overall GovEd GTM strategy and therefore part of our everyday GovEd marketing and sales process. For active opportunities, we see Sourcwell engaging with a prospective client's procurement and legal to complete contracting. For prospective opportunities, we see Sourcwell including us in any inbound request (for our solutions) from a member group; inviting us to any Sourcwell sponsored conference or event that includes vendors; including us in normal vendor communications; and providing us a list of Sourcwell members.</p>
64	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	<p>To enter into an agreement for Empyrean's products and services, clients will engage with an Empyrean Business Development Representative.</p>

Table 14: Value-Added Attributes

Line Item	Question	Response *
65	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcwell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	<p>We will provide demonstrations of the technology throughout implementation and provide training prior to the live date to help Sourcwell participating entities effectively manage their processing needs; reference guides are provided. Training sessions will include how to generate ad-hoc reports, access participant information, update participant coverage (if desired), and use the case management system. There is no additional cost for virtual training; if in-person training is required, travel costs may be passed through. The Empyrean team is also available for any questions.</p>

66	Describe any technological advances that your proposed products or services offer.	<p>At Empyrean, we know that innovative technology is core to providing superior benefits administration services. That's why we have built a fully configurable technology platform tailored to meet the unique needs of the client's benefits program.</p> <p>Key Capabilities of Empyrean:</p> <ul style="list-style-type: none"> <li>• Scalable Technology: Our platform is built to scale, ensuring it can handle the needs of the client's growing business.</li> <li>• Commitment to Service and Client Experience: We prioritize providing exceptional service and support, acting as an extension of the client's internal HR team.</li> <li>• Data Sharing and Usage: Our processes are designed to securely and appropriately share and utilize benefits-related data.</li> </ul> <p>Top Challenges Solved by Empyrean:</p> <ul style="list-style-type: none"> <li>• Resolving Issues Caused by Competitors: We address problems such as poor system and data integrity, unresponsive service, compliance concerns, and costly change fees.</li> <li>• Outdated Technology and Inflexibility: Our integrated platform eliminates compromises associated with inflexible technology built on outdated systems, ensuring a seamless and tailored experience.</li> <li>• Improved Efficiency and Accuracy: Through automation, our platform reduces errors and enhances efficiency, providing reliable and trustworthy data.</li> </ul>	*
67	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>Empyrean Benefit Solutions is a benefits administration technology and services company that has implemented several sustainability practices across our operations. We are committed to reducing our environmental impact and have implemented several initiatives to reduce our carbon footprint:</p> <ul style="list-style-type: none"> <li>• We are increasing the use of energy efficient and renewable energy resources in our IT infrastructure.</li> <li>• We have implemented a comprehensive recycling program and encourage turning off electronics and lights when not in use.</li> <li>• We support reduced emissions by supporting our employees with a hybrid work environment, virtual meetings, and reduced business travel.</li> <li>• We have a paperless office policy and a focus on reducing paper usage by digitizing many of our processes.</li> <li>• We are committed to promoting sustainability and environmental awareness among our employees. We have established a green team, which is a group of employees who promote sustainability initiatives and educate their colleagues on environmental best practices.</li> </ul>	*
68	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	Empyrean does not currently have any third party issued eco-labels, ratings, or certifications.	*
69	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	Empyrean does not currently have a Supplier Diversity Program, MBE, WBE, or SBE program.	*

70	<p>What unique attributes does your company, your products, or your services offer to Sourcwell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcwell participating entities?</p>	<p>At Empyrean, our purpose is to empower organizations with comprehensive and innovative benefits solutions that enhance the well-being and satisfaction of their employees. We are committed to delivering exceptional value and aligning with your business objectives. By partnering with us, Sourcwell participating entities will experience the following advantages tailored to their specific needs:</p> <p>Benefits Administration Excellence: Our advanced technology platform and dedicated support team will streamline the benefits administration process, ensuring accuracy, efficiency, and compliance. This will allow Sourcwell entities to focus on strategic initiatives while providing a seamless and personalized experience for their employees.</p> <p>Employee Engagement Enhancement: Through our comprehensive communication and engagement strategies, we will boost employees' understanding and appreciation of their benefits package. By empowering them with the knowledge and tools they need, we promote a culture of wellness, financial security, and overall satisfaction, leading to increased productivity and loyalty within the organization.</p> <p>Data-Driven Insights and Analytics: Leveraging our robust analytics capabilities, we will provide Sourcwell entities with valuable insights into their benefits program performance. By analyzing key metrics and trends, we can help Sourcwell entities optimize their offerings, identify cost-saving opportunities, and make informed decisions that align with their company goals and overall business strategy.</p> <p>With Empyrean, participating entities will gain a strategic partner dedicated to their success. Our services will not only support their mission but also align with the integrity and vision that drives their business forward. Together, we can create a benefits program that maximizes the value for their organization and improves the lives of their employees.</p>
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**Table 15: Industry Specific Questions**

Line Item	Question	Response *
71	Describe how your platform supports API integrations.	<p>Our platform is explicitly built to integrate the broader benefit ecosystem, adaptable for employers of all sizes and across all levels of benefits complexity. Our flexible, secure, and scalable technology leads the way in the benefits administration market to provide open interconnectivity, secure and seamless integration with any payroll or HR system, carrier, or vendor. Today, APIs are used in supporting the employee experience with Emyrean partners. Examples include HSA and other spending out account balances, wellness dashboards, and telehealth. With the use of APIs and integrations we are able to deliver a one-stop shop for employees.</p>
72	Describe your customer self-service capabilities.	<p>Our platform offers an intuitive, easy-to-use employee self-service experience that empowers employees to engage with their benefits year round. The user interface guides employees through the enrollment process each step of the way. Relevant, user-friendly resources are displayed throughout the site to help employees understand each piece of their benefits enrollment. During an enrollment event, employees access the self-service site through any standard web browser or through Emyrean's mobile app. Once authenticated, they are presented with their enrollment event and several enrollment tools and resources that are specific to their unique eligibility. Emyrean streamlines the enrollment and administration process, and delivers the flexibility and power needed to manage all aspects of your benefits engagement.</p> <p>Through the self-service portal, employees can:</p> <ul style="list-style-type: none"> <li>• Initiate life events,</li> <li>• Make decisions about their benefit choices through Emyrean's plan recommendation and calculation tools,</li> <li>• Enroll in or make changes to their benefit elections for annual enrollment, life events, and new hire events,</li> <li>• Download and print benefit confirmation statements,</li> <li>• Manage beneficiary information and designations,</li> <li>• Manage dependent information,</li> <li>• Add or remove dependents from coverage,</li> <li>• Upload verification documents,</li> <li>• Access carrier and third party links,</li> <li>• Complete wellness incentives, such as a Health Risk Questionnaire,</li> <li>• Access a library of helpful videos and important coverage documents (i.e., SPDs, SBCs), and</li> <li>• Initiate a web chat with Emyrean's call center for any questions or assistance (if call center services are elected).</li> </ul> <p>Our employer portal provides administrators with easy access to employee data and cases, standard and custom reports, data file imports and exports, shared documents, activity logs, user metrics, and other resources. The home dashboard displays quick access to recent and favorited reports, employees, cases, events, documents, and open enrollment statistics during AE.</p> <p>Below are examples of the capabilities that HR administrators have through the employer portal:</p> <ul style="list-style-type: none"> <li>• search for and view employee records by virtually any data element,</li> <li>• generate standard and ad-hoc reports,</li> <li>• view carrier file exports,</li> <li>• securely share files and documents with other HR administrators,</li> <li>• access the case management system,</li> <li>• model an event for a particular employee,</li> <li>• search for processed and pending life events, and</li> <li>• initiate employee life events and update coverage.</li> </ul> <p>Access to the employer portal can be restricted by certain rules, levels, and user roles. We can configure the access rules to only allow HR administrators at one location to see the events, cases, and information related to the employees and other personnel at that location.</p>
73	Does your technology provide portals for different stakeholders? Describe the standard support model for members, employees, brokers and partners.	<p>We provide a single, propriety benefits administration system, the Emyrean Platform, for all clients. This ensures every client gains access to new functionality regardless of client size or complexity. Our singular platform includes an employee self-service portal, HR administrator portal, and our proprietary configuration application to develop, populate, and maintain each client's solution.</p>

## Exceptions to Terms, Conditions, or Specifications Form

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

### Documents

#### Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
  2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
  3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
  4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
- [Pricing](#) - Empyrean Proposal For Sourcewell.pdf - Thursday November 16, 2023 12:37:19
  - [Financial Strength and Stability](#) - Empyrean Response - Sourcewell RFP - Financial Strength and Stability.pdf - Thursday November 16, 2023 11:51:45
  - [Marketing Plan/Samples](#) - Empyrean Marketing Samples.zip - Thursday November 16, 2023 12:43:28
  - [WMBE/MBE/SBE or Related Certificates](#) - Empyrean Response - Sourcewell RFP - WMBE MBE SBE or Related Certificates.pdf - Thursday November 16, 2023 11:53:52
  - [Warranty Information](#) - Empyrean Response - Sourcewell RFP - Warranty Information.pdf - Thursday November 16, 2023 11:55:11
  - [Standard Transaction Document Samples](#) - Empyrean Standard Transaction Document Samples.zip - Thursday November 16, 2023 12:16:37
  - [Requested Exceptions](#) - Requested Exceptions.zip - Thursday November 16, 2023 12:58:05
  - [Upload Additional Document](#) - Additional Documents.zip - Thursday November 16, 2023 13:05:15

## Addenda, Terms and Conditions

### PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
  1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
  2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
  3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Richard Wolfe, President & CEO, Empyrean Benefit Solutions, Inc.

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

Yes  No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
<b>Addendum_6_RFP_111623_Employee_Benefits_Administrative_Software_Platforms</b> Wed November 8 2023 04:15 PM	<input checked="" type="checkbox"/>	3
<b>Addendum_5_RFP_111623_Employee_Benefits_Administrative_Software_Platforms</b> Mon October 30 2023 04:34 PM	<input checked="" type="checkbox"/>	2
<b>Addendum_4_RFP_111623_Employee_Benefits_Administrative_Software_Platforms</b> Mon October 30 2023 08:13 AM	<input checked="" type="checkbox"/>	2
<b>Addendum_3_RFP_111623_Employee_Benefits_Administrative_Software_Platforms</b> Tue October 24 2023 09:00 AM	<input checked="" type="checkbox"/>	2
<b>Addendum_2_RFP_111623_Employee_Benefits_Administrative_Software_Platforms</b> Wed October 18 2023 04:38 PM	<input checked="" type="checkbox"/>	1
<b>Addendum_1_RFP_111623_Employee_Benefits_Administrative_Software_Platforms</b> Mon October 2 2023 03:50 PM	<input checked="" type="checkbox"/>	2