

Sourcewell RFP 111623

**Employee Benefits Administrative Software Platforms;
Member and Provider Advocacy Services; Transparency,
Fraud, Waste and Abuse Products and Related Services**

Q6.31 Standard Transaction Documents:

Proposed Order Form for 5,000+ Members



ORDER FORM

Supplier: Rx Savings, LLC d/b/a Rx Savings Solutions
 5440 W. 110th Street, Suite 200
 Overland Park, KS 66211
 Email: legal@rxsavingsolutions.com

Company: Sourcewell
 202 12th Street Northeast
 P.O. Box 219
 Staples, MN 56479

Participating Entity:

Supplier agrees to provide the services described in this “**Order**” to Participating Entity (as listed above) of Company (hereinafter, “**Sourcewell**”). This Order, along with any other exhibits or schedules attached hereto and incorporated by reference, form a binding agreement between Supplier and Participating Entity (collectively, the “**Parties**”). To the extent that any of the terms in this Order conflict with terms found in separate agreements between Participating Entity and Sourcewell, this Order shall control. This Order shall be governed by Attachment 1 to Order (Additional Terms) attached hereto.

The Effective Date of this Order is .

SERVICES ORDERED	
SERVICE NAME / TYPE	FEE
<input checked="" type="checkbox"/> Rx Savings Solutions (Prescription Consumer Engagement Solution) <input type="checkbox"/> Renewal	Not to exceed \$0.79 PMPM for months 1-18 <input type="checkbox"/> Not to exceed \$1.19 PMPM for months 19-36
<input checked="" type="checkbox"/> Implementation Services	Not to exceed \$25,000.00
<input type="checkbox"/> Optional (Fee-Based) Services	Integrated Technology (ITP) Package: \$0.12 per Member per month (“PMPM”)

	<p>ITP Individual APIs (not Package):</p> <ul style="list-style-type: none"> • Opportunities: \$0.09 PMPM • Total Savings: \$0.09 PMPM • Drug Search: \$0.09 PMPM • Members: \$0.09 PMPM <p>AdminRx: \$0.08 PMPM with minimum \$1,000 monthly fee</p> <p>AdminRx + ITP Package: \$0.16 PMPM with minimum monthly fee of \$1,000.00</p> <p>Single Sign-On (SSO): Not to exceed \$10,000.00 one-time fee</p> <p>Private Labeling: Not to exceed \$15,000 one-time fee</p>
Target Launch Date	
Term Length	36 months from the actual Launch Date of the Services
Estimated # of Members	

ATTACHMENT 1 TO ORDER: ADDITIONAL TERMS

1. Definitions.

“**Affiliate**” means, with respect to any entity, any other present or future entity which at any time, directly or through one or more intermediaries, Controls, is Controlled by or is under common Control with such entity or its successors, where “**Control**” and its derivatives means with respect to any entity either: (i) the ability to direct the management or policies of such entity, or (ii) the legal, beneficial or equitable ownership, directly or indirectly, of fifty percent (50%) or more of the capital stock (or other ownership interest, if not a corporation) ordinarily having voting rights of such entity.

“**Member**” means any person receiving insurance benefits from or through the Participating Entity or its Affiliate.

“**Party**” refers to either Supplier or Participating Entity, and “**Parties**” refers to both Supplier and Participating Entity.

“**Services**” means Supplier’s prescription cost savings services and shall include any Software.

“**Software**” means all software, computer programs and all intellectual property relating directly or indirectly related to the Services (including but not limited to all trademarks, copyrights, patents and trade secrets owned by Supplier), whether it is owned by Supplier directly or licensed separately by Supplier from a third party, that is necessary for Participating Entity to effectively utilize the Services. “Software” shall be included in the definition of “Services.” Additionally, Software means computer programs, intellectual property or Services identified in this Order or elsewhere in the Agreement, together with input and output formats, object code, program listings, data models, flow charts, outlines, narrative descriptions, operating instructions, and supporting documentation. Software shall include all authorized reproductions, corrections, updates, new releases, and new versions of such programs. The Software and Services to be rendered by Supplier are further described in Section 5 of this Order.

2. License to Use, Access and Distribute Software.

2.1 License Grant. Subject to the terms and conditions of this Order, Supplier hereby grants to Participating Entity and its Affiliates a non-transferable, nonexclusive, non-sublicensable license: (i) to access and view the Software; (ii) to distribute and provide access and use the Software directly to Members in accordance with the terms and conditions of this Order; (iii) to access and use Supplier’s systems and hardware in order to access, use and distribute the Software; and (iv) to use and operate the licensed Software (solely on Participating Entity’s systems or Participating Entity’s parent, subsidiary or affiliated company systems) for the sole purpose of: (A) testing and evaluation of the licensed Software; (B) training Participating Entity’s and its Affiliates’ personnel on the Software; (C) demonstrating and promoting the Software to Members; and (D) supporting the use of the Software by Participating Entity’s Members. Participating Entity understands and agrees that the license granted under Section 2 provides Participating Entity a license to access, use and distribute the Software, but that the Software is not downloadable, and cannot be installed, to Participating Entity’s own systems and hardware.

2.2 Restrictions on Use. Participating Entity shall not, and shall use commercially reasonable efforts to ensure that other third parties shall not:

- (a) Modify, adapt, alter, translate, copy, perform and display (publicly or otherwise) or create derivative works based on the Software;
- (b) Reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software without Supplier’s approval;
- (c) Access the Software or utilize the Services to create a competitive product or service; or create a product using similar ideas and features; interfere with or disrupt the integrity of the Software or Services;
- (d) Attempt to gain unauthorized access to the Software or Services, including through the use of penetration testing without the prior written approval from the Supplier;
- (e) Merge or bundle the Software with other software without Supplier’s approval;

- (f) Sublicense, lease, rent, or loan the Software;
- (g) Provide any access or login credentials to any third-party contractors without prior written consent from Supplier. (If Supplier consents to such access, Participating Entity will ensure that third parties are restricted from capturing, retaining and/or using Confidential Information (as defined hereafter) for any purpose beyond the furtherance of their engagement with Participating Entity. Further, Participating Entity will ensure that third parties are expressly restricted from creating commercially available products and or profiting in any way from work relating to the Software or Services completed on behalf of Participating Entity.);
- (h) Transfer the Software to any third party, except as expressly permitted under this Section.

3. Mutual Confidentiality Obligations.

- (a) To the extent that any of the foregoing subsections in this Section 3 conflict with applicable law for a Participating Entity, the Parties agree that such applicable law will govern and shall be interpreted in the manner which maximizes confidentiality protections as permissible under applicable law.
- (b) Definition of Confidential Information. For purposes of this Order, “**Confidential Information**” shall include, without limitation, all non-public information and material that has or could have commercial value or other utility in the various areas of business in which a Party is engaged. Confidential Information may be contained, without limitation, in tangible materials, such as data, financial information, client lists and information, business plans and methods, specifications, reports and computer programs, or may be unwritten knowledge and spoken word. This includes all communication of Confidential Information between the Parties in any form whatsoever, including oral, written and machine readable form; all technical and business Confidential Information relating to a Party’s proprietary ideas, patents, patent applications, patentable ideas and/or trade secrets, trademarks, copyrights, computer programs in object and/or source code, know-how, existing and/or contemplated products and services, research and development, production, costs, profit and margin business information, finances and financial projections, clients, marketing, internal financial data, and current or future business plans and models, regardless of whether such Confidential Information is designated as “Confidential Information” at the time of its disclosure; and other confidential and/or sensitive Confidential Information which is (a) disclosed as such in writing and marked as confidential (or with other similar designation) at the time of disclosure; and/or (b) disclosed in any other manner and identified as Confidential Information at the time of disclosure.
- (c) Exclusions from Confidential Information. A Party’s obligations under this Order do not extend to Confidential Information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no wrongful act of the receiving Party; (b) was previously rightfully known by the receiving Party free of any obligation to keep it confidential; (c) is independently developed by the receiving Party without reference to the Confidential Information of the disclosing Party or (d) is disclosed by a receiving Party with the disclosing Party’s prior written approval.
- (d) Obligations regarding Confidential Information. Each Party warrants and agrees that it will use the highest degree of care to hold the Confidential Information of the other Party in the strictest confidence. A Party shall not divulge any Confidential Information of the other Party in breach of this Order. Notwithstanding the above, a Party shall not be in violation of this Section with regard to a disclosure that was in response to a valid order by a court or other governmental body, provided that such Party provides the other Party with prior written notice of such disclosure, if legally permitted to do so, in order to permit the other Party to seek confidential treatment of such information. A Party shall immediately notify the other Party upon discovery of any loss or unauthorized disclosure of the Confidential Information of such Party. The obligations of a Party under this Section shall survive the termination of this Order.
- (e) Restriction of Rights of Use of Confidential Information. A Party shall not use for its own benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of the other Party, any Confidential Information of the other Party. Each Party acknowledges that the Confidential Information shall remain the sole property of the other Party. This Order shall not be construed as creating, conveying, transferring, granting, implying, or conferring upon a Party any rights to patents, licenses, or any other intellectual property rights or ownership interests or authority in or to the Confidential Information exchanged by the other Party. Should a Party, directly or indirectly, realize any benefit, financial or otherwise, as a result of the use or disclosure of the Confidential Information of the other Party in contravention or breach of this Order, such benefit shall be deemed to have been earned by the other Party and shall constitute an asset

of the other Party and the disclosing Party hereby declares itself to be a trustee thereof for the other Party with no beneficial interest in any benefit earned thereby.

- (f) Loan of Tangible Copies of Confidential Information. In the event that a Party furnishes physical or tangible copies of any of the Confidential Information to the other Party, such Party acknowledges and agrees that these materials are furnished under the following conditions: (i) these materials are loaned to the Party for the sole purposes of engagement with the other Party and for the other Party's benefit only; (ii) these materials shall be treated consistent with the Party's obligation for Confidential Information under this Order; (iii) the Party may not copy or otherwise duplicate these materials except to the extent necessary to perform its obligations or exercise its rights under this Order; and (iv) all data received by the other Party must be returned upon written or oral request by the other Party at any time, and may not be distributed or shared without the explicit written consent of the other Party.
- (g) Return of Confidential Information. Upon termination of this Order for any reason, each Party agrees to irretrievably destroy or, at the request of the other Party, return to the other Party, its successors or assigns all Confidential Information, including, without limitation, all Confidential Information in tangible form, all devices, computer disks or other electronic or magnetic storage media, records, data, proposals, blueprints, lists, economic data, business plans, specifications, drawings, sketches, materials, equipment, other documents or property together with all copies (in whatever medium recorded). If Confidential Information of the disclosing Party stored electronically has been commingled by the receiving Party with its own Confidential Information such that it cannot feasibly be separated for return or destruction, such commingled data need not be returned or destroyed as provided in this Section, provided that the receiving Party complies with its obligations under this Order with respect to such electronic Confidential Information and makes no attempt to use or restore such Confidential Information.
- (h) Acknowledgments; Remedies. Each Party acknowledges that compliance with the terms, conditions, and covenants contained in this Order is necessary to protect the legitimate business interests of the other Party and that any breach of the covenants contained in this Order may result in irreparable and continuing damage to the other Party, for which money damages may not provide adequate relief. Consequently, each Party agrees that, in the event it breaches or threatens to breach any aspect of this Section, the other Party shall be entitled to seek a temporary restraining order, preliminary injunction, and permanent injunction in order to prevent the continuation of such harm. Nothing in this Order shall be construed to prohibit either Party from also pursuing any other remedy allowed by law. Further, in the event a Party breaches any aspect of the provisions of this Section, it agrees to pay all of the other Party's costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by a Party to enforce the terms of this Order.

4. Supplier Ownership.

- (a) Supplier shall own all right, title and interest, including all intellectual property rights, in and to the Software. All rights in and to the Software not expressly granted to Participating Entity under this Order are reserved by Supplier. This Order does not grant any ownership rights to Participating Entity for any part of the Software.
- (b) Supplier shall retain title to all work product developed or created for Participating Entity pursuant to this Order. Supplier shall not be restricted in the manner in which it uses the work product or ideas, concepts, techniques or procedures used in Supplier's performance of the Services.
- (c) Supplier may monitor the use of the Software and Services and use aggregate and anonymous Participating Entity data to compile statistical and performance related information relative to the operation and performance of the Software and Services. Supplier may make such information available to be used to supplement the Software and Services providing that such information remains anonymized and does not identify Participating Entity or its Members. Supplier retains all right, title and interest, including all intellectual property rights, in such information.

5. Description of Software and Services to be Rendered by Supplier.

5.1 Software.

(a) Supplier shall provide its prescription cost savings services (collectively the “**Services**”) and Software to Participating Entity. Supplier shall provide the specific items and Services related to the Software as set forth below:

(i) Member Portal

(A) One dedicated portal for registered Members to access available personalized savings opportunities and guidance. (If additional member portals are required, additional implementation fees may apply.)

(B) One included single sign-on (“**SSO**”) is included during the initial implementation. SSO configuration required after the “**Delivery Date**” of the solution (as outlined in Section 6(a)) subject to pricing outlined in the “**Services Ordered**” section of this Order.

(ii) Pharmacy Benefit Integration in the following components:

(A) Eligibility processing

(B) Claims processing

(C) Clinical rules

(D) Formulary

(E) Plan design

(F) ACA preventive

(G) Pharmacy network

(iii) Work with Participating Entity’s pharmacy benefit manager “**PBM**” as needed to provide plan specific pricing and as otherwise needed to provide the Services

(iv) Prescription claims analysis which includes savings opportunities whereby Supplier Software looks for both clinical and financial ways to save. These include:

(A) Therapeutic alternatives

(B) Combination splits

(C) Dosage form changes

(D) Dose optimization

(E) Tablet splitting

(F) Generic substitutions

(G) Generic clones

(H) Fulfillment options including mail order and retail locations

(I) Other savings opportunities/recommendations that may be provided by Supplier

(v) Contact Prescriber services

Supplier shall provide its prescription cost savings engagement Services to Participating Entity. Supplier shall provide the specific items related to the Services as set forth below:

(a) Engagement Services:

- (i) Planning and execution meetings with a dedicated client engagement manager
- (ii) Four (4) educational emails to all eligible Members with email addresses to promote awareness of benefit and drive engagement
- (iii) Ongoing personalized savings notifications via email and text (“SMS”) to all eligible Members (Member opt-in required for SMS)
- (iv) Quarterly targeted engagement campaigns via email and direct mail
- (v) Toolkit with downloads of flyers, postcards, frequently asked questions, videos, and posters
- (vi) Direct mail savings notifications delivered to Members with potential medication savings on a quarterly basis.
- (vii) Rx Rewards Incentive Program: behavior change based Member incentives through Supplier’s Pay Forward program (a third-party program granting gift cards to certain Members for making a behavior change). The Rx Rewards incentive program will be managed and funded by Supplier. Supplier does not provide any tax advice related to this program.
- (viii) Ongoing marketing consultation throughout life of contract.
- (ix) Customization options of included Marketing Services limited to:
 - (A) Co-branding
 - (B) Inclusion of Participating Entity Name
 - (C) Custom incentive information

5.3 Optional (Fee-Based) Services:

Optional (Fee-Based) Services not already selected in the “Services Ordered” section of this Order will be quoted separately by Supplier as they become available to Participating Entity.

5.4 Ongoing Support Services Provided by Supplier to Participating Entity:

Supplier shall provide the following ongoing support for the Services:

- (a) Tier 1 Member phone support for Services 7 a.m. – 8 p.m. CST, Monday-Friday, except holidays recognized by Supplier (generally Nationally recognized holidays, plus the Friday following Thanksgiving, Christmas Eve and New Year’s Eve).
- (b) Ongoing plan pricing maintenance: (upon request, available only for clients with more than 5,000 Members)
 - (i) Up to one (1) plan design load per year
 - (ii) Up to four (4) formulary file loads per year
 - (iii) Up to two (2) network file loads per year

(c) Monthly reports that include the following aggregate data:

- (i) Registration rate reports
- (ii) Savings opportunities
- (iii) Actual, realized savings (such reports are provided beginning six months after the Launch Date (as such term is hereinafter defined))
- (iv) Campaign overview and results
- (v) Upcoming Campaigns planned
- (vi) Outbound File Feeds

(A) A Member-level registration file extract may be set up to identify which members have registered for RxSS for the purpose of providing registration incentives and sent to a Secure FTP accessible by Participating Entity on a pre-defined cadence. These files will include the following fields:

- (1) Member Id Note: This is the same Member ID that is provided to Supplier as part of the ongoing eligibility feed.
- (2) Member First Name
- (3) Member Last Name
- (4) Registration Date

(B) Any additional outbound file extracts outside of or in addition to (A) above may require a new scope of work and be subject to an additional charge. All additional scopes of work and charges will be agreed to in writing prior to the commencement of work

5.5 PBM Change.

Notwithstanding anything herein to the contrary, should Participating Entity change Participating Entity's PBM during the Term (defined hereafter), Participating Entity shall owe an additional implementation fee (the "**Change PBM Fee**") based on the following schedule:

- (a) Participating Entity's will be charged a one-time Change PBM Fee **not to exceed \$20,000**.
- (b) The Change PBM Fee shall be payable within thirty (30) days of Participating Entity providing Supplier notice of Participating Entity's intent to change Participating Entity's PBM and the timing of such change for Participating Entity.

6. Implementation, Delivery and Launch of Software.

Within ten (10) days of the Effective Date, Participating Entity will be assigned a dedicated Project Manager and Client Success Manager who will work with Participating Entity to build a project plan to ensure implementation and program success. The project plan will outline all the steps needed to successfully launch the Services according to the agreed upon timeline.

- (a) The Delivery Date (as hereinafter defined) and implementation plan shall be determined by mutual agreement of the Parties as soon as reasonably possible after the Effective Date. For purposes of this Order, the date that Supplier has turned over the Software for user acceptance testing by Participating Entity is the "**Delivery Date**". The Parties agree that the targeted Delivery Date under this Order shall be sixteen (16) to twenty (20) weeks

following the Effective Date. A detailed project plan (“Plan”) shall be presented to Participating Entity during the align phase of the implementation and both Parties will mutually agree on a targeted Delivery Date.

- (b) The Launch Date (as hereinafter defined) shall be determined by mutual agreement of the Parties as soon as reasonably possible after the Delivery Date. For purposes of this Order, the date that Supplier or Participating Entity agrees to communicate information about the benefit availability to the eligible Members is the “**Launch Date**”. If direct mail is the primary method for savings notifications (less than 50% of Member’s email addresses have been made available to Supplier), the Launch Date shall be the first delivery date of direct mail pieces to Members.

7. Participating Entity Obligations.

Participating Entity will use commercially reasonable efforts to ensure that all Member information provided by Participating Entity to Supplier is accurate and kept current. Participating Entity acknowledges and agrees that in order to provide the Services, Supplier may need access to email addresses and mobile phone numbers of Participating Entity’s Members. Therefore, Participating Entity agrees to provide directly to Supplier all Member email addresses and mobile phone numbers it has in its possession as soon as reasonably possible after requested by Supplier. Supplier shall notify Participating Entity upon becoming aware that any Member data provide by Participating Entity is incorrect or incomplete, and Participating Entity shall use reasonable efforts to provide correct and complete data. Participating Entity shall indemnify Supplier in accordance with Section 13 for any claims, damages, losses, and expenses (including attorney’s fees) incurred by Supplier due to Participating Entity providing any false, misleading or inaccurate Member information to Supplier.

- (a) The Participating Entity shall be responsible for the following:
 - (i) Provide Supplier with the following: eligibility files, prescription claims files, group plan details, network pharmacy files, formulary files, and accumulator files (if applicable); (the Parties shall mutually work to ensure data is provided to Supplier in an acceptable manner, provided additional fee may be incurred if file formats change after the initial implementation);
 - (A) Eligibility files should include all eligible Members at the time the eligibility file is sent to Supplier.
 - (B) Supplier will provide Participating Entity with file specifications for each of the required files during the discovery phase of the implementation. If the file specifications cannot be met by Participating Entity, additional development time may be required to complete the implementation.
 - (C) If utilizing a single sign on (“SSO”), Participating Entity must incorporate deep link functionality for most direct access to Member portal. Additionally, Participating Entity must allow direct link access to the Supplier’s Member portal (also sometimes referred to as a ‘Hybrid Approach’ in Supplier materials provided to Participating Entity) to optimize Member registration, behavior changes and savings.
 - (ii) Provide reasonable access to Participating Entity personnel who are necessary for progress of this Order and provide appropriate administrative resources as necessary;
 - (iii) Provide access to, and coordinate with, Participating Entity’s pharmacy benefit manager or applicable third party vendors;
 - (iv) Provide Supplier (from Participating Entity or a third party directed by Participating Entity) with all eligible, primary Member email addresses (“**Member Email**”) Participating Entity has on file within thirty (30) days of the Launch Date;
 - (v) Provide Supplier (from Participating Entity or a third party directed by Participating Entity) with all eligible Member mailing addresses and telephone numbers Participating Entity has on file within thirty (30) days of the Launch Date; and
 - (vi) Participating Entity must send three internal memos to members, one at launch of the Services explaining the Services, a second three months after the launch of the Services and a third six months after the launch of the Services. Participating Entity will then reference the Services annually during open enrollment.

(vii) Participating Entity will participate in a case study when 1:1 ROI is surpassed and may allow for press release after the Launch Date, provided that (for both the case study and the press release) all content and subject matter will be coordinated with and approved by the Participating Entity prior to use or release.

(b) Participating Entity's failure to perform any of the Participating Entity responsibilities (or cause them to be performed) will excuse Supplier's nonperformance of its obligations under this Order, including, but not limited to, providing any Savings Credits as set forth in Section 9 herein.

8. Fees.

(a) Participating Entity shall pay Supplier an implementation fee **not to exceed \$25,000.00** to fully establish Supplier's Services for Participating Entity. The implementation fee shall be due within forty-five (45) days of the Effective Date.

(b) Participating Entity shall pay Supplier "**Service Fees**" equal to the Per Member Per Month ("**PMPM**") based upon the number of Members the Participating Entity has beginning on the Launch Date and the first of every calendar month thereafter multiplied by the "**PMPM Price**". Service Fees shall be prorated for any partial month of Services. Participating Entity's failure to pay the Service Fees shall be considered a material breach under this Order. Participating Entity's initial PMPM Price shall be the "**Direct Price**" per the table listed below based upon the size of Participating Entity on the Effective Date.

(c) As consideration of the relationship between Supplier and Sourcewell, Participating Entity's Service Fees are being provided a discount.

(i) Participating Entity's initial PMPM Price shall **not exceed \$0.79** during months 1-18 of the Term and **\$1.19** during months 19-36.

(d) The Parties acknowledge that, pursuant to an underlying agreement between Sourcewell and Supplier (the "**Sourcewell Agreement**"), Sourcewell will be paid an administrative fee by Supplier equal to one percent (1%) of the combined Service Fees and Optional (Fee-Based) Service fees paid by Participating Entity to Supplier (the "**Sourcewell Fee**"). The Sourcewell Fee will be paid by Supplier to Sourcewell quarterly based upon the combined Service Fees and Optional (Fee-Based) Service fees Participating Entity has paid to Supplier during the immediately preceding quarter. The Sourcewell Fee is not considered when calculating the Savings Credit (defined hereafter) in this Order. Participating Entity acknowledges and agrees that Supplier may share this Order with Sourcewell to the extent necessary to verify proper remittance of the Sourcewell Fee. Supplier's obligation to pay the Sourcewell Fee will cease upon termination of the Sourcewell Agreement for any reason.

(e) The minimum allowable number of eligible Members required for Services under this Order is five thousand (5,000) Members

(f) The Parties agree that the Service Fees paid to the Supplier will be equal to the PMPM Price multiplied by the number of Members in Participating Entity's eligibility file provided to Supplier. Participating Entity will pay Service Fees within thirty (30) days of receipt of an invoice by Participating Entity from Supplier.

(g) Supplier will adjust the number of actual Members monthly on a prospective basis based upon actual number of Members during the prior calendar month.

(h) During any renewal period after the initial Term ("**Renewal Term**"), Service Fees will increase by three percent (3%) per year. The increase shall be based upon the PMPM Price paid in the month directly preceding the new Renewal Term.

9. Service Fee Credit.

In completing the Services, Supplier shall provide Participating Entity with a Service Fee Credit in accordance with the terms set forth in subsections (a) – (f) below.

- (a) Beginning eighteen (18) months following the date Supplier first provides Services to Participating Entity (the “**Launch Date**”), and every calendar quarter thereafter, Supplier shall perform a Savings Calculation (as hereinafter defined) to determine the savings provided to Participating Entity and Participating Entity’s Members in the aggregate in the time since the Launch Date. Supplier shall calculate Participating Entity’s and the Members’ realized savings due to the Services provided by Supplier to Participating Entity in accordance with its Savings Guarantee Calculation Methods, a copy of which shall be provided to Participating Entity upon request (collectively the “**Savings Calculation**”).
- (b) The aggregate Service Fees that are paid to Supplier for the Services shall be the “**Participating Entity Payment**”. The amount of aggregate savings realized by Participating Entity and its Members due to any and all Services provided by Supplier to Participating Entity and its Members under this Order as determined by such Savings Calculation shall be the “**Participating Entity Savings**”.
- (c) If the Participating Entity Savings is not equal to or greater than two times the Participating Entity Payment (i.e., a 2:1 Return on Investment or “**ROI**”), then Supplier shall provide Participating Entity a credit in Service Fees for the difference between two times the Participating Entity Payment and the Participating Entity Savings (the “**Savings Credit**”). The total amount of the Savings Credit shall be credited in full towards the Participating Entity’s Service Fees in the month following the completion of the Savings Calculation. If any Savings Credit remains, then any Savings Credit remaining shall continue to be applied in full to future monthly invoices on an ongoing basis until all such Savings Credit is fully exhausted. Details of all Savings Calculations will be provided to Participating Entity upon request. If, after any Savings Calculation, the Participating Entity Savings is more than twice the Participating Entity Payment, then there will be no Savings Credit provided. In no event shall there be any refunds of any Service Fees. Supplier may complete the Savings Credit, if any, by not invoicing Participating Entity for any Services until the Savings Credit has been exhausted.
- (d) Should Participating Entity renew this Order, then beginning thirty-six (36) months following the Launch Date and every calendar quarter thereafter, Supplier shall continue to perform the Savings Calculation. If the Participating Entity Savings is not equal to or greater than three times the Participating Entity Payment (i.e., a 3:1 ROI), then Supplier shall provide Participating Entity a Savings Credit in Service Fees for the difference between three times the Participating Entity Payment and the Participating Entity Savings.
- (e) The Parties agree that Supplier has the right to amend all savings calculations used to determine the Savings Credit, if any, to account for medication suppressions that have been made at the request of Participating Entity to Supplier in writing. For example, such amendments to the savings calculation may occur if Participating Entity requests Supplier to withhold alerts on certain medications for any reason. Any such changes to any Savings Calculations will be provided to Participating Entity in writing and disclosed as part of any Savings Calculation reports.
- (f) To be eligible for any Savings Credit in Service Fees, Participating Entity is solely responsible for meeting the following criteria:
- (i) To the extent permitted by applicable law, Participating Entity must have allowed Supplier the ability to contact Members as Supplier reasonably determined was necessary to provide information regarding the Services;
 - (ii) Participating Entity must have reasonably cooperated with Supplier as needed in order to facilitate any Member communication;
 - (iii) Participating Entity must have allowed Supplier to market and communicate with Participating Entity’s Members, and participate in full any Supplier Member engagement plan and cadence, inclusive of all campaigns and marketing services, including:
 - (A) Launch Campaigns
 - (B) Savings Notifications
 - (C) Rolling Eligibility
 - (D) Re-Engagement Campaigns
 - (E) Quarterly Campaigns
 - (F) Strategic Campaigns Supplier determines may be beneficial to Participating Entity
 - (iv) Participating Entity must have met all dates associated with the service plan created by Supplier for Participating Entity;
 - (v) Participating Entity must have allowed for targeted outbound calling campaigns;

- (vi) Participating Entity must have participated in quarterly direct mail savings notifications and personalized savings reports;
- (vii) Participating Entity must have allowed Members to register and access the Supplier member portal directly, regardless of SSO integration with Participating Entity or third party;
- (viii) Participating Entity must have paid all undisputed Service Fees in a timely manner;
- (ix) Should Participating Entity fail to provide Supplier at least seventy-five percent (75%) of all Member's emails, Participating Entity shall not be eligible for any Savings Credits. Notwithstanding, should Participating Entity provide Supplier at least twenty-five percent (25%) of all Member's emails, Participating Entity shall be entitled to Savings Credits if the Participating Entity Payment is greater than the Participating Entity Savings (a 1:1 ROI). The Savings Credit, if any, shall be applied as set forth above.
- (x) For avoidance of all doubt, Optional (Fee-Based) Services are not included in the Savings Calculation and any corresponding ROI guarantees and/or resulting Savings Credits.

10. Taxation.

If any sales and/or use tax is ever imposed upon the Services provided by Supplier to Participating Entity by any applicable taxing authority, then Participating Entity agrees to be liable for such tax payment and such tax payment shall be added to any fees owed by Participating Entity to Supplier pursuant to any Order.

11. Expenses.

Except as may be otherwise agreed to by the Parties, in the event Supplier is required and/or requested by Participating Entity to travel to provide any Services to Participating Entity, Participating Entity shall reimburse Supplier for all reasonable travel and other expenses (except for normal daily working and commuting expenses) at actual cost, incurred in connection with on-the-job services, furnished under any Order. Supplier shall provide Participating Entity with any invoice regarding such expenses and any such invoice shall be due within thirty (30) days of receipt by Participating Entity.

12. Force Majeure.

No failure, delay or default in performance of any obligation of any Party shall constitute an event of default or breach of the Agreement to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the control and without negligence of the Party, including, but not limited to: action or inaction of governmental, civil or military authority; fire, strike, lockout or other labor dispute; flood, war; terrorism; riot; pandemic; theft; earthquake and other natural disaster, provided that (i) the non-performing Party is without fault in causing or failing to prevent the event, and (ii) the event cannot be circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

13. Indemnification.

- (a) Participating Entity shall be liable for, defend and indemnify Supplier against any and all claims, losses, damages, liabilities, costs, expenses or obligations, including but not limited to, reasonable attorneys' fees, court costs and other damages (collectively a "Loss"), arising from or out of (i) any fraudulent, dishonest or criminal act or omission by Participating Entity or its respective employees, subcontractors or agents, in the performance of any of its obligations or duties under this Order; (ii) any material breach or failure to perform any representation, warranty, undertaking or agreement of Participating Entity contained Order; or (iii) any negligent or intentional act related to Participating Entity's use or the license of the Software.

14. Warranties and Limitations of Liability.

- (a) No Warranty on Behalf of Supplier. Participating Entity shall not make any representation or warranty to any third party, express or implied, binding or purporting to bind Supplier or any of its subsidiaries or parent company in connection with the Software, including but not limited to any representations or warranties relating to the performance, condition, title, noninfringement, merchantability, fitness for a particular purpose, system integration, or data accuracy of any of the foregoing.

- (b) Supplier Warranties. Supplier represents, warrants and covenants that: (i) none of the Software (or any content, features or component thereof), or the Services used in connection with the performance of this Order, nor the possession or use of any of the foregoing by or on behalf of Participating Entity, as permitted under this Order, will infringe or misappropriate any intellectual property right of any third party; (ii) all Services to be provided under this Order shall be performed promptly, diligently, in a good and workmanlike manner, efficiently and in a cost-effective manner, and in accordance with the practices and standards observed by the leading companies in Supplier's industry when performing services similar to the Services; and (iii) it will perform the Services in accordance with all applicable laws.
- (c) DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SUPPLIER MAKES NO WARRANTIES WITH RESPECT TO ANY PRODUCTS, LICENSE OR SERVICE, INCLUDING WITHOUT LIMITATION, THE SERVICES, SOFTWARE AND THE SUPPLIER TRADEMARKS, AND HEREBY DISCLAIMS ALL STATUTORY OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. SUPPLIER DOES NOT WARRANT THAT THE SOFTWARE SHALL MEET ANY END USER REQUIREMENTS OR THAT THE OPERATION OF THE LICENSED SOFTWARE SHALL BE UNINTERRUPTED OR ERROR-FREE. PARTICIPATING ENTITY HEREBY ACKNOWLEDGES AND AGREES THAT ALL DATA RELATING TO THE PRICING OF PRESCRIPTION MEDICATIONS IN OR INVOLVING THE SOFTWARE IS ACQUIRED BY SUPPLIER FROM THIRD PARTIES. THEREFORE, SUPPLIER PROVIDES NO WARRANTY OR GUARANTY WITH REGARDS TO THE ACCURACY OF SUCH DATA OR THAT SUCH PRICING MAY BE THE LOWEST COST OF ANY PARTICULAR PRESCRIPTION DRUG AND SUPPLIER IS NOT LIABLE FOR ANY DAMAGES RELATED TO ANY INACCURATE DATA. NOTWITHSTANDING THE FOREGOING, SUPPLIER WILL USE REASONABLE EFFORTS TO PROVIDE ACCURATE AND UPDATED DATA IN ITS SOFTWARE. PARTICIPATING ENTITY IS NOT AUTHORIZED TO MAKE ANY WARRANTY OR REPRESENTATION CONCERNING THE PERFORMANCE OF THE LICENSED SOFTWARE. PARTICIPATING ENTITY SHALL MAKE NO WARRANTY, EXPRESS OR IMPLIED, ON BEHALF OF SUPPLIER.
- (d) Notwithstanding anything in this Order, in no event shall Supplier's aggregate liability arising under, with respect to or in connection with this Order, exceed the total monies paid by Participating Entity to Supplier under this Order during the six (6) month period immediately preceding the date on which such liability arises. For claims arising during the first six months after the Effective Date, liability will be limited to an amount equal to six times the result obtained by dividing the total charges paid or payable under this Order from the Effective Date through the date on which such event occurred by the number of months from the Effective Date through such date.

15. Insurance.

- (a) Supplier agrees to maintain at its sole cost and expense, during the Term of this Order and for a period of at least two years thereafter with respect to insurance policies procured on a claims-made coverage form, the minimum insurance coverages provided in this Section. Supplier will cause its insurance broker/agent to provide to Participating Entity within thirty (30) days of the Effective Date Certificate(s) of Insurance meeting the following requirements:
 - (i) Commercial General Liability Insurance with minimum limits of \$5,000,000 per occurrence;
 - (ii) Workers' Compensation coverage with statutory minimum limits, and at least \$500,000 of Employers Liability Insurance; and
 - (iii) Network Privacy (Cyber) liability insurance with limits not less than \$5,000,000. Such insurance shall cover; (A) data security breaches including unauthorized access, use or theft of Protected Health Information or Confidential Information; (B) violation of laws relating to the care, custody, control or use of Protected Health Information or Confidential Information or the privacy or security thereof; (C) data damage, destruction, or corruption; and (D) any act, omission or failure to act that results in a failure of network security (including unauthorized access to, unauthorized use of, a denial of

service attack by a third party against, or transmission of a virus or other type of malicious code to Participating Entity's IT systems).

- (b) Supplier may satisfy its insurance requirements through the combined purchase of primary and excess/umbrella type policies.
- (c) All insurance required to be provided by Supplier shall be primary and non-contributory with respect to any other insurance maintained by Participating Entity. Any and all deductibles and/or self-insured retentions shall be assumed by and be for the account of and at the sole risk of Supplier.
- (d) Supplier will provide thirty (30) days' notice to Participating Entity prior to any cancellation or nonrenewal of the required insurance that would be reasonably expected to result in a gap in coverage.
- (e) All required policies shall be provided by insurers authorized to do business in the State in which the Services are provided with an AM Best Rating of at least A-VII.

16. Amendment.

Any changes, additions, or deletions to this Order will not be considered binding or agreed to unless the modifications have been approved in writing by both Parties.

17. Severability.

In the event any provision of this Order is found to be invalid or unenforceable, the remaining provisions shall remain in effect.

18. Notice.

All notices and consents required or permitted to be given under this Order, requests, demands or other communications hereunder shall be in writing signed by the Party giving such notice, request, demand or communication or its legal counsel and shall be deemed to have been duly given if and when delivered personally, or when received if transmitted by: first class, delivered by personal delivery, overnight mail or delivery service, or United States registered or certified mail, return receipt requested, postage prepaid, or if sent by a nationally recognized express courier service, postage delivery charges prepaid, or if sent by e-mail transmission of a scanned copy of the original notice (e.g., a.pdf or .tif file), addressed as follows:

If to Supplier:

Rx Savings, LLC

5440 W 110th Street, Suite 200

Overland Park, KS 66211

Attention: Chief Executive Officer

Email: Legal@rxsavingsolutions.com

If to Participating Entity:

[REDACTED]

[REDACTED]

[REDACTED]

Attention: [REDACTED]

Email: [REDACTED]

A Party may from time to time change its address for notices by giving notice of a new address to the other Party in accordance with this Section.

19. Waiver.

A Party will not be deemed to have waived a right under this Order unless the Party expressly waives that right in a writing delivered to the other Party. Any waiver by a Party of a breach of this Order shall not be construed as a waiver of any subsequent breach. Any failure or delay in exercising any right will not be construed as a waiver of that right.

20. Termination.

- (a) This Order may be terminated by either Party at any time upon a material breach of this Order (including failure to make payments on a timely basis) which shall remain uncured for a period of thirty (30) days after receiving written notice thereof from the other Party.
- (b) This Order may be terminated immediately by either Party upon written notice to the other Party if a Party shall:
 - (i) voluntarily cease to do business;
 - (ii) make an assignment for the benefit of creditors;
 - (iii) file a voluntary petition in bankruptcy or for reorganization or be adjudicated as bankrupt or insolvent; or
 - (iv) have a liquidator or a trustee appointed over its affairs and such appointment shall not have been terminated and discharged within thirty (30) days.
- (c) In the event that either Party has been informed by a federal or state regulatory body or court that full or partial performance of this Order is impermissible or there has been a material change to state or federal regulations that would materially alter either Parties' obligations under the terms of this Order, then either Party may terminate this Order as to such impermissible part(s) of this Order upon written notice to the other Party, unless the Order can be amended so that performance would no longer be prohibited and provided that such amendment is mutually acceptable to the Parties.
- (d) Supplier may at its sole election immediately either terminate this Order or suspend the Services:
 - (i) For any violation of Section 2 or Section 3 herein, or
 - (ii) If payments owed to Supplier are more than thirty (30) days overdue, or

(iii) There is no executed renewal agreement between Supplier and Participating Entity upon expiration of the Order’s Term.

(e) Participating Entity may terminate this Order upon providing sixty (60) days’ notice to Supplier if:

(i) Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the Services; or

(ii) Federal, state or local laws or regulations prohibit payment of Service Fees hereunder or otherwise change the Participating Entity’s requirements.

Within thirty (30) days of the termination of this Order for any reason, Participating Entity shall pay Supplier any unpaid fees under any Order as calculated up to the date of termination. If Participating Entity terminates the underlying contractual relationship between Participating Entity and Sourcewell prior to the expiration of Term set forth in this Order or during any subsequent renewal Term, Participating Entity shall provide Supplier with ninety (90) days’ notice prior to said termination.

AGREED AND ACCEPTED BY:

Rx SAVINGS, LLC d/b/a RX SAVINGS SOLUTIONS [REDACTED] (“PARTICIPATING ENTITY”) (“SUPPLIER”)

By: _____ **By:** _____

Name: _____ **Name:** _____

Title: _____ **Title:** _____

Date: _____ **Date:** _____

Sourcewell RFP 111623

**Employee Benefits Administrative Software Platforms;
Member and Provider Advocacy Services; Transparency,
Fraud, Waste and Abuse Products and Related Services**

Q6.31 Standard Transaction Documents:

Proposed Order Form for 2,000 – 4,999 Members



ORDER FORM

Supplier: Rx Savings, LLC d/b/a Rx Savings Solutions
 5440 W. 110th Street, Suite 200
 Overland Park, KS 66211
 Email: legal@rxsavingsolutions.com

Company: Sourcewell
 202 12th Street Northeast
 P.O. Box 219
 Staples, MN 56479

Participating Entity:

Supplier agrees to provide the services described in this “**Order**” to Participating Entity (as listed above) of Company (hereinafter, “**Sourcewell**”). This Order, along with any other exhibits or schedules attached hereto and incorporated by reference, form a binding agreement between Supplier and Participating Entity (collectively, the “**Parties**”). To the extent that any of the terms in this Order conflict with terms found in separate agreements between Participating Entity and Sourcewell, this Order shall control. This Order shall be governed by Attachment 1 to Order (Additional Terms) attached hereto.

The Effective Date of this Order is .

SERVICES ORDERED	
SERVICE NAME / TYPE	FEE
<input checked="" type="checkbox"/> Rx Savings Solutions (Prescription Consumer Engagement Solution) <input type="checkbox"/> Renewal	Not to exceed \$3,000.00 per month
<input checked="" type="checkbox"/> Implementation Services	Not to exceed \$4,750.00
<input type="checkbox"/> Optional (Fee-Based) Services	Integrated Technology (ITP) Package: \$0.12 per Member per month (“PMPM”) ITP Individual APIs (not Package):

	<ul style="list-style-type: none"> • Opportunities: \$0.09 PMPM • Total Savings: \$0.09 PMPM • Drug Search: \$0.09 PMPM • Members: \$0.09 PMPM <p>Single Sign-On (SSO): Not to exceed \$10,000.00 one-time fee</p> <p>Private Labeling: Not to exceed \$15,000 one-time fee</p>
Target Launch Date	
Term Length	36 months from the actual Launch Date of the Services
Estimated # of Members	

ATTACHMENT 1 TO ORDER: ADDITIONAL TERMS

1. Definitions.

“**Affiliate**” means, with respect to any entity, any other present or future entity which at any time, directly or through one or more intermediaries, Controls, is Controlled by or is under common Control with such entity or its successors, where “**Control**” and its derivatives means with respect to any entity either: (i) the ability to direct the management or policies of such entity, or (ii) the legal, beneficial or equitable ownership, directly or indirectly, of fifty percent (50%) or more of the capital stock (or other ownership interest, if not a corporation) ordinarily having voting rights of such entity.

“**Member**” means any person receiving insurance benefits from or through the Participating Entity or its Affiliate.

“**Party**” refers to either Supplier or Participating Entity, and “**Parties**” refers to both Supplier and Participating Entity.

“**Services**” means Supplier’s prescription cost savings services and shall include any Software.

“**Software**” means all software, computer programs and all intellectual property relating directly or indirectly related to the Services (including but not limited to all trademarks, copyrights, patents and trade secrets owned by Supplier), whether it is owned by Supplier directly or licensed separately by Supplier from a third party, that is necessary for Participating Entity to effectively utilize the Services. “Software” shall be included in the definition of “Services.” Additionally, Software means computer programs, intellectual property or Services identified in this Order or elsewhere in the Agreement, together with input and output formats, object code, program listings, data models, flow charts, outlines, narrative descriptions, operating instructions, and supporting documentation. Software shall include all authorized reproductions, corrections, updates, new releases, and new versions of such programs. The Software and Services to be rendered by Supplier are further described in Section 5 of this Order.

2. License to Use, Access and Distribute Software.

2.1 License Grant. Subject to the terms and conditions of this Order, Supplier hereby grants to Participating Entity and its Affiliates a non-transferable, nonexclusive, non-sublicensable license: (i) to access and view the Software; (ii) to distribute and provide access and use the Software directly to Members in accordance with the terms and conditions of this Order; (iii) to access and use Supplier’s systems and hardware in order to access, use and distribute the Software; and (iv) to use and operate the licensed Software (solely on Participating Entity’s systems or Participating Entity’s parent, subsidiary or affiliated company systems) for the sole purpose of: (A) testing and evaluation of the licensed Software; (B) training Participating Entity’s and its Affiliates’ personnel on the Software; (C) demonstrating and promoting the Software to Members; and (D) supporting the use of the Software by Participating Entity’s Members. Participating Entity understands and agrees that the license granted under Section 2 provides Participating Entity a license to access, use and distribute the Software, but that the Software is not downloadable, and cannot be installed, to Participating Entity’s own systems and hardware.

2.2 Restrictions on Use. Participating Entity shall not, and shall use commercially reasonable efforts to ensure that other third parties shall not:

- (a) Modify, adapt, alter, translate, copy, perform and display (publicly or otherwise) or create derivative works based on the Software;
- (b) Reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software without Supplier’s approval;
- (c) Access the Software or utilize the Services to create a competitive product or service; or create a product using similar ideas and features; interfere with or disrupt the integrity of the Software or Services;
- (d) Attempt to gain unauthorized access to the Software or Services, including through the use of penetration testing without the prior written approval from the Supplier;
- (e) Merge or bundle the Software with other software without Supplier’s approval;

- (f) Sublicense, lease, rent, or loan the Software;
- (g) Provide any access or login credentials to any third-party contractors without prior written consent from Supplier. (If Supplier consents to such access, Participating Entity will ensure that third parties are restricted from capturing, retaining and/or using Confidential Information (as defined hereafter) for any purpose beyond the furtherance of their engagement with Participating Entity. Further, Participating Entity will ensure that third parties are expressly restricted from creating commercially available products and or profiting in any way from work relating to the Software or Services completed on behalf of Participating Entity.);
- (h) Transfer the Software to any third party, except as expressly permitted under this Section.

3. Mutual Confidentiality Obligations.

- (a) Definition of Confidential Information. For purposes of this Order, “**Confidential Information**” shall include, without limitation, all non-public information and material that has or could have commercial value or other utility in the various areas of business in which a Party is engaged. Confidential Information may be contained, without limitation, in tangible materials, such as data, financial information, client lists and information, business plans and methods, specifications, reports and computer programs, or may be unwritten knowledge and spoken word. This includes all communication of Confidential Information between the Parties in any form whatsoever, including oral, written and machine readable form; all technical and business Confidential Information relating to a Party’s proprietary ideas, patents, patent applications, patentable ideas and/or trade secrets, trademarks, copyrights, computer programs in object and/or source code, know-how, existing and/or contemplated products and services, research and development, production, costs, profit and margin business information, finances and financial projections, clients, marketing, internal financial data, and current or future business plans and models, regardless of whether such Confidential Information is designated as “Confidential Information” at the time of its disclosure; and other confidential and/or sensitive Confidential Information which is (a) disclosed as such in writing and marked as confidential (or with other similar designation) at the time of disclosure; and/or (b) disclosed in any other manner and identified as Confidential Information at the time of disclosure.
- (b) Exclusions from Confidential Information. A Party’s obligations under this Order do not extend to Confidential Information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no wrongful act of the receiving Party; (b) was previously rightfully known by the receiving Party free of any obligation to keep it confidential; (c) is independently developed by the receiving Party without reference to the Confidential Information of the disclosing Party or (d) is disclosed by a receiving Party with the disclosing Party’s prior written approval.
- (c) Obligations regarding Confidential Information. Each Party warrants and agrees that it will use the highest degree of care to hold the Confidential Information of the other Party in the strictest confidence. A Party shall not divulge any Confidential Information of the other Party in breach of this Order. Notwithstanding the above, a Party shall not be in violation of this Section with regard to a disclosure that was in response to a valid order by a court or other governmental body, provided that such Party provides the other Party with prior written notice of such disclosure, if legally permitted to do so, in order to permit the other Party to seek confidential treatment of such information. A Party shall immediately notify the other Party upon discovery of any loss or unauthorized disclosure of the Confidential Information of such Party. The obligations of a Party under this Section shall survive the termination of this Order.
- (d) Restriction of Rights of Use of Confidential Information. A Party shall not use for its own benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of the other Party, any Confidential Information of the other Party. Each Party acknowledges that the Confidential Information shall remain the sole property of the other Party. This Order shall not be construed as creating, conveying, transferring, granting, implying, or conferring upon a Party any rights to patents, licenses, or any other intellectual property rights or ownership interests or authority in or to the Confidential Information exchanged by the other Party. Should a Party, directly or indirectly, realize any benefit, financial or otherwise, as a result of the use or disclosure of the Confidential Information of the other Party in contravention or breach of this Order, such benefit shall be deemed to have been earned by the other Party and shall constitute an asset of the other Party and the disclosing Party hereby declares itself to be a trustee thereof for the other Party with no beneficial interest in any benefit earned thereby.
- (e) Loan of Tangible Copies of Confidential Information. In the event that a Party furnishes physical or tangible copies of any of the Confidential Information to the other Party, such Party acknowledges and agrees that these

materials are furnished under the following conditions: (i) these materials are loaned to the Party for the sole purposes of engagement with the other Party and for the other Party's benefit only; (ii) these materials shall be treated consistent with the Party's obligation for Confidential Information under this Order; (iii) the Party may not copy or otherwise duplicate these materials except to the extent necessary to perform its obligations or exercise its rights under this Order; and (iv) all data received by the other Party must be returned upon written or oral request by the other Party at any time, and may not be distributed or shared without the explicit written consent of the other Party.

- (f) Return of Confidential Information. Upon termination of this Order for any reason, each Party agrees to irretrievably destroy or, at the request of the other Party, return to the other Party, its successors or assigns all Confidential Information, including, without limitation, all Confidential Information in tangible form, all devices, computer disks or other electronic or magnetic storage media, records, data, proposals, blueprints, lists, economic data, business plans, specifications, drawings, sketches, materials, equipment, other documents or property together with all copies (in whatever medium recorded). If Confidential Information of the disclosing Party stored electronically has been commingled by the receiving Party with its own Confidential Information such that it cannot feasibly be separated for return or destruction, such commingled data need not be returned or destroyed as provided in this Section, provided that the receiving Party complies with its obligations under this Order with respect to such electronic Confidential Information and makes no attempt to use or restore such Confidential Information.
- (g) Acknowledgments; Remedies. Each Party acknowledges that compliance with the terms, conditions, and covenants contained in this Order is necessary to protect the legitimate business interests of the other Party and that any breach of the covenants contained in this Order may result in irreparable and continuing damage to the other Party, for which money damages may not provide adequate relief. Consequently, each Party agrees that, in the event it breaches or threatens to breach any aspect of this Section, the other Party shall be entitled to seek a temporary restraining order, preliminary injunction, and permanent injunction in order to prevent the continuation of such harm. Nothing in this Order shall be construed to prohibit either Party from also pursuing any other remedy allowed by law. Further, in the event a Party breaches any aspect of the provisions of this Section, it agrees to pay all of the other Party's costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by a Party to enforce the terms of this Order.

4. Supplier Ownership.

- (a) Supplier shall own all right, title and interest, including all intellectual property rights, in and to the Software. All rights in and to the Software not expressly granted to Participating Entity under this Order are reserved by Supplier. This Order does not grant any ownership rights to Participating Entity for any part of the Software.
- (b) Supplier shall retain title to all work product developed or created for Participating Entity pursuant to this Order. Supplier shall not be restricted in the manner in which it uses the work product or ideas, concepts, techniques or procedures used in Supplier's performance of the Services.
- (c) Supplier may monitor the use of the Software and Services and use aggregate and anonymous Participating Entity data to compile statistical and performance related information relative to the operation and performance of the Software and Services. Supplier may make such information available to be used to supplement the Software and Services providing that such information remains anonymized and does not identify Participating Entity or its Members. Supplier retains all right, title and interest, including all intellectual property rights, in such information.

5. Description of Software and Services to be Rendered by Supplier.

5.1 Software.

- (a) Supplier shall provide its prescription cost savings services (collectively the "Services") and Software to Participating Entity. Supplier shall provide the specific items and Services related to the Software as set forth below:
 - (i) Member Portal

(A) One dedicated portal for registered Members to access available personalized savings opportunities and guidance. (If additional member portals are required, additional implementation fees may apply.)

(ii) Pharmacy Benefit Integration in the following components:

(A) Eligibility processing

(B) Claims processing

(C) Clinical rules

(D) Formulary

(E) Plan design

(F) ACA preventive

(G) Pharmacy network

(iii) Work with Participating Entity's pharmacy benefit manager "PBM" as needed to provide plan specific pricing and as otherwise needed to provide the Services

(iv) Prescription claims analysis which includes savings opportunities whereby Supplier Software looks for both clinical and financial ways to save. These include:

(A) Therapeutic alternatives

(B) Combination splits

(C) Dosage form changes

(D) Dose optimization

(E) Tablet splitting

(F) Generic substitutions

(G) Generic clones

(H) Fulfillment options including mail order and retail locations

(I) Other savings opportunities/recommendations that may be provided by Supplier

(v) Contact Prescriber services

5.2 Member Engagement Services.

Supplier shall provide its prescription cost savings engagement Services to Participating Entity. Supplier shall provide the specific items related to the Services as set forth below:

(a) Engagement Services:

(i) Planning and execution meetings with a dedicated client engagement manager

(ii) Four (4) educational emails to all eligible Members with email addresses to promote awareness of benefit and drive engagement

(iii) Ongoing personalized savings notifications via email and text (“SMS”) to all eligible Members (Member opt-in required for SMS)

(iv) Quarterly targeted engagement campaigns via email and direct mail

(v) Toolkit with downloads of flyers, postcards, frequently asked questions, videos, and posters

(vi) Direct mail savings notifications delivered to Members with potential medication savings on a quarterly basis.

(vii) Rx Rewards Incentive Program: behavior change based Member incentives through Supplier’s Pay Forward program (a third-party program granting gift cards to certain Members for making a behavior change). The Rx Rewards incentive program will be managed and funded by Supplier. Supplier does not provide any tax advice related to this program.

(viii) Ongoing marketing consultation throughout life of contract.

(ix) Customization options of included Marketing Services limited to:

(A) Co-branding

(B) Inclusion of Participating Entity Name

(C) Custom incentive information

5.3 Optional (Fee-Based) Services:

Optional (Fee-Based) Services not already selected in the “Services Ordered” section of this Order will be quoted separately by Supplier as they become available to Participating Entity.

5.4 Ongoing Support Services Provided by Supplier to Participating Entity:

Supplier shall provide the following ongoing support for the Services:

(a) Tier 1 Member phone support for Services 7 a.m. – 8 p.m. CST, Monday-Friday, except holidays recognized by Supplier (generally Nationally recognized holidays, plus the Friday following Thanksgiving, Christmas Eve and New Year’s Eve).

(b) Ongoing plan pricing maintenance: (upon request, available only for clients with more than 5,000 Members)

(i) Up to one (1) plan design load per year

(ii) Up to four (4) formulary file loads per year

(iii) Up to two (2) network file loads per year

(c) Monthly reports that include the following aggregate data:

(i) Registration rate reports

(ii) Savings opportunities

(iii) Actual, realized savings (such reports are provided beginning six months after the Launch Date (as such term is hereinafter defined))

- (iv) Campaign overview and results
- (v) Upcoming Campaigns planned
- (vi) Outbound File Feeds

(A) A Member-level registration file extract may be set up to identify which members have registered for RxSS for the purpose of providing registration incentives and sent to a Secure FTP accessible by Participating Entity on a pre-defined cadence. These files will include the following fields:

- (1) Member Id Note: This is the same Member ID that is provided to Supplier as part of the ongoing eligibility feed.
- (2) Member First Name
- (3) Member Last Name
- (4) Registration Date

(B) Any additional outbound file extracts outside of or in addition to (A) above may require a new scope of work and be subject to an additional charge. All additional scopes of work and charges will be agreed to in writing prior to the commencement of work

5.5 PBM Change.

Notwithstanding anything herein to the contrary, should Participating Entity change Participating Entity's PBM during the Term (defined hereafter), Participating Entity shall owe an additional implementation fee (the "**Change PBM Fee**") based on the following schedule:

- (a) Participating Entity's will be charged a one-time Change PBM Fee **not to exceed \$10,000**.
- (b) The Change PBM Fee shall be payable within thirty (30) days of Participating Entity providing Supplier notice of Participating Entity's intent to change Participating Entity's PBM and the timing of such change for Participating Entity.

6. Implementation, Delivery and Launch of Software.

Within ten (10) days of the Effective Date, Participating Entity will be assigned a dedicated Project Manager and Client Success Manager who will work with Participating Entity to build a project plan to ensure implementation and program success. The project plan will outline all the steps needed to successfully launch the Services according to the agreed upon timeline.

- (a) The Delivery Date (as hereinafter defined) and implementation plan shall be determined by mutual agreement of the Parties as soon as reasonably possible after the Effective Date. For purposes of this Order, the date that Supplier has turned over the Software for user acceptance testing by Participating Entity is the "**Delivery Date**". The Parties agree that the targeted Delivery Date under this Order shall be sixteen (16) to twenty (20) weeks following the Effective Date. A detailed project plan ("Plan") shall be presented to Participating Entity during the align phase of the implementation and both Parties will mutually agree on a targeted Delivery Date.
- (b) The Launch Date (as hereinafter defined) shall be determined by mutual agreement of the Parties as soon as reasonably possible after the Delivery Date. For purposes of this Order, the date that Supplier or Participating Entity agrees to communicate information about the benefit availability to the eligible Members is the "**Launch Date**". If direct mail is the primary method for savings notifications (less than 50% of Member's email addresses have been made available to Supplier), the Launch Date shall be the first delivery date of direct mail pieces to Members.

7. Participating Entity Obligations.

Participating Entity will use commercially reasonable efforts to ensure that all Member information provided by Participating Entity to Supplier is accurate and kept current. Participating Entity acknowledges and agrees that in order to provide the Services, Supplier may need access to email addresses and mobile phone numbers of Participating Entity's Members. Therefore, Participating Entity agrees to provide directly to Supplier all Member email addresses and mobile phone numbers it has in its possession as soon as reasonably possible after requested by Supplier. Supplier shall notify Participating Entity upon becoming aware that any Member data provide by Participating Entity is incorrect or incomplete, and Participating Entity shall use reasonable efforts to provide correct and complete data. Participating Entity shall indemnify Supplier in accordance with Section 13 for any claims, damages, losses, and expenses (including attorney's fees) incurred by Supplier due to Participating Entity providing any false, misleading or inaccurate Member information to Supplier.

(a) The Participating Entity shall be responsible for the following:

(i) Provide Supplier with the following: eligibility files, prescription claims files, group plan details, network pharmacy files, formulary files, and accumulator files (if applicable); (the Parties shall mutually work to ensure data is provided to Supplier in an acceptable manner, provided additional fee may be incurred if file formats change after the initial implementation);

(A) Eligibility files should include all eligible Members at the time the eligibility file is sent to Supplier.

(B) Supplier will provide Participating Entity with file specifications for each of the required files during the discovery phase of the implementation. If the file specifications cannot be met by Participating Entity, additional development time may be required to complete the implementation.

(C) If utilizing a single sign on ("SSO"), Participating Entity must incorporate deep link functionality for most direct access to Member portal. Additionally, Participating Entity must allow direct link access to the Supplier's Member portal (also sometimes referred to as a 'Hybrid Approach' in Supplier materials provided to Participating Entity) to optimize Member registration, behavior changes and savings.

(ii) Provide reasonable access to Participating Entity personnel who are necessary for progress of this Order and provide appropriate administrative resources as necessary;

(iii) Provide access to, and coordinate with, Participating Entity's pharmacy benefit manager or applicable third party vendors;

(iv) Provide Supplier (from Participating Entity or a third party directed by Participating Entity) with all eligible, primary Member email addresses ("**Member Email**") Participating Entity has on file within thirty (30) days of the Launch Date;

(v) Provide Supplier (from Participating Entity or a third party directed by Participating Entity) with all eligible Member mailing addresses and telephone numbers Participating Entity has on file within thirty (30) days of the Launch Date; and

(vi) Participating Entity must send three internal memos to members, one at launch of the Services explaining the Services, a second three months after the launch of the Services and a third six months after the launch of the Services. Participating Entity will then reference the Services annually during open enrollment.

(vii) Participating Entity will participate in a case study when 1:1 ROI is surpassed and may allow for press release after the Launch Date, provided that (for both the case study and the press release) all content and subject matter will be coordinated with and approved by the Participating Entity prior to use or release.

(b) Participating Entity's failure to perform any of the Participating Entity responsibilities (or cause them to be performed) will excuse Supplier's nonperformance of its obligations under this Order, including, but not limited to, providing any Savings Credits as set forth in Section 9 herein.

8. Fees.

- (a) Participating Entity shall pay Supplier an implementation fee **not to exceed \$4,750.00** to fully establish Supplier's Services for Participating Entity. The implementation fee shall be due within forty-five (45) days of the Effective Date.
- (b) Participating Entity shall pay Supplier "Service Fees" **not to exceed \$3,000.00** beginning on the Launch Date and the first of every calendar month thereafter. Service Fees shall be prorated for any partial month of Services. Participating Entity's failure to pay the Service Fees shall be considered a material breach under this Order.
- (c) The Parties acknowledge that, pursuant to an underlying agreement between Sourcewell and Supplier (the "**Sourcewell Agreement**"), Sourcewell will be paid an administrative fee by Supplier equal to one percent (1%) of the combined Service Fees and Optional (Fee-Based) Service fees paid by Participating Entity to Supplier (the "**Sourcewell Fee**"). The Sourcewell Fee will be paid by Supplier to Sourcewell quarterly based upon the combined Service Fees and Optional (Fee-Based) Service fees Participating Entity has paid to Supplier during the immediately preceding quarter. The Sourcewell Fee is not considered when calculating the Savings Credit (defined hereafter) in this Order. Participating Entity acknowledges and agrees that Supplier may share this Order with Sourcewell to the extent necessary to verify proper remittance of the Sourcewell Fee. Supplier's obligation to pay the Sourcewell Fee will cease upon termination of the Sourcewell Agreement for any reason.
- (d) The parties agree that the billing invoice is based on the Services Fees described above. Supplier shall provide Participating Entity with the number of Members in Participating Entity's eligibility file provided to Supplier. The minimum allowable number of eligible Members required for Services under this Order is two thousand (2,000) Members. Should Participating Entity grow the number of Members eligible equal to or exceeding five thousand (5,000) Members, Supplier reserves the right to change Participating Entity's billing invoice to a Per Member Per Month (PMPM) fee **not to exceed \$1.19** per Member. Service Fees must be paid within thirty (30) days of receipt of an invoice by Participating Entity from Supplier. The parties agree to that the Services Fees under this Section 8 are based on the representation by Participating Entity that it has approximately <####> Members. Should Participating Entity change to a PMPM fee, the dollar amount invoiced will adjust monthly dependent upon actual membership of Participating Entity.
- (e) During any renewal period after the initial Term ("**Renewal Term**"), Service Fees will increase by three percent (3%) per year. The increase shall be based upon the Service Fees paid in the month directly preceding the new Renewal Term.

9. Service Fee Credit.

In completing the Services, Supplier shall provide Participating Entity with a Service Fee Credit in accordance with the terms set forth in subsections (a) – (f) below.

- (a) Beginning eighteen (18) months following the date Supplier first provides Services to Participating Entity (the "**Launch Date**"), and every calendar quarter thereafter, Supplier shall perform a Savings Calculation (as hereinafter defined) to determine the savings provided to Participating Entity and Participating Entity's Members in the aggregate in the time since the Launch Date. Supplier shall calculate Participating Entity's and the Members' realized savings due to the Services provided by Supplier to Participating Entity in accordance with its Savings Guarantee Calculation Methods, a copy of which shall be provided to Participating Entity upon request (collectively the "**Savings Calculation**").
- (b) The aggregate Service Fees that are paid to Supplier for the Services shall be the "**Participating Entity Payment**". The amount of aggregate savings realized by Participating Entity and its Members due to any and all Services provided by Supplier to Participating Entity and its Members under this Order as determined by such Savings Calculation shall be the "**Participating Entity Savings**".
- (c) If the Participating Entity Savings is not equal to or greater than the Participating Entity Payment (i.e., a 1:1 Return on Investment or "**ROI**"), then Supplier shall provide Participating Entity a credit in Service Fees for the difference between the Participating Entity Payment and the Participating Entity Savings (the "**Savings Credit**"). The total amount of the Savings Credit shall be credited in full towards the Participating Entity's Service Fees in the month following the completion of the Savings Calculation. If any Savings Credit remains, then any Savings Credit remaining shall continue to be applied in full to future monthly invoices on an ongoing basis until all such Savings Credit is fully exhausted. Details of all Savings Calculations will be provided to

Participating Entity upon request. If, after any Savings Calculation, the Participating Entity Savings is more than the Participating Entity Payment, then there will be no Savings Credit provided. In no event shall there be any refunds of any Service Fees. Supplier may complete the Savings Credit, if any, by not invoicing Participating Entity for any Services until the Savings Credit has been exhausted.

- (d) Should Participating Entity renew this Order, then beginning thirty-six (36) months following the Launch Date and every calendar quarter thereafter, Supplier shall continue to perform the Savings Calculation. If the Participating Entity Savings is not equal to or greater than two times the Participating Entity Payment (i.e., a 2:1 ROI), then Supplier shall provide Participating Entity a Savings Credit in Service Fees for the difference between two times the Participating Entity Payment and the Participating Entity Savings.
- (e) The Parties agree that Supplier has the right to amend all savings calculations used to determine the Savings Credit, if any, to account for medication suppressions that have been made at the request of Participating Entity to Supplier in writing. For example, such amendments to the savings calculation may occur if Participating Entity requests Supplier to withhold alerts on certain medications for any reason. Any such changes to any Savings Calculations will be provided to Participating Entity in writing and disclosed as part of any Savings Calculation reports.
- (f) To be eligible for any Savings Credit in Service Fees, Participating Entity is solely responsible for meeting the following criteria:
 - (i) To the extent permitted by applicable law, Participating Entity must have allowed Supplier the ability to contact Members as Supplier reasonably determined was necessary to provide information regarding the Services;
 - (ii) Participating Entity must have reasonably cooperated with Supplier as needed in order to facilitate any Member communication;
 - (iii) Participating Entity must have allowed Supplier to market and communicate with Participating Entity's Members, and participate in full any Supplier Member engagement plan and cadence, inclusive of all campaigns and marketing services, including:
 - (A) Launch Campaigns
 - (B) Savings Notifications
 - (C) Rolling Eligibility
 - (D) Re-Engagement Campaigns
 - (E) Quarterly Campaigns
 - (F) Strategic Campaigns Supplier determines may be beneficial to Participating Entity
 - (iv) Participating Entity must have met all dates associated with the service plan created by Supplier for Participating Entity;
 - (v) Participating Entity must have allowed for targeted outbound calling campaigns;
 - (vi) Participating Entity must have participated in quarterly direct mail savings notifications and personalized savings reports;
 - (vii) Participating Entity must have allowed Members to register and access the Supplier member portal directly, regardless of SSO integration with Participating Entity or third party;
 - (viii) Participating Entity must have paid all undisputed Service Fees in a timely manner;
 - (ix) Should Participating Entity fail to provide Supplier at least seventy-five percent (75%) of all Member's emails, Participating Entity shall not be eligible for any Savings Credits. Notwithstanding, should Participating Entity provide Supplier at least twenty-five percent (25%) of all Member's emails, Participating Entity shall be entitled to Savings Credits if the Participating Entity Payment is greater than the Participating Entity Savings (a 1:1 ROI). The Savings Credit, if any, shall be applied as set forth above.
 - (x) For avoidance of all doubt, Optional (Fee-Based) Services are not included in the Savings Calculation and any corresponding ROI guarantees and/or resulting Savings Credits.

10. Taxation.

If any sales and/or use tax is ever imposed upon the Services provided by Supplier to Participating Entity by any applicable taxing authority, then Participating Entity agrees to be liable for such tax payment and such tax payment shall be added to any fees owed by Participating Entity to Supplier pursuant to any Order.

11. Expenses.

Except as may be otherwise agreed to by the Parties, in the event Supplier is required and/or requested by Participating Entity to travel to provide any Services to Participating Entity, Participating Entity shall reimburse Supplier for all reasonable travel and other expenses (except for normal daily working and commuting expenses) at actual cost, incurred in connection with on-the-job services, furnished under any Order. Supplier shall provide Participating Entity with any invoice regarding such expenses and any such invoice shall be due within thirty (30) days of receipt by Participating Entity.

12. Force Majeure.

No failure, delay or default in performance of any obligation of any Party shall constitute an event of default or breach of the Agreement to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the control and without negligence of the Party, including, but not limited to: action or inaction of governmental, civil or military authority; fire, strike, lockout or other labor dispute; flood, war; terrorism; riot; pandemic; theft; earthquake and other natural disaster, provided that (i) the non-performing Party is without fault in causing or failing to prevent the event, and (ii) the event cannot be circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

13. Indemnification.

- (a) Participating Entity shall be liable for, defend and indemnify Supplier against any and all claims, losses, damages, liabilities, costs, expenses or obligations, including but not limited to, reasonable attorneys' fees, court costs and other damages (collectively a "Loss"), arising from or out of (i) any fraudulent, dishonest or criminal act or omission by Participating Entity or its respective employees, subcontractors or agents, in the performance of any of its obligations or duties under this Order; (ii) any material breach or failure to perform any representation, warranty, undertaking or agreement of Participating Entity contained Order; or (iii) any negligent or intentional act related to Participating Entity's use or the license of the Software.

14. Warranties and Limitations of Liability.

- (a) No Warranty on Behalf of Supplier. Participating Entity shall not make any representation or warranty to any third party, express or implied, binding or purporting to bind Supplier or any of its subsidiaries or parent company in connection with the Software, including but not limited to any representations or warranties relating to the performance, condition, title, noninfringement, merchantability, fitness for a particular purpose, system integration, or data accuracy of any of the foregoing.
- (b) Supplier Warranties. Supplier represents, warrants and covenants that: (i) none of the Software (or any content, features or component thereof), or the Services used in connection with the performance of this Order, nor the possession or use of any of the foregoing by or on behalf of Participating Entity, as permitted under this Order, will infringe or misappropriate any intellectual property right of any third party; (ii) all Services to be provided under this Order shall be performed promptly, diligently, in a good and workmanlike manner, efficiently and in a cost-effective manner, and in accordance with the practices and standards observed by the leading companies in Supplier's industry when performing services similar to the Services; and (iii) it will perform the Services in accordance with all applicable laws.
- (c) DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SUPPLIER MAKES NO WARRANTIES WITH RESPECT TO ANY PRODUCTS, LICENSE OR SERVICE, INCLUDING WITHOUT LIMITATION, THE SERVICES, SOFTWARE AND THE SUPPLIER TRADEMARKS, AND HEREBY DISCLAIMS ALL STATUTORY OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. SUPPLIER DOES NOT WARRANT THAT THE SOFTWARE SHALL MEET ANY END USER REQUIREMENTS OR THAT THE OPERATION OF THE LICENSED SOFTWARE SHALL BE UNINTERRUPTED OR ERROR-FREE. PARTICIPATING ENTITY HEREBY ACKNOWLEDGES AND AGREES THAT ALL DATA RELATING TO THE PRICING OF PRESCRIPTION MEDICATIONS IN OR INVOLVING THE SOFTWARE IS ACQUIRED BY SUPPLIER FROM THIRD PARTIES. THEREFORE, SUPPLIER PROVIDES NO WARRANTY OR GUARANTY WITH REGARDS TO THE ACCURACY OF SUCH DATA OR THAT

SUCH PRICING MAY BE THE LOWEST COST OF ANY PARTICULAR PRESCRIPTION DRUG AND SUPPLIER IS NOT LIABLE FOR ANY DAMAGES RELATED TO ANY INACCURATE DATA. NOTWITHSTANDING THE FOREGOING, SUPPLIER WILL USE REASONABLE EFFORTS TO PROVIDE ACCURATE AND UPDATED DATA IN ITS SOFTWARE. PARTICIPATING ENTITY IS NOT AUTHORIZED TO MAKE ANY WARRANTY OR REPRESENTATION CONCERNING THE PERFORMANCE OF THE LICENSED SOFTWARE. PARTICIPATING ENTITY SHALL MAKE NO WARRANTY, EXPRESS OR IMPLIED, ON BEHALF OF SUPPLIER.

- (d) Notwithstanding anything in this Order, in no event shall Supplier's aggregate liability arising under, with respect to or in connection with this Order, exceed the total monies paid by Participating Entity to Supplier under this Order during the six (6) month period immediately preceding the date on which such liability arises. For claims arising during the first six months after the Effective Date, liability will be limited to an amount equal to six times the result obtained by dividing the total charges paid or payable under this Order from the Effective Date through the date on which such event occurred by the number of months from the Effective Date through such date.

15. Insurance.

- (a) Supplier agrees to maintain at its sole cost and expense, during the Term of this Order and for a period of at least two years thereafter with respect to insurance policies procured on a claims-made coverage form, the minimum insurance coverages provided in this Section. Supplier will cause its insurance broker/agent to provide to Participating Entity within thirty (30) days of the Effective Date Certificate(s) of Insurance meeting the following requirements:
 - (i) Commercial General Liability Insurance with minimum limits of \$5,000,000 per occurrence.
 - (ii) Workers' Compensation coverage with statutory minimum limits, and at least \$500,000 of Employers Liability Insurance; and
 - (iii) Network Privacy (Cyber) liability insurance with limits not less than \$5,000,000. Such insurance shall cover; (A) data security breaches including unauthorized access, use or theft of Protected Health Information or Confidential Information; (B) violation of laws relating to the care, custody, control or use of Protected Health Information or Confidential Information or the privacy or security thereof; (C) data damage, destruction, or corruption; and (D) any act, omission or failure to act that results in a failure of network security (including unauthorized access to, unauthorized use of, a denial of service attack by a third party against, or transmission of a virus or other type of malicious code to Participating Entity's IT systems).
- (b) Supplier may satisfy its insurance requirements through the combined purchase of primary and excess/umbrella type policies.
- (c) All insurance required to be provided by Supplier shall be primary and non-contributory with respect to any other insurance maintained by Participating Entity. Any and all deductibles and/or self-insured retentions shall be assumed by and be for the account of and at the sole risk of Supplier.
- (d) Supplier will provide thirty (30) days' notice to Participating Entity prior to any cancellation or nonrenewal of the required insurance that would be reasonably expected to result in a gap in coverage.
- (e) All required policies shall be provided by insurers authorized to do business in the State in which the Services are provided with an AM Best Rating of at least A-VII.

16. Amendment.

Any changes, additions, or deletions to this Order will not be considered binding or agreed to unless the modifications have been approved in writing by both Parties.

17. Severability.

In the event any provision of this Order is found to be invalid or unenforceable, the remaining provisions shall remain in effect.

18. Notice.

All notices and consents required or permitted to be given under this Order, requests, demands or other communications hereunder shall be in writing signed by the Party giving such notice, request, demand or communication or its legal counsel and shall be deemed to have been duly given if and when delivered personally, or when received if transmitted by: first class, delivered by personal delivery, overnight mail or delivery service, or United States registered or certified mail, return receipt requested, postage prepaid, or if sent by a nationally recognized express courier service, postage delivery charges prepaid, or if sent by e-mail transmission of a scanned copy of the original notice (e.g., a.pdf or .tif file), addressed as follows:

If to Supplier:

Rx Savings, LLC
5440 W 110th Street, Suite 200
Overland Park, KS 66211
Attention: Chief Executive Officer
Email: Legal@rxsavingsolutions.com

If to Participating Entity:

[Redacted]
[Redacted]
[Redacted]
Attention: [Redacted]
Email: [Redacted]

A Party may from time to time change its address for notices by giving notice of a new address to the other Party in accordance with this Section.

19. Waiver.

A Party will not be deemed to have waived a right under this Order unless the Party expressly waives that right in a writing delivered to the other Party. Any waiver by a Party of a breach of this Order shall not be construed as a waiver of any subsequent breach. Any failure or delay in exercising any right will not be construed as a waiver of that right.

20. Termination.

- (a) This Order may be terminated by either Party at any time upon a material breach of this Order (including failure to make payments on a timely basis) which shall remain uncured for a period of thirty (30) days after receiving written notice thereof from the other Party.
- (b) This Order may be terminated immediately by either Party upon written notice to the other Party if a Party shall:
 - (i) voluntarily cease to do business;
 - (ii) make an assignment for the benefit of creditors;
 - (iii) file a voluntary petition in bankruptcy or for reorganization or be adjudicated as bankrupt or insolvent; or
 - (iv) have a liquidator or a trustee appointed over its affairs and such appointment shall not have been terminated and discharged within thirty (30) days.
- (c) In the event that either Party has been informed by a federal or state regulatory body or court that full or partial performance of this Order is impermissible or there has been a material change to state or federal regulations that would materially alter either Parties' obligations under the terms of this Order, then either Party may terminate this Order as to such impermissible part(s) of this Order upon written notice to the other Party, unless the Order can be amended so that performance would no longer be prohibited and provided that such amendment is mutually acceptable to the Parties.
- (d) Supplier may at its sole election immediately either terminate this Order or suspend the Services:
 - (i) For any violation of Section 2 or Section 3 herein, or
 - (ii) If payments owed to Supplier are more than thirty (30) days overdue, or
 - (iii) There is no executed renewal agreement between Supplier and Participating Entity upon expiration of the Order's Term.
- (e) Participating Entity may terminate this Order upon providing sixty (60) days' notice to Supplier if:
 - (i) Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the Services; or
 - (ii) Federal, state or local laws or regulations prohibit payment of Service Fees hereunder or otherwise change the Participating Entity's requirements.

Within thirty (30) days of the termination of this Order for any reason, Participating Entity shall pay Supplier any unpaid fees under any Order as calculated up to the date of termination. If Participating Entity terminates the underlying contractual relationship between Participating Entity and Sourcewell prior to the expiration of Term set forth in this Order or during any subsequent renewal Term, Participating Entity shall provide Supplier with ninety (90) days' notice prior to said termination.

AGREED AND ACCEPTED BY:

**Rx SAVINGS, LLC d/b/a RX SAVINGS SOLUTIONS [REDACTED] (“PARTICIPATING ENTITY”)
 (“SUPPLIER”)**

By:

By:

Name:

Name:

Title:

Title:

Date:

Date: