

Sourcewell RFP 051922 - Wellness Engagement Program Solutions and Related Services

PROPEL PRODUCT VISUALS

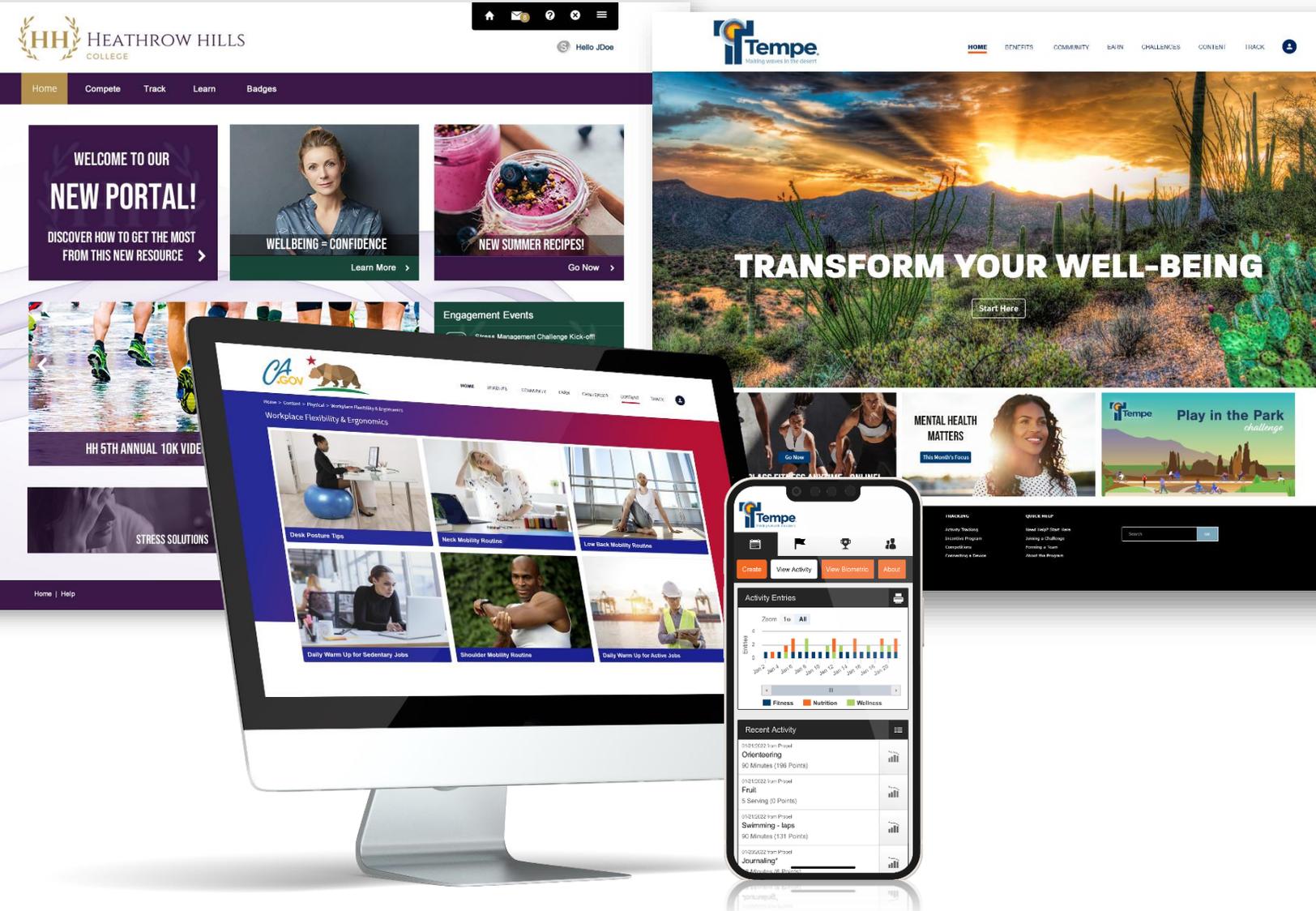
In support of Propel's response to Sourcewell's RFP 051922 Propel is providing this supplemental visual reference providing *just a few* visuals of some of Propel's products and services.

WELL-BEING PLATFORM

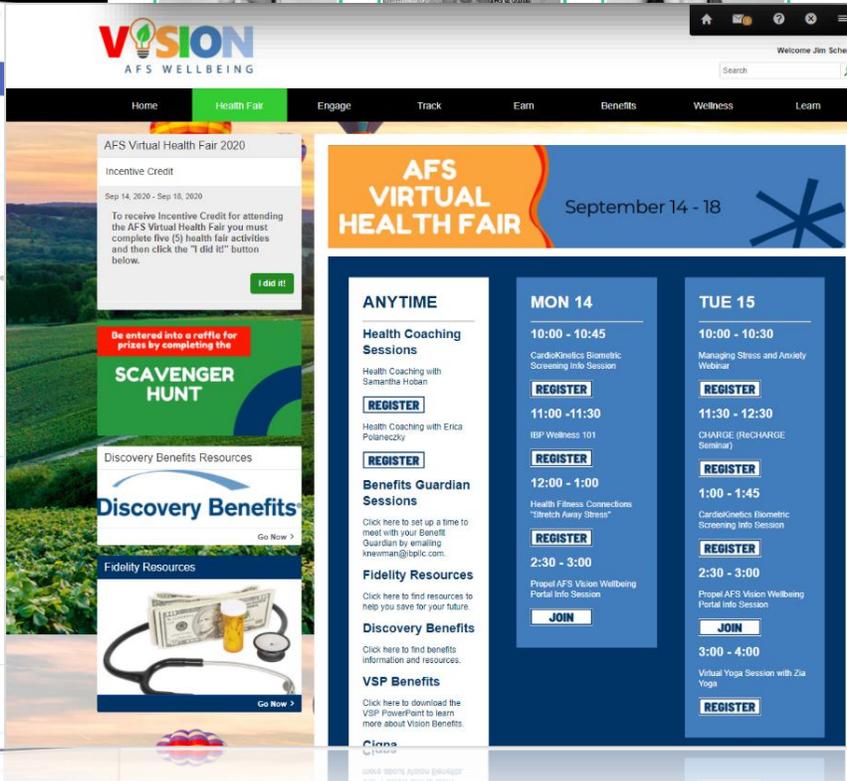
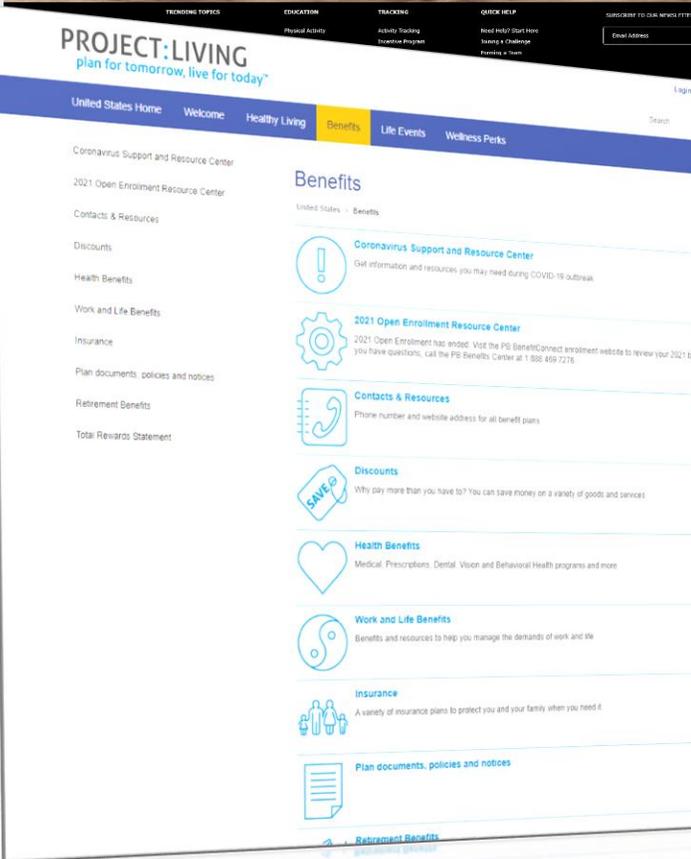
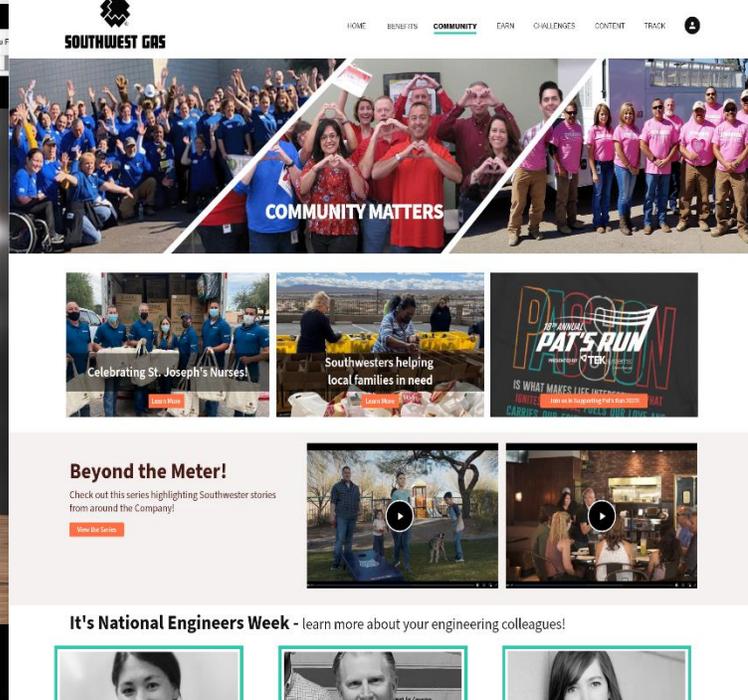
Propel offers two versions of its well-being platform: **Propel® Enterprise** and **Propel® Connect**.

Propel Enterprise is a fully customized platform that is built and customized specifically for the individual client. The entire platform look and feel, navigation, choice of features, content and tools is based on collaborative strategic planning between the Propel team and the client. **Enterprise** is typically selected by large organizations that have more complex well-being programming and metrics and are looking for a fully customized, highly integrated experience.

Accordingly, the look and feel of the platform is different for each **Enterprise** client. Following are just a few examples and reflect the strategic direction and program plan for that client:

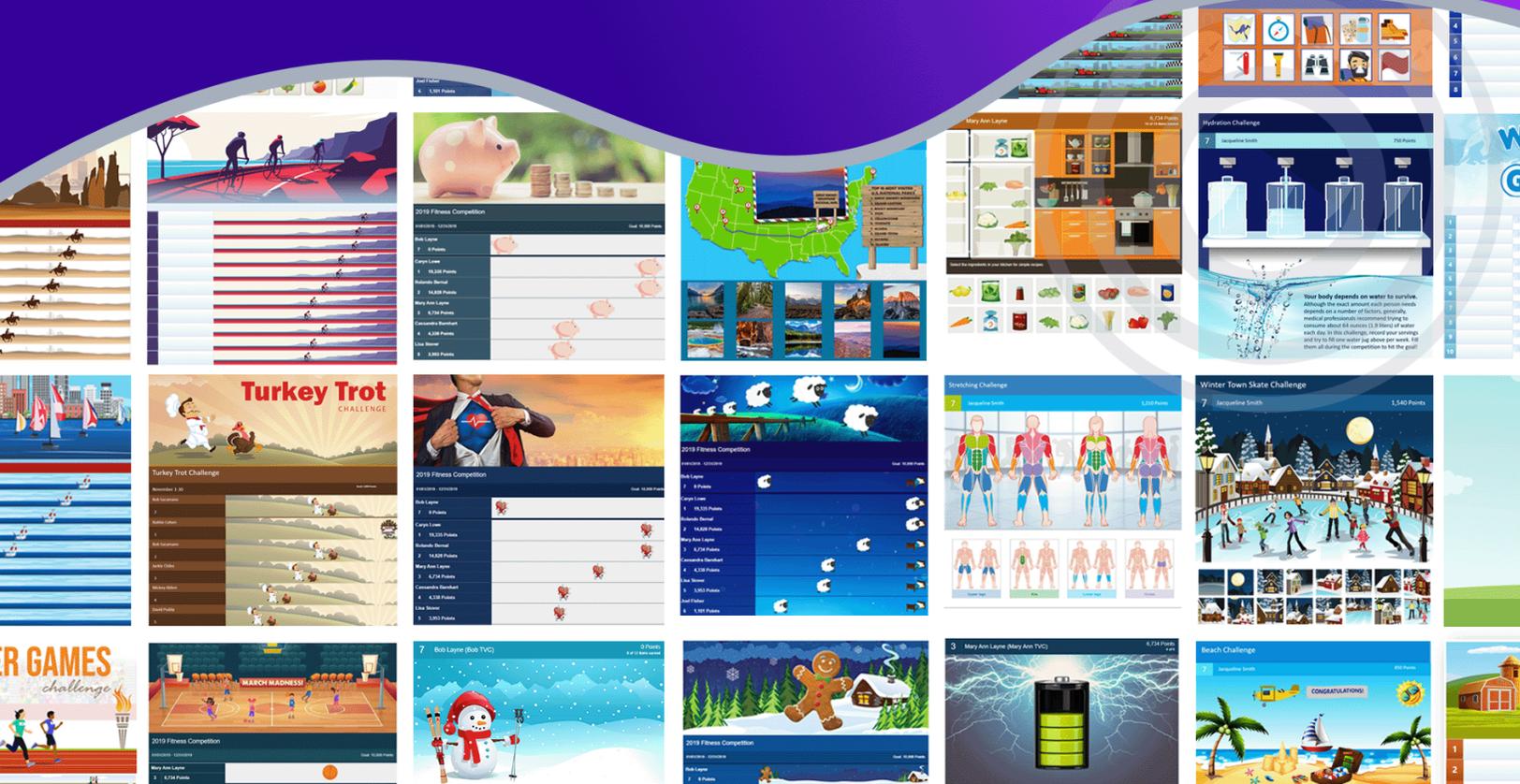


Propel Enterprise clients are able to utilize the Platform to integrate other key initiatives such as benefits communication, virtual health fairs, community initiatives, DEI initiatives, safety training, employee recognition and more—all at no additional cost.



Propel Enterprise clients are able to launch unlimited competitions that use standard leaderboards or custom leaderboards from Propel's extensive custom leaderboard library.

Extensive Custom Competition Leaderboards



Propel even designs custom challenges for our Enterprise clients. The example below shows a competition that has Southwest Gas employees completing healthy actions that take them virtually to each of the organization's key locations.

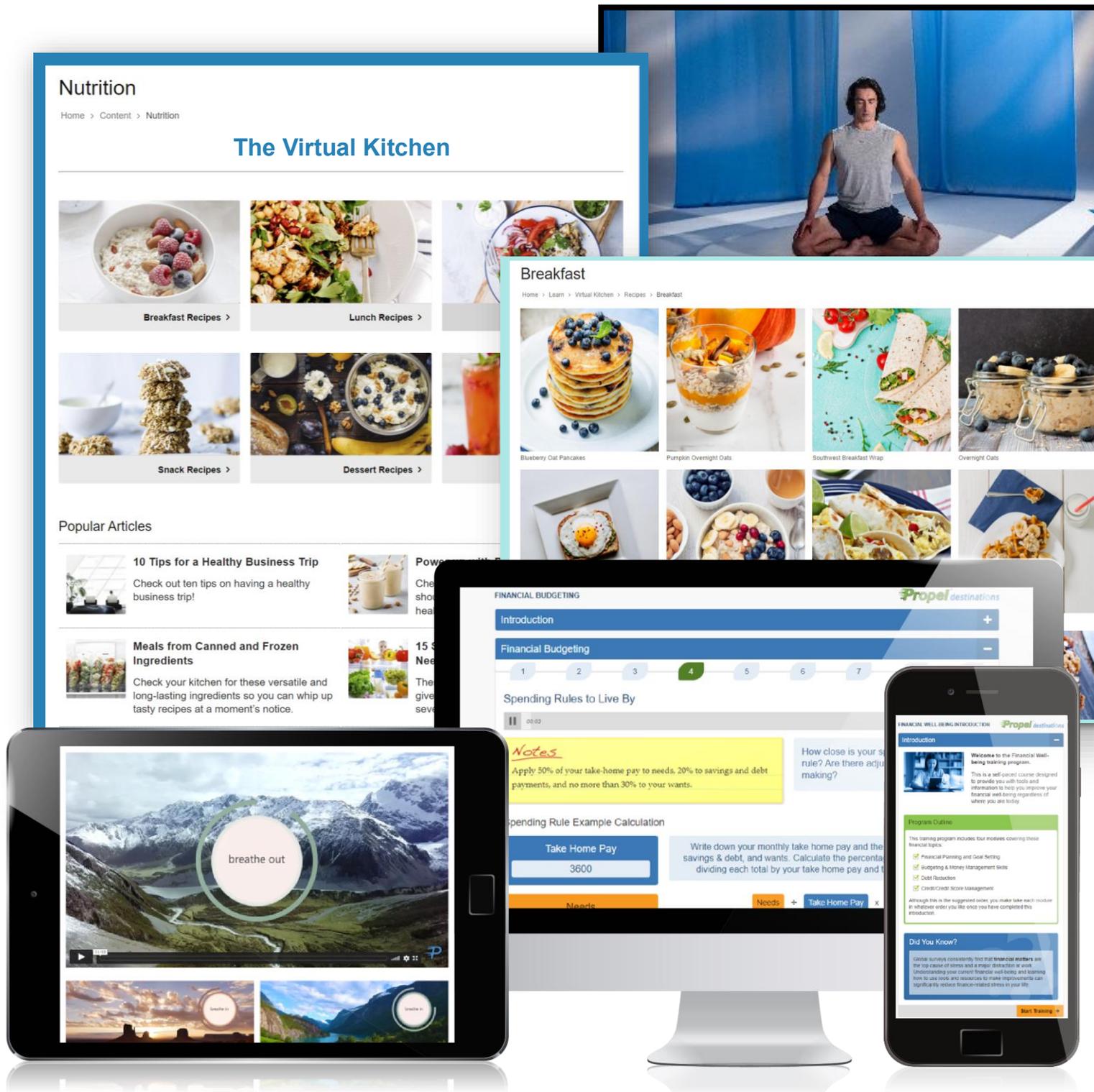
SOUTHWEST GAS
TERRITOURY CHALLENGE

LAS VEGAS TO CARSON CITY	475 MILES
CARSON CITY TO VICTORVILLE	386 MILES
VICTORVILLE TO TUCSON	526 MILES
TUCSON TO PHOENIX	113 MILES
PHOENIX TO LAS VEGAS	300 MILES
TOTAL CHALLENGE	1,800 MILES

Propel Connect is a version of Propel that, although branded for the client organization, is less customized for the specific client. The content is standardized for all **Propel Connect** clients with a couple of pages that can be fully customized for the client. With **Propel Connect**, the program administrator can launch unlimited competitions for their own organization's members; these competitions will use standard leaderboards.

Propel Connect administrators can also invite one or more other Sourcewell-Propel clients to join them in well-being competitions (organization vs. organization) – also using standard leaderboards.

Both the **Propel Enterprise** and **Propel Connect** platforms benefit from a deep and wide library of content and resources that include articles, videos, interactive well-being programs, interactive tools, and healthy recipes in addition to the competitions.



COMMUNICATIONS

Propel provides significant communication resources to Propel clients to assist with marketing their programs. Propel Connect clients receive access to modifiable template communication resources while Propel Enterprise clients receive fully customized communications based on the client's individual needs.

DISCOVER THE POWER OF A **MINDFUL MINUTE**

MENTAL BREATHER
HEALTHY BOILER'S
MINUTE SERIES!

HEALTHY BOILER PORTAL FROM YOUR
ANY MOBILE DEVICE. SELECT THE
IN SELECT MINDFUL MINUTE SERIES.
THE MANY MINDFUL MINUTES AND SIMPLY
THE STRESS OF THE MOMENT MELTS AWAY!

HB
HEALTHY BOILER

KINDNESS
Comes in many flavors!

Join the **ACTS OF RANDOM KINDNESS**
challenge and experience a boost to
your wellbeing by helping others!

REGISTER TODAY!
Enter an Act of Random Kindness

IN LESS THAN 30 SECONDS
YOU CAN UNLOCK A NEW WORLD OF WELL-BEING.

100% NEW. 100% FREE. 100% EXCITING.
REGISTER NOW AT CALHRWELLNESS.COM

TEXAS ROADHOUSE
the **WAIST MANAGEMENT**
team challenge

JANUARY 10 - MARCH 23
There will be three weigh-ins throughout the challenge.
Sign-up sheets will be available online as of December 10th.

WHO IS THIS WEEK'S WINNER OF A \$50 GIFT CARD?

JOIN THE **MONSTER MAD-DASH CHALLENGE**
OCTOBER 1 - 31

The one challenge where missing a workout could have dire consequences!

ALL PHYSICAL ACTIVITIES COUNT TO HELP KEEP YOU CLEAR OF THE MONSTERS OF POOR HEALTH!

HYDRATION CHALLENGE
JUNE 1-30

Drink 64 oz of water each day during
Prizes will be awarded!

Hit the goal & earn the badge!

JOIN THE **SUMMER SPRINT CHALLENGE**

Join this challenge to learn new ways to relax, de-stress and help keep you on the path to better wellbeing!

Reach the goal and earn the badge!

MINDFULNESS

DISCOVER WHAT PROPEL'S NEW, INTERACTIVE MINDFULNESS PROGRAM CAN DO FOR YOU:

- STRENGTHEN FOCUS
- REDUCE STRESS
- IMPROVE AWARENESS

AVAILABLE NOW ON THE WELL-BEING PORTAL!



Proposed Propel-Sourcwell Marketing Plan Overview

Propel’s marketing approach is multifaceted and includes tailored email, offering-overview PDFs, website product/service descriptions that include FAQ’s, product/service detail, video explainer content and product demos. All marketing content will be customized for Sourcwell members. That is, each marketing element (PDFs, website, demos, etc.) will be designed for Sourcwell member offerings.

The email communication and overview flyer communications will have links to a Propel microsite that will be exclusive to Sourcwell. For example, because Sourcwell members will receive favorable pricing, if they viewed Propel’s general sales website, they would see higher pricing than they will see on Propel’s Sourcwell-version microsite.



Home Propel Challenge **Propel Enterprise** ▾ Propel Connect About Us ▾ Contact

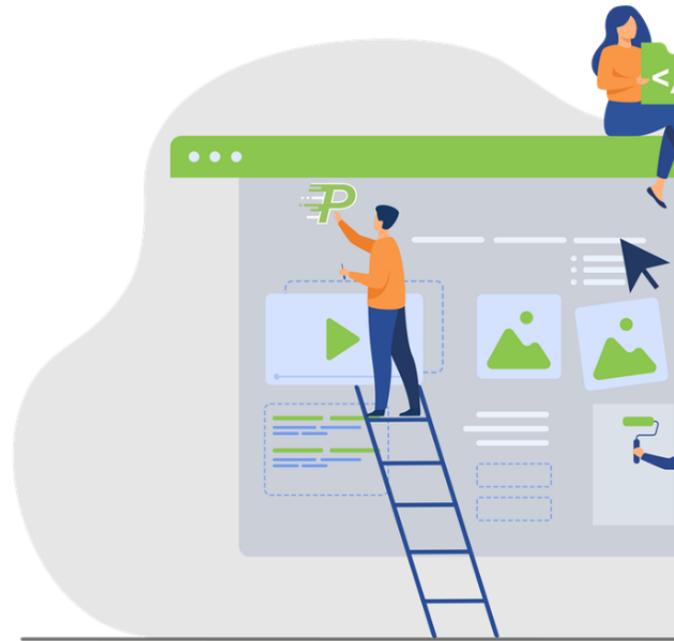
CUSTOMIZED TOTAL EMPLOYEE WELL-BEING

Take Control of Your Well-being Program

Propel Enterprise is a fully customized well-being solution that gives you unparalleled flexibility to run your program the way you want it.

Schedule a Demo

Exclusive Sourcwell Pricing



The exclusive Sourcwell-member, Propel microsite can also be linked from multiple Sourcwell sources.

Once a Sourcewell-member organization indicates interest in learning more, a member of the Propel sales team will set up a virtual demo/discussion session(s) to demonstrate the available products and services, answer questions and ultimately complete the sale. The organization would then be connected with the program implementation/onboarding team.

Propel will also include a link on its general Propel sales site (e.g., “Is your organization a Sourcewell member? Click here for special features and pricing!”) to help promote the Sourcewell brand and membership. Non-members who click the link will be given promotional language about the requirements and benefits of Sourcewell membership along with a link to a Sourcewell site to learn more about membership.



Is Your Organization a Sourcewell Member?

Click here for special features and pricing!

EXCLUSIVE PRICING

Here's What Our Clients Say



This Portal has become the gateway to all things wellbeing for our organisation. Propel is always tremendous and very responsive. Our employee engagement hit a record high during the pandemic as we relied heavily on Propel to help keep our global workforce healthy, connected, and informed.



Our implementation ran smoothly and was the easiest I've ever experienced. The communication pieces provided, announcing change and the go-live were outstanding. Changing to a well-being platform can be daunting but with Propel, it was the best decision ever!

Propel’s marketing approach will be an active, ongoing effort (to the extent permitted by Sourcewell) to share the benefits of integrating one of Propel’s well-being program resources into their overall well-being strategy. Propel will provide regular marketing-progress reporting to Sourcewell as well as seek ongoing guidance from Sourcewell’s key marketing professionals.

MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement") is made by and between Propel, Inc. ("Propel") and **CLIENT NAME** ("Client") with an effective date of **MONTH DAY, YEAR**.

Whereas Propel offers healthcare technology products, communications support and wellness-program support services marketed under the brand name Propel®, and

Whereas Client desires to utilize such products and services in support of its wellness strategy and programming,

In consideration of the mutual promises set forth herein, Propel and Client (collectively, "Parties") agree as follows:

1.0 Purpose

The purpose of this Master Services Agreement ("Agreement") is to establish the general terms and conditions applicable to healthcare technology products, product licenses, communications support and/or wellness-program support services (collectively "Products and Services") that Propel provides from time-to-time to Client and Client Affiliates during the Term of this Agreement.

2.0 Services

Propel offers Client the following non-exhaustive list of potential services: Web-Portal design and development, Propel® Wellness software licensing, wellness platform technology programming, data management and reporting support, survey administration, contact-center support, web-content development and management, communications strategy, design and resource development, copywriting, video production, learning management system licensing, lifestyle program delivery, health risk assessment licensing, biometric screening, training content development and licensing, training program design and training program management. **When Client desires to purchase, license or otherwise implement a particular service or product, the scope of such work will be detailed in a uniquely numbered Statement of Work and incorporated into this Agreement as set forth in paragraph 3.0 of this Agreement.**

3.0 Statements of Work

Before any product or service, or set of products and/or services, is provided by Propel to Client, the Parties will execute a uniquely numbered Statement of Work ("SOW") which, upon execution, will be attached to this Agreement as an addendum and incorporated herein by reference. Each SOW will provide the specific terms for each product purchased or licensed and/or each service implemented. Each SOW will incorporate and be governed by the terms of this Master Services Agreement. In the event of a conflict with respect to specific terms of work defined in the SOW, the SOW terms will prevail and supersede only those terms of the Agreement which are in conflict with the SOW.

4.0 Headings

Headings used in this Agreement and any associated Statements of Work are provided for convenience only and shall not be used to construe meaning or intent.

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5.0 Term

The initial term of this Agreement shall be from the date of this Agreement to **MONTH DAY, YEAR** ("Term"). The initial term may be extended by written agreement signed by authorized representatives of each Party, or by automatic renewal as described in paragraph 6.0 of this Agreement. The initial term may also be extended through the execution of a SOW that contains a term that extends beyond the initial Term of this Agreement. In such case the Term of this Agreement shall extend to the end of the term of such SOW unless otherwise extended or modified by the Parties in writing or automatically renewed.

6.0 Renewal

Unless the Parties otherwise terminate the Agreement in accordance with the termination provisions of this Agreement, or modify the Term of this Agreement, this Agreement will automatically renew for successive one-year terms ("Renewal Term") at the expiration of the initial Term upon the terms then in effect, including all changes and amendments, at the rates in effect as of the expiration of expiring Term. Unless otherwise stated in the terms of SOWs in effect at the expiration of an expiring Term, the SOWs will automatically renew in accordance with the provisions of this paragraph 6.0. If a SOW (or SOWs) has a Term that extends beyond the Renewal Term and the Agreement is not renewed beyond such Renewal Term, the Agreement will remain in effect until the Term of such SOW (or SOWs) expires or is otherwise terminated in accordance with the provisions of such SOW (or SOWs).

7.0 Termination

Unless either Party delivers to the other Party a notice of termination of this Agreement at least sixty (60) days prior to the expiration of the Term of this Agreement, then this Agreement will renew in accordance with paragraph 6.0 of this Agreement.

8.0 Client Support

During the Term of this Agreement and any Renewal Terms, Propel shall maintain an individual Lead Account Executive who shall serve as the primary Propel representative under this Agreement and all SOWs. Propel will also assign two additional employees to serve on Client's account-management team. The Propel Lead Account Executive (or in his or her absence, his or her designee) shall have overall responsibility for managing and coordinating the performance of Propel's obligations under this Agreement and shall have a direct connection to Propel's Chief Executive Officer to ensure authorization to act in a timely manner for and on behalf of Propel with respect to all matters relating to the Agreement and all SOWs executed under this Agreement. Should Client have any concerns regarding the assigned Lead Account Executive's performance in executing his or her duties, Client agrees to contact Propel's Chief Executive Officer directly to discuss such concerns and reach resolution.

9.0 Confidentiality and Proprietary Content

The Parties acknowledge the relationship governed by this Agreement will be subject to a Business Associate Agreement (BAA) which covers in part, the handling of client confidential information and potential Protected Health Information (PHI). This paragraph is to be read in conjunction with the BAA between the Parties, which is attached as Addendum B and incorporated herein by reference; to the extent there are any conflicts in provisions

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governing confidentiality and proprietary content, the provision that creates the greatest protections for Client will prevail.

9.1 Confidential Information

The Parties recognize and acknowledge that this Agreement creates a confidential relationship between them and the non-public information concerning each Party's business affairs, customers, vendors, finances, methods of operation, computer programs, documentation, and other such information, whether written, oral, or otherwise, is confidential in nature. All such information is hereinafter collectively referred to as "Confidential Information."

9.2 Non-Disclosure

The Parties agree that, except as directed by each other, they will not at any time during or after the expiration of the Term of this Agreement, disclose any Confidential Information to any person whatsoever and that upon the termination of this Agreement, each Party will turn over to the other all documents, papers, employee data, intellectual property and other material in its possession or control that relate to the other. Each Party further agrees to bind its employees, contractors and other parties under its control, to the terms and conditions of this Agreement.

10.0 Protection of Client Data

The work contemplated by the Parties to be performed under this Agreement requires that Personal Information about Client's employees, retirees and/or the family members of employees ("Client Data") may be accessed, transferred and/or stored in various formats. The following provisions address the protection of such Client Data.

- 10.1** Propel shall comply with and shall cause each of its Subcontractors to comply with all applicable laws and regulations including all data protection and security laws and regulations whether in effect at the time of execution of this Agreement or coming into effect thereafter.
- 10.2** Propel shall not obtain any ownership interest in Client Data as a result of the work performed under this Agreement. Propel shall ensure that all Client Data is encrypted at security industry accepted standard levels while in transit to or from Propel systems.
- 10.3** Propel has and shall maintain administrative, technical and physical safeguards to protect the security, integrity and confidentiality of Client Data, including the protection of Client Data against any unauthorized or unlawful access to, use of, or disclosure of Client Data.
- 10.4** All Client Data will reside in Propel's data center located in the United States.

11.0 Records Retention

Propel agrees to maintain and enforce retention policies for any and all reports, logs, audit trails and any other documentation that provides evidence of security, systems, and audit processes and procedures in accordance with all relevant laws and regulations.

12.0 Payment

12.1 Timing of Payment

The payment schedule of work under this Agreement shall be set forth in each specific SOW.

12.2 Overdue Payment

A payment that is not received within thirty (30) days following the invoice due date is considered an Overdue Payment. Propel will impose and Client agrees to pay a late-payment charge at the rate of one percent (1.0%) per month on any overdue amount.

12.3 Remedy for Overdue Payment

In the event of an Overdue Payment, Propel will remove Client's access to any Software provided under license to Client, cease performing work under this Agreement and retain all payments made by Client, regardless of the remaining Term of this Agreement or any SOW. This remedy does not relieve Client of its obligation to pay for services already rendered.

13.0 Taxes

In addition to all other amounts due under this Agreement and any SOW, Client agrees to pay to all applicable taxes.

14.0 Warranty Disclaimer

PROPEL'S WARRANTIES SET FORTH IN THIS AGREEMENT OR UNDER ANY STATEMENT OF WORK DULY EXECUTED BY THE PARTIES ATTACHED TO THIS AGREEMENT AND INCORPORATED HEREIN BY REFERENCE ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

15.0 Limitation of Liability

Propel shall not be responsible for, and shall not pay, any amount of incidental, consequential or other indirect damages, whether based on lost revenue, based on a violation of any applicable law or regulation relating to the privacy or security of Client Data, or otherwise, regardless of whether Propel was advised of the possibility of such losses in advance. In no event shall Propel's liability hereunder exceed the greater of the amount paid to Propel under this Agreement or \$50,000.00, whichever is greater, regardless of whether Client's claim is based on contract, tort, strict liability, product liability or otherwise.

16.0 Force Majeure

Any delay or failure in the performance by either Party shall be excused if and to the extent caused by the occurrence of a Force Majeure. For purposes of this Agreement, Force Majeure shall mean a cause or event that is not reasonably foreseeable or otherwise caused by or under the control of the Party claiming Force Majeure, including acts of God, fires, floods, explosions, riots, wars, hurricane, pandemic, domestic or international terrorism, vandalism, accident, restraint of government, governmental acts, injunctions, labor strikes and other like events that are beyond the reasonable

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anticipation and control of the Party affected thereby, despite such Party's reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events or occurrences, and provided such events or the effects thereof are not attributable to a Party's failure to perform its obligations under this Agreement.

17.0 Third-party Failure to Perform

In some cases, Propel may connect Client's third-party vendors/products/services to the Propel platform as an administrative and end-user convenience. Client acknowledges that such Client-third-party vendor/products/services are not controlled by Propel and the performance of such Client-third-party vendor/products/services is not guaranteed, warranted or otherwise supported by Propel. Further, unless otherwise specifically identified as an obligation of Propel under this Agreement or any related Statement of Work, the failure of such Client-third-party vendor/product/service to perform to a standard acceptable to Client is not to be construed as a failure of Propel to perform its obligations under the Terms of this Agreement or any SOW.

18.0 Notice

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate Party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

If to Propel:
Propel, Inc.
ATTN: President
105 Continental Place, Suite 400
Brentwood, Tennessee 37027

If to Client:
CLIENT NAME
ATTN: _____

19.0 Governing Law

This Agreement shall be construed and enforced in accordance with the laws of the state of Tennessee.

20.0 No Assignment

Neither this Agreement nor any interest in this Agreement may be assigned by either Party without the prior express written approval of the other Party.

21.0 Final Agreement

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by authorized representatives of each Party.

22.0 Severability

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

SIGNATURE PAGE FOLLOWS

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IN WITNESS WHEREOF, Propel, Inc. and Client have executed this Master Services Agreement on the day and year first above written.

Propel, Inc.

CLIENT NAME

Robert C. Layne, President & CEO

ADDENDUM A – SOW-001

This Statement of Work 001 ("SOW-001") is attached to the Master Services Agreement dated January 1, 2021, by and between **Propel, Inc.** ("Propel") and **CLIENT NAME** ("CLIENT"). This SOW-001 has an effective date of **MONTH DAY, YEAR** and an expiration date of **MONTH DAY, YEAR**. This term may be extended by the Parties by mutual written agreement.

In consideration of the mutual promises set forth herein, Propel and Client (collectively, "Parties") agree as follows:

9.0 Purpose. The purpose of this SOW-001 is to set forth the terms and conditions applicable to the services to be provided by Propel to Client related to the Propel® technology platform ("Portal").

10.0 Services. Propel will provide the following services under this SOW-001:

SERVICE	FEE	ASSUMPTIONS/NOTES
OPTIONAL SERVICES		

11.0 Pricing Summary. Client agrees to pay Propel the following costs related to the performance of the Services outlined in this SOW-001:

Pricing Summary		
Service	Fee	Assumptions/Notes

TOTAL FEE FOR SOW-001 (not including any optional service): \$ _____*

** plus applicable tax, if any*

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12.0 Payment

4.1 Timing of Payment

The following fees are due upon execution of this SOW-001:

Other fees identified in this SOW-001, including any optional services selected by Client, will be due within 30 days of the implementation of such resource or the completion of the work given rise to such fees.

IN WITNESS WHEREOF, Propel and Client have executed this SOW-001 on the day and year first above written.

Propel, Inc.

CLIENT NAME

Robert C. Layne, President & CEO

ADDENDUM B – BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (“BAA”) is made by and between CLIENT NAME (“Client”) and Propel, Inc. (“Propel”), together known as the “Parties,” as an addendum to the Propel Master Services Agreement between the Parties and dated MONTH DAY, YEAR (the “MSA”). For purposes of this BAA, Client shall be referred to as “Covered Entity” and Propel shall be referred to as “Business Associate.”

A. Statement of Intent. This BAA was developed to provide a framework for the protection of private, individually-identifiable information in the course of data exchange between Business Associate and Covered Entity or data used by Business Associate on behalf of Covered Entity, whereby Business Associate is known as a Business Associate of Covered Entity. The provisions in this BAA address concepts and requirements set forth in the Privacy Rule and the Security Standards and provisions that allow the covered entity to be able to rely on Covered Entity, as its business associate, to help the covered entity meet its obligations under the Privacy Rule and the Security Standards. In turn, the Covered Entity must hold its Business Associates to the same terms. The purpose of this BAA is to set forth the mutual agreement on the terms between both Parties for compliance with the Health Insurance Portability and Accountability Act and its regulations referred to as the Privacy Rule and Security Standards under 45 CFR Parts 160-164.

B. Definitions

Terms used, but not otherwise defined, in this BAA shall have the same meaning as those terms in the Privacy Rule and the Security Standards.

Examples of specific definitions:

- 1) Business Associate. “Business Associate” shall have the definition set forth in 45 CFR §160.103 and, within this BAA, shall refer to Propel.
- 2) Breach shall have the meaning given to it by 45 CFR § 164.402.
- 3) Breach Notification Rule shall mean the “Standards for Breach Notification for Unsecured Protected Health Information,” 45 CFR Part 164, Subpart D, as may be revised or supplemented from time to time.
- 4) Covered Entity. “Covered Entity” shall refer to Client.
- 5) Disclosure means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.
- 6) HITECH Act shall mean the provisions of the Health Information Technology for Economic and Clinical Health Act contained in Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009. A reference to the HITECH Act shall also include any HITECH Rules related thereto.
- 7) HITECH Rules shall mean any issued guidance related to the HITECH Act by the Department of Health and Human Services, including the Breach Notification Rule, as such guidance may be issued and revised from time to time, including any guidance issued or revised after the effective date of this Agreement.
- 8) Individual. “Individual” shall have the same meaning as the term “individual” in 45 CFR § 160.103: Individual means the person who is the subject of protected health information and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

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- 9) Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- 10) Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, Protected Health Information means individually identifiable information, transmitted or maintained in any form or medium.
- 11) Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.
- 12) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or her/his designee.
- 13) Security Standards means the security standards for the protection of Electronic Protected Health Information as set forth in 45 C.F.R. Part 164, Subparts A and C, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996.
- 14) Unsecured PHI shall mean Protected Health Information that is not secured through the use of a technology or methodology that renders such Protected Health Information unusable, unreadable or indecipherable to unauthorized individuals as specified in guidance issued pursuant to Section 13402(h) of the HITECH Act, including the Breach Notification Rule.
- 15) Use means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

C. Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this BAA, Business Associate may use or disclose Protected Health Information to perform the functions, activities, or services for, or on behalf of, Covered Entity as specified in the MSA and associated Statements of Work and in this BAA, provided that such use or disclosure would not violate the Privacy Rule or Security Standards or the HITECH Act if done by Covered Entity. To the extent required by the Privacy Rule, the Business Associate shall only request, use and/or disclose the minimum amount of Protected Health Information necessary to accomplish the intended purpose of the request, use and/or disclosure. For this purpose, the determination of what constitutes the minimum necessary amount of Protected Health Information shall be determined in accordance with Section 164.502(b) of the Privacy Rule, as amended by Section 13405(b) of the HITECH Act; provided, however, that the Parties hereby agree that because of the types of services provided by the Parties, it is not practicable to limit the use and/or disclosure of Protected Health Information to a limited data set.

D. Obligations and Activities of Business Associate

- 1) Business Associate agrees to use or disclose Protected Health Information only for the purpose for which it was disclosed under the MSA and only in the manner consistent with the privacy practices of the Covered Entity and/or Covered Entity.
- 2) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the MSA, this BAA or as Required By Law.
- 3) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this BAA.

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- 4) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this BAA of which it becomes aware within two (2) days that the Business Associate becomes aware of event.
- 5) Business Associate agrees to ensure that any agent, including a Business Associate, to whom it provides Protected Health Information that is received from, or created or received by Business Associate on behalf of Covered Entity and/or Covered Entity agrees to the same restrictions and conditions that apply through this BAA to Business Associate with respect to such information.
- 6) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this BAA.
- 7) Business Associate agrees to implement and otherwise incorporate any accepted restrictions or confidential communications requests as directed by the Covered Entity and/or Covered Entity, as per the individual rights.
- 8) Business Associate agrees to provide access and copies, at the request of Covered Entity and/or Covered Entity, and in the time and manner as specified by the Covered Entity and/or Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity and/or Covered Entity or, as directed by Covered Entity and/or Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524.
- 9) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity and/or Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity and/or Covered Entity or an Individual, and in the time and manner as specified by the Covered Entity and/or Covered Entity.
- 10) Business Associate agrees to maintain appropriate policies and procedures consistent with the requirements of the Privacy Rule for those functions, services, or activities performed on behalf of the Covered Entity and/or Covered Entity.
- 11) Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity and/or Covered Entity available to Covered Entity, and to the Secretary, in a time and manner as specified by the Covered Entity and/or Covered Entity or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- 12) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity and/or Covered Entity to respond to a request by an Individual for an

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accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528¹.

- 13) Business Associate agrees to provide to Covered Entity and/or Covered Entity, in time and manner as specified by Covered Entity and/or Covered Entity, information collected in accordance with this BAA, to permit Covered Entity and/or Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- 14) Business Associate agrees to implement any and all administrative, technical and physical safeguards necessary to reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of Covered Entity and/or Covered Entity. With respect to Electronic Protected Information, the Business Associate shall directly comply with (a) Section 13401(a) of the HITECH Act, including with respect to the administrative, physical and technical safeguards described in 45 CFR §§ 164.308, 164.310, 164.312 and 164.316 of the Security Rule, and (b) Section 13401(c) of the HITECH Act (relating to annual technical safeguard guidance to be issued by the Secretary).
- 15) Business Associate agrees to ensure that any agent, including a Business Associate, to whom it provides Electronic Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity and/or Covered Entity, agrees to the same restrictions and conditions that apply through this BAA to Business Associate with respect to such information.
- 16) Business Associate agrees to immediately report to Covered Entity, in writing, any security incident of which it becomes aware. For purposes of this BAA, security incident shall mean the successful unauthorized access to, disclosure, modification or destruction of, or interference with, the Electronic Protected Health Information. To the extent that a disclosure described in this sub-section 16 also constitutes a Breach of Unsecured PHI, the provisions of this subsection 18 shall also apply.
- 17) Upon request from Covered Entity and/or Covered Entity, Business Associate agrees to provide information to Covered Entity on unsuccessful unauthorized access, use, disclosure, modification or destruction of the Electronic Protected Health Information to the extent such information is available to Business Associate.
- 18) Notice of Breach of Unsecured PHI.
 - (a) Business Associate Requirements. Business Associate will comply with standards approved by HHS under the HITECH Breach Notification Rule to limit, as much as is practicable, the possibility that any PHI used, created or maintained by Business Associate will be considered "unsecured" PHI as defined under the HITECH Breach

¹ Section 13405(c)(1)(B) of Subtitle D of The Health Information Technology for Economic and Clinical Health Act of 2009, provides that accountings for disclosures related to payment, treatment, and operations need only go back three (3) years, as opposed to the six (6) years applicable to other disclosures.

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Notification Rule, which standards include but are not limited to encryption of Electronic PHI in accordance with “NIST Special Publication 800-111, Guide to Storage Encryption Technologies for End User Devices” and destruction of PHI in accordance with “NIST Special Publication 800-88, Guidelines for Media Sanitation when disposing of or destroying PHI.” Upon the Business Associate’s discovery of a Breach of Unsecured PHI experienced by it or one of its Business Associates, the Business Associate shall –

(1) Pursuant to the requirements set forth in subsection (b) below, provide immediate notice (written to promptly follow verbal notice) of the Breach to the Covered Entity; and

(2) If the Breach involves less than 500 individuals, maintain a log or other documentation of the Breach which contains such information as would be required to be included if the log were maintained by the Covered Entity pursuant to 45 CFR § 164.408(c), and provide such log to Covered Entity within five (5) business days of Covered Entity’s written request.

(b) Notice Requirements.

(1) The date that a Breach is discovered shall be determined by the Covered Entity in accordance with the Breach Notification Rule.

(2) The Business Associate shall endeavor to provide Covered Entity with notification of the Breach as soon as practicable (even if at such time the Business Associate does not have all the details concerning the Breach). Thereafter, the Business Associate shall follow-up with the information required under subsection (b)(3) when such information becomes available, but without unreasonable delay and in any event within fourteen (14) calendar days following the date the Breach is discovered.

(3) The notice required by this subsection 18 shall contain the information required by 45 CFR § 164.410(c) plus any other additional and relevant information so that the Covered Entity and Covered Entity can ensure compliance with the breach notification provisions, as set forth in the Breach Notification Rule. After notification by Business Associate of a Breach, Covered Entity/Covered Entity may elect to delegate its notification responsibilities under the HITECH Breach Notification Rule to Business Associate. If so, Covered Entity/Covered Entity will provide written notification of this delegation to Business Associate, and Business Associate, as soon as possible, but no later than fourteen (14) calendar days following this notification from Covered Entity/Covered Entity, will satisfy, at Business Associate’s expense, the notice obligations under the HITECH Breach Notification Rule and any applicable state law, including but not limited to: (i) notification to affected individuals including substitute notice as necessary; (ii) notification to the Secretary of Health and Human Services; and (iii) notification to the media, if required. Prior to making the notifications described above, however, Business Associate will provide copies of such notifications to Covered Entity/Covered Entity including but not limited to a copy of a template individual notification. Once notification is completed, Business Associate will supply written certification to Covered Entity/Covered Entity that all notice obligations as described herein are satisfied.

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(4) The Business Associate shall cooperate with Covered Entity in all reasonable respects so that Covered Entity and the Covered Entity can ensure compliance with the breach notification provisions as set forth in the HITECH Act Breach Notification Rule (including providing background information regarding the Breach and its mitigation efforts following the Breach, and reviewing drafts of written notifications provided by the Covered Entity or the Covered Entity).

19) Additional Use and Disclosure Provisions

Except as otherwise limited in this BAA or the MSA, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law and Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law and for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

E. Term and Termination

1) Term. The Term of this BAA shall be effective as of the date of the MSA and shall, unless earlier terminated, terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity and/or Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

2) Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the MSA and this BAA if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
- b) Immediately terminate the MSA and this BAA if Business Associate has breached a material term of this BAA and cure is not possible; or
- c) If neither termination nor cure are feasible, Covered Entity shall report the violation to the Covered Entity for reporting to the Secretary.

3) Effect of Termination.

- a) Except as provided in paragraph (2) of this Section E, upon termination of this BAA, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity and/or Covered Entity, or created or received by Business Associate on behalf of Covered Entity and/or Covered Entity. This provision shall apply to Protected Health Information that is in the possession of Business Associates or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

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b) In the event Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon notification that return or destruction of Protected Health Information is infeasible and upon Covered Entity's reasonable mutual agreement to same, Business Associate shall extend the protections of this BAA to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

F. Indemnification

Business Associate agrees to indemnify, defend and hold harmless Covered Entity, Covered Entity, and any of their affiliates, trustees, officers, directors, employees, or agents against all actual and direct losses suffered by them arising from or in connection with Business Associate's violation of or failure to fulfill its obligations under HIPAA, as amended by the HITECH Act, or any other breach of the terms of this BAA by the Business Associate, or any person or entity under its control (including, but not limited to Business Associates and agents).

If Covered Entity reasonably determines that individuals must be notified in the event of a Breach (whether because of state or federal law), Business Associate shall in accordance with subsection D.18 above cooperate with Covered Entity to provide such notices. Further, Business Associate, in addition to any other damages incurred or indemnity obligations, shall reimburse Covered Entity for all reasonable costs associated therewith.

G. Miscellaneous

- 1) Regulatory References. A reference in this BAA to a section in the Privacy Rule or Security Standards means the section as in effect or as amended.
- 2) Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, Security Standards, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- 3) Survival. The respective rights and obligations of Business Associate under Section D. 18., E.3., and F of this BAA shall survive the termination of this BAA.
- 4) Interpretation. Any ambiguity in this BAA shall be resolved to permit Covered Entity to comply with its Business Associate obligations and Covered Entity to comply with HIPAA and the HITECH Act. Conflicts between this BAA and the MSA shall be resolved in favor of this BAA.

SIGNATURE PAGE FOLLOWS

CONFIDENTIAL AGREEMENT

Covered Entity and Business Associate have caused this Agreement to be signed and delivered by their duly authorized representatives.

COVERED ENTITY
CLIENT NAME

BUSINESS ASSOCIATE
Propel, Inc.

By: _____

By: _____

Print Name: _____

Print Name: Robert C. Layne

Title: _____

Title: President & CEO

Date: _____

Date: _____