

PHARMACY BENEFIT MANAGEMENT SERVICES AGREEMENT

This Pharmacy Benefit Management Services Agreement ("Agreement") is effective as of January 1, 2015 (the "Effective Date") by and between Navitus Health Solutions, LLC ("Navitus"), and City of Broken Arrow ("Client").

RECITALS

Whereas, Client provides its employees and their dependents with medical benefits including benefits for prescription drugs and certain devices and supplies dispensed by pharmacists; and

Whereas, Navitus provides its clients services in connection with the healthcare operations and payments of claims on behalf of their Plans; and

Whereas, Navitus provides its services using a zero-spread, transparent, full pass-through business model, where all of the discounts and rebates received from pharmacies and pharmaceutical manufacturers are provided to its clients; and

Whereas, Client and Navitus desire to establish this Agreement for the management of the pharmacy benefits sponsored by Client;

Now therefore, in consideration of the mutual promises set forth herein, the sufficiency of which is hereby acknowledged, Navitus and Client agree as follows:

Article I DEFINITIONS

The terms below, including their single and plural forms, shall have the meanings set forth in this Article I:

Account means a depository account maintained by Client at a federal or state chartered bank, savings and loan association or savings bank.

Average Wholesale Price or AWP means the average wholesale price of a prescription drug published and updated by Medi-Span, or another nationally-recognized reporting service purchased or licensed by Navitus.

Business Associate means a person assisting a Covered Entity in connection with its payment, treatment or health care operations, as more fully defined in 45 CFR §160.103.

Brand Drug means a drug where the Medi-Span multisource code attached to the 11-digit NDC for such drug indicates an "N" (a single-source brand name drug product available from one manufacturer and is not available as a generic), an "M" (a branded drug product that is co-branded and not considered generic, is not available as a generic, and is generally considered a single-source drug product despite multiple manufacturers), or an "O" (an original branded drug product available from one or more manufacturers as a generic). In rate situations, Navitus may need to over-ride the multi-source code from Medi-Span if it determines that the drug has not been coded correctly by Medi-Span. In these situations, Navitus will review several factors including but not limited to the FDA approval designation (e.g. ANDA vs. NDA vs. BLA), the number of manufacturers available in the market, and any relative cost differential between manufacturers.

Cardmember means one of Client's active and, if so indicated on the signature page below, retired employees who satisfy all the eligibility criteria necessary to receive pharmacy benefits under Client's Plan and is identified by Client to Navitus in accordance with the provisions of this Agreement as eligible for such benefits.

CFR means the Code of Federal Regulations.

Claim means: (a) a contractual payment request submitted by a Participating Pharmacy dispensing one or more prescription drugs and transmitted in accordance with the electronic transaction standards set forth in 45 CFR Parts 160, 162 and 164, as amended from time to time; or (b) a Direct Reimbursement Claim submitted by a Participating Pharmacy, another provider, an Eligible Person or such Eligible Person's representative in connection with one or more prescription drugs dispensed to such Eligible Person.

Coinsurance means that portion of the charge for Covered Products, calculated as a percentage of the charge, which is to be paid by Eligible Persons pursuant to Client's Plan Guidelines (or for certain Participating Pharmacies, if less, the U&C of the Covered Products).

Confidential Information has the meaning given in Section 10.04 of this Agreement.

Contract Administrator, if any, means the person so indicated on the signature page below.

Coordination of Benefits means claims administration when Eligible Persons are covered by more than one pharmacy benefit plan.

Co-payment means a fixed dollar portion of the charge for Covered Products which is to be paid by Eligible Persons pursuant to Client's Plan Guidelines (or for certain Participating Pharmacies, if less, the U&C of the Covered Products).

Covered Entity means a health plan, a health care clearinghouse or a health care provider, as more fully defined in 45 CFR§160.103.

Covered Products means those prescription drugs and ancillary devices and supplies that are covered under Client's Plan Guidelines.

Deductible means a predetermined amount of money that an Eligible Person must pay before benefits are eligible for payment as indicated in Client's Plan Guidelines. The deductible applies to each Eligible Person each contract year. Only charges for Covered Products calculated in accordance with Exhibit 2 may be used to satisfy the deductible.

Dependent means an individual who satisfies all the eligibility criteria through a Cardmember necessary to receive pharmacy benefits under Client's Plan and is identified by Client to Navitus in accordance with the provisions of this Agreement as eligible for such benefits.

Direct Reimbursement Claim means a request for reimbursement for the cost of one or more Covered Products dispensed by a pharmacy and submitted by a Participating Pharmacy, a Non-Participating Pharmacy, or an Eligible Person in a pre-printed universal claim form acceptable to Navitus.

Eligible Person means each Cardmember and Dependent.

ERISA means the Employee Retirement Income Security Act of 1974, as amended from time to time.

FDA means the United States Food and Drug Administration.

Formulary means the list of FDA-approved Covered Products developed by Navitus' Pharmacy and Therapeutics Committee, subject to Client's Plan Guidelines and coverage decisions. Navitus may modify the Formulary from time to time subject to Client's approval, as a result of factors described above and when new therapeutic agents become available. Final decisions on the Formulary for Client's plan shall be made by Client.

Generic Drug means a drug where the Medi-Span multisource code attached to the 11 digit NDC for such drug indicates a "Y" (a generic drug product available from one or more manufacturers). In rate situations, Navitus may need to over-ride the multi-source code if it determines that the drug has not been coded correctly by Medi-Span. In these situations, Navitus will review several factors including but not limited to the FDA approval designation (e.g. ANDA vs. NDA vs. BLA), the number of manufacturers available in the market, and any relative cost differential between manufacturers.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, and regulations promulgated thereunder, as amended from time to time.

HIPAA Privacy Rule means the federal regulations related to the use and disclosure of patients' Protected Health Information under 45 CFR Parts 160, 162 and 164, as amended from time to time.

HIPAA Rules mean the medical records, privacy, security, and standard transaction regulations under 45 CFR Parts 160 and 164.

Initial Term means the initial term of this Agreement as set forth on the signature page below.

Mail Service Pharmacy means a pharmacy where prescriptions are filled and delivered to Eligible Persons via the United States Postal Service, United Parcel Service or other delivery service, and which has entered into an agreement with Navitus to dispense Covered Products to individuals including Eligible Persons.

Material Breach means a breach such that a reasonable person in the position of the non-breaching party would wish to terminate this agreement because of that breach.

Navitus Maximum Allowable Cost ("MAC") means the maximum allowable cost determined by Navitus and updated quarterly based upon review and analysis of current pricing in the marketplace.

Non-Participating Pharmacy means a pharmacy that does not have an agreement with Navitus to dispense Covered Products to certain individuals, including the Eligible Persons receiving benefits under this Agreement.

Participating Pharmacy means a pharmacy, or a company authorized to represent one or more subsidiary, affiliated, or franchised pharmacies, which has entered into an agreement with Navitus to dispense Covered Products to individuals including Eligible Persons. For purposes of this Agreement, a "Participating Pharmacy" will not be considered a representative, subcontractor, or agent of Navitus and may include the Mail Service Pharmacy and the Specialty Pharmacy.

Pass-Through means that all Rebates and discounts are provided to Client in accordance with Article IV, below, and Navitus does not retain any Rebates or any other direct financial benefits from drug manufacturers or pharmacies.

Pharmaceutical Care Incentive Program means a program that may be furnished by a Participating Pharmacy to Eligible Persons and that is intended to (a) ensure, with respect to such Eligible Persons, that Covered Products are utilized in a manner that will optimize therapeutic outcomes through improved medication use; and (b) reduce costs through the use of generic Covered Products whenever safety and efficacy allow.

Plan means Client's insured or self-funded benefit plan, which provides pharmacy benefits to Eligible Persons.

Plan Guidelines means a description of Client's Plan related to pharmacy benefits and limitations thereto, including the framework of policies, interpretations, rules, practices and procedures applicable to such benefits, required and signed by Client and submitted to Navitus. The Plan Guidelines shall not include any amendments except as provided in Section 3.02 of this Agreement.

PPACA means the Patient Protection and Affordable Care Act and the Health Care Education and Reconciliation Act of 2010 and their accompanying regulations, as amended from time to time.

Practitioner means a physician or other health care provider authorized to prescribe medication to Eligible Persons.

Prior Authorization means a prospective review to verify that certain criteria required by Client are satisfied for specific Covered Products prior to processing the claim for such Covered Products.

Protected Health Information or **PHI** means individually identifiable health information related to the past, present, or future physical or mental health or condition of an Eligible Person; the provision of health care to an Eligible Person; or the past, present or future payment for the provision of health care to an Eligible Person, as more fully defined in 45 CFR§164.501 or otherwise deemed confidential under federal or state law.

Rebates shall mean all financial benefits from contracts executed with pharmaceutical manufacturers and wholesalers that are directly attributable to the Formulary and Covered Product utilization by Eligible Persons, including, without limitation: all rebates; discounts; administrative or other fees, market-shift bonuses, chargebacks, all other monies paid by pharmaceutical manufacturers and wholesalers, and all goods provided by pharmaceutical manufacturers and wholesalers in lieu of other monies.

Renewal Term means the time period as defined in Article VI of this Agreement.

Specialty Pharmaceuticals means those biotech and other Covered Products identified as specialty pharmaceuticals from time to time. A then-current list of Specialty Pharmaceuticals may be obtained at any time by contacting Navitus.

Specialty Pharmacy means a pharmacy that has entered into an agreement with Navitus to dispense Covered Products including Specialty Pharmaceuticals to Eligible Persons.

Usual and Customary Price or **U&C** means the retail price, including any minimum price, charged by a Non-Participating Pharmacy or a Participating Pharmacy for a Covered Product in a cash or uninsured transaction on the date such product is dispensed.

Wholesaler Acquisition Cost or **WAC** means the wholesale acquisition cost pricing data for a given pharmaceutical product, as published by Medi-Span or another nationally-recognized drug database reporting service used by Navitus.

Article II NAVITUS' RESPONSIBILITIES

Section 2.01. General Description of Duties and Obligations. Navitus will process Claims, render clinical and Formulary services and provide Client standard management reports and consultative services, all in connection with Eligible Persons' Covered Product utilization and as more fully set forth in this Agreement. In connection with these services, Navitus will evaluate the status and performance of Client's pharmacy benefit program and advise Client on a regular basis of the results of such evaluation.

Section 2.02. Implementation Services. Navitus will assign dedicated personnel to Client in order to implement the services provided under this Agreement. The Navitus implementation team will facilitate the implementation of all aspects of the Client pharmacy benefit program and will provide Client the following standard implementation services: (a) loading eligibility files that do not require conversion to be in Navitus' standard format; (b) encoding Client's Plan Guidelines within the Navitus information services and claims processing systems; (c) creating and encoding Client's Plan Guidelines within the Participating Pharmacy network active in the Navitus system; (d) initiating for Client a standard reporting package, without modification, from Navitus' standard report library; (e) implementing standard Navitus system edits; (f) producing standard laminated identification cards with Navitus logo, or providing files to Client for production of a combined identification card by Client; (g) enabling Client's connectivity through a virtual private network or file transfer protocol to Navitus' system; (h) implementing standard Prior Authorization guidelines required by Client (when prior authorization services are purchased without customization); and (i) producing standard prior authorization letters, from Navitus' standard library (when prior authorization services are purchased without customization).

Section 2.03. Client Services. Navitus will assign to Client an account manager to direct Client's pharmacy benefit program following implementation. The account manager, assisted by pharmacists and other Navitus personnel, will respond to general inquiries and requests from Client's benefit group and will provide general support and consultative services related to Plan design, Covered Products utilization and charges, Participating Pharmacy network changes, Eligible Person communications and Formulary management and support.

Section 2.04. Customer Service Call Centers. Navitus will maintain call centers, which will be accessible through a toll-free telephone line, responsible for responding to inquiries from Participating Pharmacies, other providers, and Eligible Persons regarding the services provided by Navitus under this Agreement. Call center personnel will respond to questions related to eligibility of individuals, Plan Guidelines, Deductible status, Coinsurance and Co-payment levels, maximum benefit status, direct reimbursement, and in the case of Participating Pharmacies, online adjudication instruction. Navitus' toll-free help line shall be available to Client and all Participating Pharmacies and Providers during Navitus' regular hours of business. Navitus customer service will be available twenty four hours a day, seven days a week. Notwithstanding the foregoing, Navitus customer service will not be available on Christmas Day and Thanksgiving. Navitus reserves the right to change such hours of operation and Navitus shall notify Client and the Participating Pharmacies prior to any such changes.

Section 2.05. Cardmember Materials. Navitus will provide and mail an identification card for each Cardmember, unless provided by a third party so designated by Client or by Client directly. If Client elects to use a third party to provide the identification card or to provide it directly, the cost will be the responsibility of the Client. Navitus will provide Direct Reimbursement Claim forms.

Section 2.06. Pharmacy Network. Navitus has created and will maintain a network of Participating Pharmacies. Navitus shall cause Participating Pharmacies to perform pharmacy services for Eligible Persons

according to their Participating Pharmacy agreement. Although the composition of the Participating Pharmacy network may change due to the addition or withdrawal of specific Participating Pharmacies, Navitus will use commercially reasonable efforts to ensure that the network includes Participating Pharmacies such that the network will provide reasonable access and availability to the Eligible Persons.

(a) **Listing of Participating Pharmacies.** Navitus will make available an updated list of Participating Pharmacies in its network on-line via its website. In addition, Navitus shall make printed versions of the list of Participating Pharmacies or relevant portions of the list available upon request to Eligible Persons through its Customers Service Call Center representatives.

(b) **Mail Service.** Navitus will provide Client, should it so choose in Exhibit 2, a mail service program through which the Mail Service Pharmacy will fill prescriptions for Eligible Persons and shall mail such prescriptions to Eligible Persons subject to the terms set forth in Exhibit 2.

(c) **Specialty Pharmacy.** Navitus will provide Client, should it so choose in Exhibit 2, a Specialty Pharmaceutical program which provides a distribution channel for certain Covered Products that are generally biotechnological in nature, are given by injection, or otherwise require special handling. The Specialty Pharmacy will dispense Specialty Pharmaceuticals to Eligible Persons.

(d) **Pharmacy Audits.** Navitus shall maintain a pharmacy audit program, the criteria of which may be amended from time to time. The audit may be conducted by Navitus' internal auditors or its outside auditors, and at the Participating Pharmacy or at Navitus by a review of electronically submitted Claims. Any overpayments made to a Participating Pharmacy attributable to Client's Claims will be offset against future payments to that Participating Pharmacy or Non-Participating Pharmacy from Client's account; if offset is not available, then any overpayment recovered from the Participating Pharmacy will be promptly remitted to Client. Navitus will promptly use commercially reasonable efforts to recover any overpayment from a Participating Pharmacy or Non-Participating Pharmacy. Navitus will not be required to commence any litigation to recover any such overpayments if, in Navitus' reasonable discretion, it deems such actions not to be economically feasible. In addition, if Navitus commences litigation to recover such amounts, then all expenses incurred by Navitus with regard to such litigation may be offset against any amounts recovered.

Section 2.07. Claim Processing.

(a) **General.** Navitus will process Claims with dates of fill on or after the Effective Date, through and including Claims with dates of fill prior to the termination of this Agreement. Navitus will process all Claims according to the Prescription Pricing Schedule in Exhibit 2, Client's Plan Guidelines and HIPAA-required transaction code sets. Notwithstanding the foregoing, if Client requests that Navitus encourage a pharmacy to become a Participating Pharmacy by offering such pharmacy reimbursement rates that exceed the rates set forth in Exhibit 2, then Navitus shall use such revised reimbursement rates for such pharmacy. Navitus will review all contractual Claims transmitted by Participating Pharmacies and notify such providers on-line of the reason or reasons for denial of such Claims, including, but not limited to, missing or erroneous information. Likewise, Navitus will report to submitting persons the status of all denied Direct Reimbursement Claims in accordance with ERISA rules and regulations. Client will maintain an appeals process for review of Claims that have been denied by Navitus and appealed by an Eligible Person after such exhaustion of any appeals processes available to such Eligible Person that are maintained by Navitus. Subject to the terms and conditions herein, Client shall make the final determination regarding payment of all submitted Claims. Additionally, if Client notifies Navitus that an Eligible Person has a primary insurer other than the Plan, then Navitus will pay Claims for such Eligible Person as a secondary payor rather than as a primary payor. Navitus does not assume responsibility for establishing coordination of benefits filing order for subsequent coverages, nor responsibility for coordination of benefits investigational efforts, subrogation, or coordination with Worker's Compensation.

Client hereby delegates to Navitus the authority, responsibility and discretion to (i) determine eligibility and enrollment for coverage under the Plan according to the information provided by the Client, (ii) make factual determinations and to interpret the provisions of the Plan to make coverage determinations on claims for Plan Benefits (iii) conduct a full and fair review of each claim which has been denied as required by ERISA, (iv) conduct the initial level of appeal determinations for all "Urgent Care" "Concurrent", "Pre-service" and "Post-service" claims (as those terms are defined in ERISA) and notify the Eligible Person or the Eligible Person's authorized representative of its decision. Client shall conduct final level(s) of appeal determinations for all "Urgent Care", "Concurrent", "Pre-service" and "Post-service" claims (as those terms are defined in ERISA) upon request by the Eligible Person following the initial appeal determination. Client will ensure that all summary plan description materials provided to Eligible Persons reflect this delegation.

(b) **Direct Member Reimbursement.** Navitus will provide an Eligible Person with a Navitus approved claim form that must be used when submitting a Claim for reimbursement for Covered Products provided by a Participating or Non-Participating Pharmacy. When such a Claim is submitted on the approved form, Navitus will process the Claim according to the Plan Guidelines and in the amount approved by the Client for payment. The Claim forms should be sent to: Navitus Health Solutions LLC, P.O. Box 999, Appleton, Wisconsin 54912-0999, or such other address designated by Navitus upon written notice.

Section 2.08. Collection of Deductible, Co-payment, or Coinsurance by Pharmacies. Navitus will contractually require Participating Pharmacies to collect from Eligible Persons or their representatives the amount of any applicable Coinsurance, Co-payment, or Deductible communicated by the online adjudication processing system prior to providing such persons any Covered Products to which such Eligible Person is or may be entitled. Navitus also will contractually require Participating Pharmacies to agree not to recover from Eligible Persons any unpaid balances due from Navitus and/or the Plan.

Section 2.09. Client Claims File. Navitus will provide Client with an electronic file in Navitus standard format of all paid Claims for the Client prescription drug program on a quarterly basis or such other time frame agreed upon by the parties. Such data may also be provided from time to time, at the request of Client, to a Client designee for purposes of assisting in the implementation and management of disease management programs or other programs desired by Client.

Section 2.10. Clinical and Other Services. Navitus will provide Client and its Eligible Persons certain clinical and ancillary services to facilitate Eligible Persons' appropriate utilization of Covered Products.

(a) **Concurrent Drug Utilization Review.** Navitus will provide concurrent on-line drug utilization review to Participating Pharmacies for all Claims submitted on-line. Participating Pharmacies transmitting Claims will receive advisory messages identifying potential drug interactions and other circumstances, which may be indicative of inappropriate drug utilization.

(b) **Retrospective Drug Utilization Review.** Navitus will retrospectively review previously approved Claims for potential fraud or abuse, and clinical appropriateness. Navitus will analyze Eligible Persons' drug profiles and review one or more specific therapeutic categories or issues. Automatic algorithms will be employed to identify Eligible Persons receiving the profiling and targeted drug therapy. Navitus also will contact Practitioners and Participating Pharmacies as needed to discuss therapeutic issues and to offer suggestions for alternative therapy.

(c) **Treatment Alternatives.** Client agrees that consistent with the HIPAA Privacy Rule, Navitus may contact Eligible Persons to provide refill reminders or information about treatment alternatives, including, but not limited to, brand and generic drugs, or other health-related benefits and services that may be of interest to such Eligible Persons. In connection with these services, Navitus also

may provide Participating Pharmacies and Practitioners information, electronic messaging, and communications about such alternatives and services. Client further agrees that Participating Pharmacies and Practitioners may contact Eligible Persons regarding refill reminders or information about treatment alternatives; provided that such action is not inconsistent with applicable medical standards of care or any limitation imposed by applicable law.

(d) **Prior Authorizations.** Navitus will, as required by Client, confirm with Practitioners whether certain Covered Products are prescribed for medical conditions consistent with FDA-approved indications and labeling. In providing any or all such services, Navitus may rely upon information provided by the Eligible Person or such person's representative, the Practitioner, the dispensing pharmacist and other sources deemed reliable by Navitus. Navitus shall not determine medical necessity or appropriateness of treatment, although Navitus may rely upon protocols established and maintained by its Pharmacy and Therapeutics Committee (consisting of pharmacists and physicians) based upon factors such as safety, availability, potential for misuse and cost in its review of Claims submitted for payment of such prescription drugs. The standard Navitus prior authorization list will be made available to Client along with Navitus approved criteria for use. This list may change from time to time based upon the clinical determination of the Navitus Pharmacy and Therapeutics Committee and such changes will be communicated in advance to Client. Any customization or additions to the standard Navitus Prior Authorization list may result in additional fees payable to Navitus by the Client. Navitus will notify Client of the anticipated amounts of such additional fees, which will be reasonably determined promptly following receipt of Client's requests for such customizations or additions, and the parties will negotiate in good faith regarding changes to the list and any accompanying additional fees. Client acknowledges that Navitus may suspend processing of Claims for Covered Products subject to Prior Authorization in the event the Practitioner fails to provide missing information necessary for the processing of such Claims in compliance with such protocols.

(e) **Formulary Management.** Navitus shall provide a recommended drug formulary to Client. Client agrees to implement, administer, and cooperate with Navitus and to facilitate Eligible Persons' utilization of the Formulary.

(f) **Formulary Support Programs.** Navitus will offer Client Formulary support programs intended to assist in the transition of Client's Eligible Persons from their current drug utilization mix to a new mix of utilized products that are therapeutically equivalent and are better aligned with the Navitus Formulary.

(g) **Treatment Decisions.** Subject to Client's Plan Guidelines and the Prior Authorization process set forth in this Agreement, the decisions, in all circumstances, to prescribe and dispense any prescription drug shall be made solely by the prescribing physician or health care provider and the dispensing pharmacist, respectively. A Participating Pharmacy will not be deemed to be a representative, subcontractor, or agent of Navitus or Client based solely on this Agreement.

(h) **Ninety Day at Retail.** Navitus will provide Client, should it so choose in Exhibit 2, a ninety (90) day at retail program through which retail pharmacies will fill prescriptions for Eligible Persons subject to the terms set forth in Exhibit 2.

(i) **Additional Services.** In the event that Client requests Navitus to provide services other than those described herein including, but not limited to, special research projects, reports, consultative services (e.g., HIPAA compliance consultation), Navitus system changes to accommodate changes in Client's pharmacy program or system, or other tasks to be specifically performed for or on behalf of Client, Client shall pay to Navitus an additional charge as set forth in Exhibit 1 or as otherwise mutually agreed upon by the parties in writing before the services are provided.

Section 2.11. Eligibility and Claim Files. Navitus will establish and maintain claim and eligibility files related to Eligible Persons and their Covered Product utilization. Maintenance of eligibility files (additions, terminations and updates) will be performed within five (5) business days of Navitus' receipt of Client's submission of such additions, terminations, and updates to files; provided that the information received from Client conforms with the specifications for such information reasonably requested by Navitus. Until expiration of such time period, Client will remain responsible for all Claims submitted on behalf of such affected individuals.

Section 2.12. Core Reports. Navitus shall prepare and deliver to Client core reports no later than thirty (30) days from the close of the month or quarter, as applicable. Client will receive Navitus' Standard Report Package. Additional or customized reports shall incur costs to Client as described in Exhibit 1. Upon receipt of Client's request for an ad hoc report, the parties will negotiate in good faith to agree on a due date for such ad hoc report.

Article III CLIENT RESPONSIBILITIES

Section 3.01. Plan and Other Information. Client agrees to provide Navitus all information reasonably required by Navitus to fulfill its duties and obligations under this Agreement. Client agrees to review and analyze information provided by Navitus in a timely fashion and notify Navitus of any errors or omissions. Client represents and warrants that all information provided shall be true, accurate and complete and consistent with the Plan benefits available to Eligible Persons.

Section 3.02. Plan Guidelines. Client represents and warrants that its Plan Guidelines are true, accurate and complete descriptions of the pharmacy benefits available to Eligible Persons and acknowledges its status as the plan administrator for purposes of this Agreement. Client shall retain its discretionary authority to manage, control and interpret its Plan and may, at any time, alter or amend the Plan Guidelines; provided, Client notifies Navitus in writing of all such changes not less than thirty (30) days prior to the effective date of any changes. Navitus will advise Client of the anticipated implementation dates of the proposed benefit changes, and the benefits that are implemented shall be deemed incorporated into this Agreement as of the date of implementation. Charges, as agreed upon by Navitus and Client in writing, for programming to implement any customized edits shall be borne by Client unless otherwise agreed by the parties. If Client modifies its Plan Guidelines in a manner that materially affects Navitus' duties, obligations or cost of performance under this Agreement, then at the request of Navitus, the parties will work toward a mutually acceptable modification of this Agreement, including, but not limited to, adjustments to the administrative charges in Exhibit 1 or the Prescription Pricing Schedule in Exhibit 2 of this Agreement. If Client and Navitus are unable to agree upon mutually acceptable modifications of this Agreement after such a change in the Plan Guidelines that materially affects Navitus' duties, obligations or cost of performance, after negotiating in good faith, then Navitus may terminate this Agreement upon ninety (90) days' notice to Client. If Client and Navitus are unable to agree upon mutually acceptable modifications of this Agreement after such a change in the Plan Guidelines that materially affects Client's duties, obligations or cost of performance, after negotiating in good faith, then Client may terminate this Agreement upon ninety (90) days' notice to Navitus.

Section 3.03. Eligibility. Client represents that each individual's eligibility for benefits is determined by reference to criteria in its Plan. Client will provide Navitus eligibility information identifying each individual eligible for pharmacy benefits under Client's Plan. Such information shall include all information identified by Navitus so as to enable Navitus to process Claims in accordance with HIPAA and shall be provided in a mutually acceptable format. Client will provide Navitus regular updates of subsequent changes in enrollment, including, but not limited to, changes in eligibility status, additions and deletions of Eligible

Persons, and termination of benefits, together with the effective date of any such changes if such changes occur after the effective date of this Agreement. If Client retroactively changes a Eligible Person's status under the Plan; Client shall be responsible for payment of all Claims related to such Eligible Person that are processed prior to Navitus processing the notification of the retroactive termination.

Section 3.04. Eligible Person Authorizations and Consents. Client represents and warrants that it has or shall obtain the Eligible Persons' consents and authorizations if required for the services provided in connection with this Agreement and to release Protected Health Information to Client if so required.

Section 3.05. Contract Administrator. If Client appoints a Contract Administrator, Client represents and warrants that the Contract Administrator is and shall be authorized to act as Client's agent and representative on any and all matters in connection with this Agreement, including, but not limited to, (a) additions, deletions, and modifications of eligibility listings provided to Navitus; (b) payment to Navitus of claims, services and fees; (c) plan design and coverage decisions; and (d) the provision and receipt of contractually required or permitted notices. Client acknowledges and agrees that Navitus shall be entitled to rely upon any and all such acts and omissions by Contract Administrator and, further, that any and all such acts and omissions shall be binding upon Client.

Article IV FORMULARY PROGRAM AND REBATES

Section 4.01. Cooperation. Client agrees to approve the Formulary and to allow Navitus to communicate with, and make available Formulary related literature to, Participating Pharmacies, Practitioners and Eligible Persons. Client agrees to cooperate with Navitus in the maintenance of the Formulary and to facilitate Eligible Persons' utilization of the Formulary.

Section 4.02. Rebate Submissions. Client further agrees that, consistent with the HIPAA Privacy Rule, Navitus will submit Eligible Persons' Protected Health Information to pharmaceutical manufacturers in exchange for Rebates. Client acknowledges that Rebates are intended to be paid only once by manufacturers on Covered Product utilization and agrees not to participate in any other formulary, Rebate or discount program related to Covered Product utilization by Eligible Persons in connection with this Agreement. Client agrees that if any manufacturer's audit reveals that Client has submitted Covered Product utilization in a duplicitous manner to pharmaceutical manufacturers for purposes of Rebates or calculating Rebates, then Client shall be solely responsible for the reimbursement of any Rebates improperly made based on such utilization and Navitus may terminate Client's participation in the Rebate program.

Section 4.03. Rebate Calculations. Navitus will calculate Client's share of Rebates on Covered Products. Client's share of Rebates will be in proportion to its pharmacy utilization of Covered Products as compared to all other Navitus clients with similar Plans, and as specified by the criteria established by the pharmaceutical manufacturer. Client will then be eligible to receive one hundred percent (100%) of this amount on a Pass-Through basis. Any claims for which Navitus is unable to submit and collect rebates (e.g. 340B, GPO pricing, hospital or government pharmacies), including any claims that may qualify for rebates under any government program (e.g. Managed Medicaid rebate discounts), are not eligible for Rebates. Claims submitted directly by Eligible Persons may not be eligible for Rebates. Client acknowledges that its eligibility to receive payments for Rebates may change over time due to changes in laws governing prescription drug pricing (including Rebates), or changes in Navitus' contracts with pharmaceutical manufacturers. Client agrees that Navitus shall not have any liability or obligation to Client or its Eligible Persons for any failure by any manufacturer to pay any Rebates, any breach of an agreement related to the transactions contemplated by this Agreement by any manufacturer, or any negligence or willful misconduct of any manufacturer.

Section 4.04. Payment of Rebates. Navitus will pay Client Rebates on a Pass-Through basis. Navitus' payment to Client for Rebates will be on a quarterly basis and will include Client's portion of any Rebates collected and validated for accuracy during the applicable calendar quarter. Navitus agrees to pay Client its portion of received rebates within thirty (30) business days following the end of each calendar quarter in which such amounts are received, after final audit and validation of accuracy. Client acknowledges and agrees that it will not have a right to interest on any Rebate payments received by Navitus, or to other manufacturer monies received by Navitus and not directly attributable to Covered Product utilization of Eligible Persons. Amounts due and owing Client in connection with such Rebates may be offset by Navitus against Client's overdue, outstanding balances.

Article V

COMPENSATION; CLAIMS BILLINGS AND PAYMENTS

Section 5.01. Compensation. Client acknowledges that it has had an opportunity to review Navitus' qualifications and services in relation to the marketplace and Client's Covered Product expenditures and has determined the reasonableness of Navitus' compensation in connection with the services provided under this Agreement. Client further acknowledges and agrees that Navitus, and third parties contracted to Navitus, may retain interest earnings not in excess of market rates pending clearance of electronic transfers and checks in connection with the payment of Covered Product claims under this Agreement.

Section 5.02. Payments to Navitus. Client agrees to pay Navitus the administrative charges as set forth in Exhibit 1 to this Agreement. Client also agrees to fund the payment of Covered Product Claims in accordance with the Prescription Pricing Schedule in Exhibit 2 to this Agreement and all applicable gross receipts, provider, sales, use and similar taxes. Client assumes all financial responsibility for funding the payment of Covered Product Claims submitted to Navitus with regard to Client's Eligible Persons, whether by Participating Pharmacies or Eligible Persons. Navitus will invoice Client for Claims at the amount Navitus pays for those Claims.

(a) **Timing of Payment.** Client selects the following payment timing option (Client initial one of the following options):

 X **Prompt Payment Option.** Under the "Prompt Payment Option," Navitus will submit invoices to Client between one (1) and three (3) days after the end of each invoice cycle, and Client agrees to pay Navitus for amounts owed thereunder within two (2) business days from the date of invoice.

 Advance Payment Option. Under the "Advance Payment Option," Client agrees to advance to, and maintain with, Navitus an amount equal to the sum of one (1) month's estimated Covered Product Claims and one (1) month's estimated administrative charges not later than fifteen (15) days prior to the Effective Date of the Agreement. Client agrees that Navitus may retain any earnings on these advances. Invoices will be submitted between one (1) and three (3) days after the end of each invoice cycle, and payment in full will be due fifteen (15) days from the date of invoice.

(b) **Payment Methodology.** Client selects the following payment methodology option (Client initial one of the following options):

 X **Navitus Initiated ACH.** Under the "Navitus Initiated ACH," Client shall maintain a bank account from which Navitus will initiate ACH transfers in order to satisfy Client's obligations hereunder. Client shall be solely responsible for depositing funds and verifying that the account has sufficient funds to pay Covered Product Claims and Navitus' administrative charges.

 Client Initiated ACH. Under the "Client Initiated ACH," Client shall initiate ACH transfers from Client's bank account to Navitus' bank account in order to pay all amounts when due hereunder. Client shall

authorize Administrator to pay Navitus from Client's bank account such that all amounts are paid when due, if Client delegates such responsibility to Administrator.

Client acknowledges and agrees that Navitus' account(s) into which money from Client's bank account is transferred may contain money from one or more other clients that have engaged Navitus to provide administrative services and further agrees that once such money is withdrawn from Client's Account, it is no longer a Plan asset.

Section 5.03. Failure to Make Funds Available. In the event that for any reason funds are not available on the date due and Client fails to provide the required funds within one (1) business day after that failure is brought to the attention of Client, Navitus may terminate this Agreement immediately and may provide notice of such termination to Participating Pharmacies and Eligible Persons. In the event that Client has at any time failed to make funds available to pay claims for Covered Products or has failed to pay fees to Navitus, in addition to any other remedies, Navitus will have the right to offset any unpaid amounts against any amounts owed to Client by Navitus, or any entity affiliated with Navitus.

Section 5.04. Notice of Change in Administrative Fees. Navitus may change the administrative charges, effective on or after the close of the Initial Term or any Renewal Term of this Agreement upon not less than ninety (90) days prior written notice to Client. If any revision in the administrative charges is not acceptable, then Client shall so notify Navitus in writing not less than sixty (60) days prior to the expiration of the ninety (90) day period. In the event the parties cannot agree on the compensation adjustment on or before the expiration of the ninety (90) day period, then this Agreement shall terminate at the end of such time period.

Section 5.05. Collections; Interest. Client shall be responsible for all costs and expenses of collection of amounts due from Client to Navitus, and enforcement of judgments, and agrees to reimburse Navitus for such costs and expenses. Any amounts not paid by the due date thereof shall bear the interest rate of twelve percent (12%) per annum; however, this interest rate shall not exceed the maximum rate allowed by applicable laws. The rights and remedies set forth in this paragraph are in addition to other rights and remedies available to Navitus under law or in equity.

Section 5.06. Performance Guarantees. Final compensation to Navitus may be adjusted based upon assessments incurred for failure to meet performance guarantees as described in Exhibit 3. Unless otherwise set forth in Exhibit 3, Navitus shall provide a report to Client on all applicable performance guarantees on a quarterly basis, no later than one month after the end of each quarter; however, assessments for any failure to meet a performance guarantee shall be determined on an annual basis, based on the average of the results reported quarterly.

Article VI TERM OF AGREEMENT

This Agreement is effective on the Effective Date, will continue in full force and effect for the Initial Term, and will continue thereafter from year to year ("Renewal Term") unless sooner terminated or not renewed as described below. Not less than one hundred and eighty (180) days prior to the expiration of each such term, Client and Navitus shall each notify the other whether they desire to continue this Agreement beyond the Initial Term or any Renewal Term. If both parties agree to a continuation of this Agreement, then this Agreement will continue for an additional Renewal Term.

Article VII TERMINATION AND NOTICE

Section 7.01. Mutual Agreement. This Agreement may be terminated at any time by mutual written consent of the parties.

Section 7.02. For Cause.

- (a) Either Client or Navitus may terminate this Agreement, at any time, upon not less than sixty (60) days' written notice if: (1) the other party makes an assignment for the benefit of creditors, is the subject of a voluntary or involuntary petition for bankruptcy or is adjudged to be insolvent or bankrupt, or a receiver or trustee is appointed for any portion of its property; or (2) the other party commits a Material Breach of this Agreement, unless the breach is cured prior to the expiration of such notice; or (3) a change in law occurs, as provided in Section 12.08 of this Agreement.
- (b) Navitus may terminate this Agreement immediately, in accordance with Section 5.03 of this Agreement, if Client fails to timely deposit funds in the Account sufficient to cover the cost of pharmacy claims and Navitus administrative services, or if Client does not provide Navitus the requested advance in accordance with Exhibit 1 of this Agreement.

Section 7.03. Effect of Termination; Other Remedies. Termination of this Agreement shall not affect Client's financial responsibility for Covered Product claims and Navitus' administrative charges pertaining to the period prior to termination. A party's right to terminate this Agreement shall not be exclusive of any other remedies available to such party under this Agreement, at law or in equity.

Section 7.04. No Consent; Notice to Third Parties. This Agreement may be terminated without the consent of, or notice to, any Eligible Person, any Participating Pharmacy or other third parties. Notwithstanding the foregoing, Navitus may advise Participating Pharmacies and pharmaceutical manufacturers of a pending or actual termination of this Agreement.

Section 7.05. Run-Out Period. Client shall continue to assume full responsibility for the funding of Covered Product Claims incurred prior to the effective date of termination of this Agreement and for the payment of Navitus' administrative charges. Client's obligation for payment for these services will continue as long as claims are being processed by Navitus, not to exceed a run-out period of ninety (90) days on the effective date of termination. Administrative service fees for the run-out period will be based on per-transaction charges, calculated on the basis of the actual transactions related to the actual administrative service fees incurred in the last full month prior to the termination of this Agreement. Navitus will return to Client any unapplied deposits, overpayments or advances previously received from Client within thirty (30) days following such run-out period.

Article VIII
LIABILITY, INDEMNIFICATION, AND WARRANTY

Section 8.01. Limited Warranty. Navitus warrants that it will perform the services described in this Agreement in accordance with the practices and standards generally established in the pharmacy benefits management industry. Except for the preceding sentence, Navitus makes no representation or warranty of any kind whatsoever, express or implied, and expressly disclaims any and all such warranties, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose with respect to the products or services provided hereunder. Navitus does not warrant that its services will be uninterrupted or error free.

Section 8.02. Role of the Parties. Client acknowledges that Navitus will administer Client's Plan on behalf of Client. Navitus does not underwrite or insure liability of Client in connection with its prescription drug benefits, and Client retains the ultimate responsibility and final authority for its Plan. For purposes of

applicable state and federal legislation, Client is and shall be deemed the Plan sponsor of any applicable prescription drug benefit. Nothing in this Agreement is intended by the parties, or shall be construed, to confer upon Navitus the status of a fiduciary of Client or any benefit plan maintained by Client.

Section 8.03. Insurance. Navitus agrees, at its sole expense, to maintain commercial general liability insurance coverage in amounts not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Navitus also agrees to maintain errors and omissions insurance with coverage of \$5,000,000 in aggregate and security and data insurance with coverage of \$5,000,000 in aggregate. Finally, Navitus warrants and represents that it has in place and will maintain any Workers' Compensation insurance required by applicable law.

Section 8.04. Limitation of Liability for Covered Products.

(a) Client agrees and acknowledges that the services provided by Navitus herein are not intended to substitute for or supplement the knowledge, expertise, skill, and judgment of physicians, pharmacists, or other health care professionals in prescribing or suggesting pharmaceuticals or other products. The absence of a warning for a given drug, drug dosage, or drug combination shall not be construed to indicate that the drug, drug dosage, or drug combination is safe, appropriate, or effective for any Eligible Person.

(b) Navitus shall under no circumstances be liable (regardless of the basis for the action) for any damage, side effects or other injury suffered by any Eligible Person or other consumer of any pharmaceutical or any other product prescribed, dispensed or distributed by any health care provider, pharmacy, physician, Practitioner or pharmaceutical manufacturer or distributor. Without limiting the foregoing, Client agrees that Navitus shall not be liable to Client or any Eligible Person for losses, costs, claims, lawsuits, settlements, judgments or expenses, including attorneys' fees, arising as a result of the sale, compounding, dispensing, manufacturing, or use of any prescription drug or product dispensed by a Participating Pharmacy or a non-Participating Pharmacy whose claims are processed hereunder, or for any violation by such pharmacy of any applicable standard of care or applicable law, including, but not limited to, HIPAA or its implementing rules and regulations.

Section 8.05. Limitations of Liability.

(a) In no event shall Navitus' total liability for the entire term of this Agreement, regardless of the cause or form of action upon which any such liability is based, exceed the lesser of (i) the actual and direct damages incurred by Client; or (ii) the total administrative charges paid or to be paid to Navitus during the first year of this Agreement; or (iii) the amount of any applicable liability covered by Navitus' errors and omissions insurance coverage, if such amount is greater than the amount determined under (i) or (ii), above.

(b) In no event shall either party be liable to the other party for any indirect, special, incidental, consequential, or punitive damages or lost profits, arising out of or related to the performance of this Agreement or a breach of this Agreement, even if advised of the possibility of such damages or lost profits.

(c) Neither party will have any negligence or other tort liability to the other arising from the performance or any breach of this Agreement, even if a breach is the result of acts or omissions that may arguably be characterized as negligence or other tortious conduct.

(d) Any controversy or claim arising out of or relating to this Agreement, regardless of the basis of the claim, must be filed within the earlier of (i) the applicable statute of limitations or (ii) one (1)

year of the date the factual basis for the claim occurs. Failure to file such a claim within that time period shall bar a party from asserting that claim.

Section 8.06. Indemnification. Subject to the other limitations in this Article VIII and in consideration of Client's covenants, representations and warranties in this Agreement, Navitus agrees to indemnify, defend and hold Client harmless from any and all actions or claims arising from a material breach by Navitus of this Agreement. In consideration of Navitus' covenants, representations and warranties in this Agreement, Client agrees to indemnify, save, defend and hold Navitus harmless from any and all actions or claims arising from (a) a material breach by Client of this Agreement; (b) Client's plan design; (c) Client's coverage decisions; (d) actions based on matters in Section 8.04; or (e) the payment of fraudulent claims or filling of fraudulent prescriptions if the fraud is committed by an Eligible Person, or any party other than Navitus. The above indemnifications shall survive termination of this Agreement.

Section 8.07. Duty to Notify. Each party will promptly notify the other parties of any claim, action, cause of action or litigation brought against such party, its directors, officers, employees or agents that arises out of the services provided for in this Agreement.

Article IX COMPLIANCE WITH LAW

Section 9.01. Compliance. Navitus agrees to comply with all applicable federal and state laws, rules and regulations, including, but not limited to, ERISA and HIPAA and state laws, rules and regulations related to the licensure and registration of third party administrators. Client agrees to comply with all applicable federal and state laws, rules and regulations, including, but not limited to, ERISA and HIPAA. Client acknowledges that if its Plan is an employee welfare Plan for purposes of ERISA, Client is responsible for its own activities and duties (such as its duties as Plan Administrator) in connection with its Plan. Client acknowledges and agrees that it is responsible for disclosing to Eligible Persons all benefit information legally required to be disclosed, including information related to the calculation of Coinsurance, Co-payments, Deductibles, coverages and exclusions and eligibility requirements, and Rebates it receives in connection with this Agreement. Client will not identify or represent Navitus as a Plan administrator or a named fiduciary of Client's Plan as those terms are used in ERISA.

Section 9.02. Business Associate Agreement. The parties acknowledge that they have signed, or are signing contemporaneously with this Agreement, a Business Associate Agreement in compliance with HIPAA.

Article X RECORDS; CONFIDENTIALITY

Section 10.01. Maintenance of Records; Audits. Navitus agrees to maintain true and correct books and records of Client's Covered Product expenditures in the standard Navitus format and for a period of not less than seven (7) years from the date payment is made. Client may audit such books and records, using an auditor and methodology that is mutually agreed upon by the parties, upon reasonable prior written notice and during Navitus' normal business hours consistent with privacy and other limitations of applicable federal and state laws, rules and regulations and the provisions of this Agreement; provided, however, that any claims against Navitus related to such audits must be made within six (6) months of the termination of this Agreement. The parties shall require any third-party auditor to execute a confidentiality agreement in a form that is reasonably acceptable to both parties, and which contains provisions intended to protect each party's Confidential Information that are substantially the same as the provisions set forth herein. Any release to the other party of records and data reviewed during such audit, whether electronically or in any other mutually agreeable format, will be in accordance with the terms of this Agreement and applicable law.

Section 10.02. Use and Disclosure of Protected Health Information. Client acknowledges that Protected Health Information will be obtained by Navitus and such Protected Health Information will be obtained from and/or distributed to Client, Participating Pharmacies, the Mail Service Pharmacy, Specialty Pharmacies, and Eligible Persons' Practitioners for drug utilization review and other purposes related to the services provided in connection with this Agreement. Subject to the remaining provisions of this Agreement and to the terms of the Business Associate Agreement, Client hereby permits Navitus to use and disclose such PHI in performance of its duties and obligations in connection with this Agreement.

Section 10.03. Other Information. Client grants Navitus permission during and after the term of this Agreement to use and/or transfer to third parties de-identified Protected Health Information for the purposes of rendering services to prospective and existing clients and developing ancillary data for programs complementary to the programs and services provided hereunder or new products and services that may be outside the scope of this Agreement. Navitus shall retain full ownership rights over all resultant data.

Section 10.04. Confidential Information. Client and Navitus agree to take all reasonably necessary steps to protect and not to disclose the other party's proprietary and confidential information ("Confidential Information") to any third party, during or after the termination of this Agreement, except (a) as specifically contemplated by this Agreement; (b) with the other's prior written consent; (c) as required by local, state or federal law, rule or regulation, including any judicial or administrative interpretation thereof; or (d) to the extent such information becomes generally available to the public, through no action or fault of the receiving party. Such Confidential Information will include, but not be limited to: (i) with respect to Navitus: the terms and conditions of this Agreement, the operations, procedures and strategies of Navitus; its software, reporting packages, user documentation and related information; its formulary and clinical services; and data and information owned by Navitus; and (ii) with respect to Client: its operations and strategies. Client and Navitus shall cease using the other's Confidential Information upon termination of this Agreement or a subsequent agreement between the parties and shall return or destroy such information at the disclosing party's written direction.

Section 10.05. Disclosure. Upon request by Client, Navitus will disclose to Client, (a) the existence of organizational arrangements that could potentially create a conflict of interest that affects clinical or financial decisions; (b) sources of revenue as it relates to the Client's contract; and (c) pricing structure for pharmacy benefit management services including rebate structure and administrative fees.

Article XI DISPUTE RESOLUTION PROCEDURES

Section 11.01. Resolution of Disputes. The parties agree to work in good faith toward resolution of disputes arising during the term of this Agreement. If they are unable to resolve the dispute through informal discussions, either party may submit a written objection to the other party describing and proposing a manner of resolving that dispute. The party receiving such objection shall respond by accepting, rejecting, or modifying such proposal, in writing, within thirty (30) days of the date that it receives the proposal. If the proposal is accepted, then the acceptance shall be deemed an agreement between the parties. If the proposal is rejected or modified, then the parties shall resume good faith efforts to resolve the dispute for a period of thirty (30) days after notice of the rejection or modification is given. Except for actions requesting equitable relief, no lawsuit or other adverse proceeding may be commenced until expiration of that thirty (30) day period.

Section 11.02. Jurisdiction. Any lawsuit arising out of this Agreement must be brought in the state or federal court, as applicable, located in Tulsa County, Oklahoma, and the parties consent to the exclusive jurisdiction of such courts.

Article XII MISCELLANEOUS

Section 12.01. Notices. Communications in the ordinary course of performance of this Agreement, including communications regarding payment, may be conducted by any reasonable means, including but not limited to telephone, facsimile, or electronic mail. Any formal notice to be given in connection with this Agreement must be in writing and will be deemed to have been given and effective if and when sent by: (a) personal delivery or commercial courier; (b) certified or registered mail, return receipt requested with overnight or two-day guaranteed delivery, postage prepaid; or (c) a nationally recognized overnight delivery service, and addressed to:

Navitus Health Solutions, LLC
Attn: President
2601 West Beltline Highway; Suite 600
Madison, WI 53713
Phone: 608-729-1500
Fax: 608-729-2527

Client: see signature page

Either Client or Navitus may change its address for receipt of such notice by providing like written notice to the other party.

Section 12.02. Entire Agreement. This Agreement, its Exhibits, the Plan Guidelines and any other documents incorporated by reference constitute the entire and complete understanding between the parties regarding the subject matter hereof and supersede all discussions and writings between the parties that may have occurred before entering into this Agreement. There are no other agreements or undertakings, written or oral, in effect between the parties relating to the subject matter herein.

Section 12.03. Impossibility of Performance. Neither party shall be liable in any manner for any delay in performance of its obligations hereunder beyond such party's reasonable control, including, but not limited to, any delay or failure due to strikes, labor disputes, riots, earthquakes, storms, floods, or other extreme weather conditions, fires, explosions, acts of God, embargoes, terrorist acts, war or other outbreak of hostilities, government acts or regulations, or the failure or inability of carriers, suppliers, delivery services or communication providers to provide services necessary to enable a party to perform its obligations hereunder. Notwithstanding the foregoing, any of Client's obligations to pay Navitus under this Agreement, which occur prior to any such event, shall not be excused by reason of such event.

Section 12.04. Exclusivity. Client agrees that Navitus shall be the exclusive provider to the Client of the type of administrative services described in this Agreement. As applicable, the Mail Service Pharmacy shall be the exclusive provider of the internet and mail order pharmacy services described in this Agreement for the Client's Eligible Persons, and the Specialty Pharmacy shall be the exclusive provider of the Specialty Pharmaceuticals described in this Agreement for the Client's Eligible Persons.

Section 12.05. Intellectual Property. Except as expressly otherwise provided herein, Navitus retains all rights, title, and interest in and reserves the right to use and control the use of its intellectual property rights in its assets including, but not limited to, its software, reporting packages, user documentation, operations, procedures, and trademarks and service marks. Client agrees not to use any such items except as expressly allowed under this Agreement and also not to refer to Navitus or its trade name or marks in any publication without the prior written approval of Navitus.

Section 12.06. No Third-Party Beneficiaries. This Agreement is not intended, and shall not be construed, to create third-party beneficiary rights in any person, including, but not limited to, any pharmacy or other provider or Eligible Person.

Section 12.07. Governing Law. This Agreement shall be governed by and construed in accordance with applicable federal laws, rules and regulations, including PPACA, ERISA and HIPAA. To the extent such laws, rules and regulations do not apply or are not controlling, the internal laws of the State of Oklahoma will govern all claims arising out of or relating to this Agreement regardless of the basis of any such claims.

Section 12.08. Change in Law. In the event of any change in federal, state or local laws, rules or regulations, including any judicial or administrative interpretation thereof, which materially alters the rights, duties, obligations or cost of performance of either party under this Agreement, the parties will work in good faith toward mutually acceptable modifications of this Agreement. Such modifications may include but are not limited to changes related to benefit design, drug coverage, and, to the extent that these changes affect the cost of performance, changes to administrative charges. If Client and Navitus have worked in good faith, but are unable to agree upon mutually acceptable modifications, then either Client or Navitus may terminate this Agreement upon not less than sixty (60) days' prior written notice.

Section 12.09. Relationship of Parties. This Agreement is not intended, and shall not be construed, to create any relationship between Client and Navitus other than that of independent contractors. Neither Client nor Navitus shall be construed to be the agent, partner, employee, fiduciary or representative of the other and neither party shall have the right to make any representations concerning the duties, obligations or services of the other except as consistent with the express terms of this Agreement or as otherwise authorized in writing by the other party.

Section 12.10. Changes to Pricing Methodology. At any time during the term of this Agreement, Navitus shall have the option, upon thirty (30) days' notice to Client, to convert the pricing methodology used under this Agreement and set forth in Exhibit 2, to another payment methodology that is economically equivalent, as reasonably determined by Navitus. If Navitus fails to demonstrate the economic equivalency to Client and if both parties are unable to resolve this dispute as outlined in Section 11.01 then either Party will have the right to terminate the Agreement in accordance with Section 7.02.

Section 12.11. Amendment; Waiver. This Agreement may be amended or modified solely through a writing signed by authorized persons on behalf of both parties. The failure of either party to insist upon the strict observation or performance of any term or provision of this Agreement or to exercise any right or remedy will not impair or waive any such right or remedy or constitute a waiver of any subsequent breach of the same term or provision or any other term or provision hereof.

Section 12.12. Effect of Invalidity In the event a provision of this Agreement is rendered invalid or unenforceable by state or federal statute or regulations or declared null and void by any court or agency of competent jurisdiction, that provision will be deemed stricken, and the remaining provisions of this Agreement will remain in full force and effect.

Section 12.13. Assignment. No party may assign or transfer its rights or obligations under this Agreement, in whole or in part, without the other party's prior written consent, which shall not be unreasonably qualified or delayed. Any attempted assignment without that consent shall be void. Notwithstanding the forgoing, Navitus may assign this Agreement to any parent company or affiliate.

Section 12.14. Construction. This Agreement will be construed and interpreted neutrally and without regard to the party that drafted it. The headings in this Agreement are used solely for the purpose of convenience and will not be considered in the construction of any provision in this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the day first written above.

Client: City of Broken Arrow

Navitus Health Solutions, LLC

By: Craig Thurmond
Name: Craig Thurmond
Title: Mayor

By: Terry Seligman
Name: Terry Seligman
President: CEO

Variables:

"Cardmember" will / ~~will not~~ [strike one] include retired employees.

Contract Administrator: **None** or **Name:** _____.

Initial Term: One (1) year from the Effective Date

Notices to Client (12.01): Attn: Jannette McCormick
Address: 220 S. 1st St.
Broken Arrow, OK 74012
Phone: 918-259-2400
Fax: 918-251-9210

ATTEST:

Marilyn Boyce
(Seal) CITY CLERK

APPROVED AS TO FORM:

Lesli Myers
ASSISTANT CITY ATTORNEY

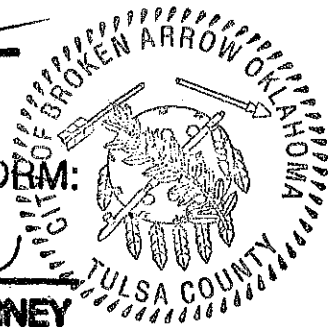


Exhibit 1
ADMINISTRATIVE SERVICES FEE SCHEDULE

Client agrees to pay Navitus an administrative fee of \$2.95 per Eligible Person per month. At the beginning of the second full year of the Agreement and at the beginning of each full year thereafter, whether in the Initial Term or a Renewal Term, the amount of the administrative charge shall be increased by three percent (3%) for inflation and other business-related expenses. The administrative fee does not include fees for certain additional charges, described below.

The administrative fee will include the following services, which are all set forth more fully in the Agreement:

- Account Management
 - Implementation Services
 - Eligibility Updates
 - Plan Changes and Support
 - Program Consultation
- Customer Service Call Centers
 - Eligible Persons
 - Participating Pharmacies
 - Other Pharmacies
 - Practitioners
- Fulfillment Materials
 - Identification card for each Cardmember (unless provided by a third party so designated by Client)
 - Member handbook (unless provided by a third party so designated by Client)
- Retail Pharmacy Network Management
 - Network Development and Contracting Negotiations
 - Claims Processing (Electronic and Paper) and Related Services
 - Direct Member Reimbursement
 - Pharmacy Claims Submission
- Clinical and Ancillary Services
 - Standard Drug Utilization Review
 - Prior Authorization Services
 - Formulary Management
 - Formulary Support
- Pharmaceutical Company Relations
 - Rebate Contracting
 - Rebate Contract Management
 - Rebate Invoicing, Reconciliation and Payment
- Reports
 - Standard Reporting Package of Standard Reports
 - Electronic claims payment file

Additional Charges.

Ad Hoc reporting at a rate of \$150 per hour.

Additional Third Party Paid Claims file development and distribution at a rate of \$150 per hour.

E-prescribing at a rate of up to \$0.18 per eligibility status transaction, initiated by a Practitioner's point of care electronic system and communicated to Navitus, relating to an Eligible Person and any medication history transaction or formulary coverage status transaction associated with the same Eligible Person and occurring in conjunction with the eligibility status transaction. Navitus will waive the \$5,000 set-up fee if the Client implements e-Prescribing upon start-up of full PBM services. Notwithstanding the foregoing, if SureScripts, Navitus' provider of e-prescribing services, increases the amount that it charges Navitus for e-prescribing provided to Eligible Persons under this Agreement, then Navitus may increase the amount that it charges Client for e-Prescribing hereunder by the amount of such increase, provided Navitus gives Client written notice of any such price increase.

\$50 for each ERISA appeal for Claim re-determinations.

Exhibit 2
PRESCRIPTION PRICING SCHEDULE

General. Client acknowledges that the discount rates and dispensing fees set forth below are target discounts established for the pricing distribution channels necessary to meet access requirements. Client acknowledges that 100% of the pricing will be passed through to Client from the participating pharmacies. Navitus agrees to negotiate to achieve or exceed these target rates. Any discounts obtained by Navitus that exceed the targets stated below will be passed through to Client. It is acknowledged by both parties that individual contracts may vary from the targeted rate based upon negotiation.

Navitus reserves the right to modify pricing for certain exclusive generics based on the demands of the marketplace and in the best interests of the Client.

A. Thirty Days at Retail Drug Program. The Navitus National Network and the 90-Day Retail Network will be implemented for Client. Reimbursement for each branded Covered Product, not requiring compounding, dispensed by a Participating Pharmacy will be based upon the lower of (1) AWP, less an average of 14.5%, plus an average dispensing fee of \$1.45; (2) such pharmacy's Usual and Customary Price; or (3) the amount submitted by the pharmacy. Reimbursement for each generic Covered Product dispensed by a Participating Pharmacy will be the lower of (1) the Navitus MAC plus a dispensing fee, if applicable; (2) each Participating Pharmacy's respective contracted price for such Covered Product, including a discount plus a dispensing fee; (3) such pharmacy's Usual and Customary Price; or (4) the amount submitted;. The average effective discount performance for generic Covered Product is AWP minus 75.5% plus an average dispense fee of \$1.45.

B. Mail Service Program. Reimbursement for each branded Covered Product dispensed by the Mail Service Pharmacy will be based upon the lower of (1) AWP, less an average of 20%, plus a dispensing fee of \$0.00; (2) such pharmacy's Usual and Customary Price; or (3) the amount submitted. Reimbursement for each generic Covered Product dispensed by the Mail Service Pharmacy will be based upon the lower of (1) the Navitus MAC, if applicable; (2) a discounted price of AWP less 55%; (3) such pharmacy's Usual and Customary Price; or (4) the amount submitted. The average effective discount performance for generic Covered Product is AWP minus 82% plus \$0.00 dispense fee.

C. Specialty Pharmaceutical Program. Reimbursement performance for Specialty Pharmaceuticals is based upon a typical market basket of Specialty Pharmaceuticals, not requiring compounding. Reimbursement for Specialty Pharmaceuticals dispensed by the Navitus preferred Specialty Pharmacy will be based upon the lower of (1) AWP less an average of 15.75%, plus an average dispensing fee of \$0.00; (2) such pharmacy's Usual and Customary Price; or (3) the amount submitted. Reimbursement for each generic Covered Product dispensed by the Specialty Pharmacy will be based upon the lower of (1) the Navitus MAC, if applicable; (2) each Specialty Pharmaceutical's respective contracted price for such Covered Product, including a contractual discount; or (3) the amount submitted. Discounts for each Specialty Pharmaceutical are individually negotiated and vary by drug.

D. AWP / WAC-Based Pricing. Navitus is changing its pricing methodology from AWP-based pricing to WAC-based pricing. Many pharmacies have already executed agreements with Navitus to change reimbursement calculations from AWP to WAC, with some pharmacies requesting that Navitus continue using reimbursement rates based on AWP for non-MAC (maximum allowable cost) generic drugs until a later date. Navitus reserves the right to use (1) AWP-based pricing that is economically equivalent in aggregate to the WAC-based pricing listed in this Exhibit and (2) WAC-

based pricing that is economically equivalent in aggregate to the AWP-based pricing listed in this Exhibit.

THE FOLLOWING PROGRAMS ARE OPTIONAL AND WILL APPLY IF CHECKED BELOW OR IF REQUESTED BY CLIENT DURING THE TERM OF THE AGREEMENT BY NOTICE TO NAVITUS:

E. ☒ Compound Drug Program. Compound medications will be reimbursed as follows: WAC plus the compounding fee (described below), minus the Co-payment/coinsurance. The criteria for reimbursement: (1) the compound medication must have at least two ingredients, and at least one ingredient must be an FDA legend drug; (2) all active ingredients must be covered as part of the Navitus Formulary and the NDC for each must be submitted. Compound prescriptions costing over \$200.00 and compounds containing ingredients not on the Navitus Formulary require prior authorization.

Compounding Fee Time Reimbursement Rates: 1 - 5 minutes \$10.00
6-15 minutes \$15.00
16-30 minutes \$20.00
31+ minutes \$25.00

F. ☒ Ninety Day at Retail Program. This program, which utilizes the Navitus 90-day-at-Retail Network, provides Eligible Persons with a ninety (90) day supply of maintenance medications through participating retail pharmacies. Reimbursement for each branded Covered Product dispensed by a retail Participating Pharmacy will be based upon the lower of (1) AWP, less an average of 18.65%, plus an average dispensing fee of \$0.60; (2) such pharmacy's Usual and Customary Price; or (3) the amount submitted by the pharmacy. Reimbursement for each generic Covered Product dispensed by a Participating Pharmacy will be the lower of (1) the Navitus MAC, if applicable, plus a dispensing fee; (2) each Participating Pharmacy's respective contracted price for such Covered Product, including a discount plus dispensing fee; (3) such pharmacy's Usual and Customary Price; or (4) the amount submitted. The average effective discount performance for generic Covered Products is AWP minus 78.5 %, plus an average dispensing fee of \$0.65.

G. ☐ Pharmaceutical Care Incentive Program. This program forms a unique partnership between Participating Pharmacies, Practitioners, and Navitus to improve the overall level of care and, therefore, the outcome for each Eligible Person. Inherent in the program are incentives to maximize the education of the Eligible Person as well as to promote the use of generics whenever safety and efficacy allow. Reimbursement for the following interventions will be made to those Participating Pharmacies who provide the outlined interventions to those Eligible Persons eligible for Pharmaceutical Care Incentive Program.

Pharmaceutical Care Incentive Program Reimbursement Schedule

Therapeutic Interchange.....	\$12.00
Formulary Interchange.....	\$4.00
Change of Dosage.....	\$5.00
Patient over/under Utilization (requires notification of Practitioner)	\$10.00
Disease State Management (training of monitoring devices and/or inhalers)	\$1.00/minute

Glucose Monitors

(Max 30 minutes)

Asthma Inhalers or Peak Flow Meters	(Max 10 minutes)
Blood Pressure Monitors	(Max 15 minutes)
Nasal Inhalers	(Max 5 minutes)

Notwithstanding anything in the Agreement to the contrary, reimbursement for the above interventions is subject to change upon notice from Navitus to Participating Pharmacy, and Navitus may at any time, on thirty (30) days' written notice, terminate the Pharmaceutical Care Incentive Program in its entirety. Further, a Participating Pharmacy's eligibility may be terminated by Navitus at any time if Navitus determines, in its sole discretion, that the interventions are not being reported accurately by that Participating Pharmacy.

Exhibit 3
FINANCIAL AND PERFORMANCE GUARANTEES

Navitus will provide the financial and performance guarantees below, placing a total amount of up to twenty-five percent (25%) of the administrative fees at risk. Notwithstanding the foregoing, Navitus will not be required to pay Client any assessment for a failure to meet any individual guarantee, if Navitus' performance beyond the level guaranteed in other guarantees, on average, results in a net benefit to the Client when compared to the impact of such failure meet the individual guarantee.

Financial Guarantees			
Navitus will deliver the entire value of the proposed network reimbursement terms pricing and manufacturer rebates set forth below, including all upside performance. In accordance with a full pass-through model, the financial performance of overage in one area may be used to offset a shortfall in another area, limited to the retail network, mail service, and manufacturer rebates. Should a shortfall occur after applying this methodology, Navitus will place 25% of its administrative fees at risk, in total, to compensate Client for any shortfall or missed performance guarantee.			
Pricing Parameter*	Retail	Retail Maintenance	
Minimum Brand Drug Effective Rate Guarantee*	AWP minus 14.5% on average guaranteed. AWP minus 14.65% is average performance expected.	AWP minus 18.65% on average guaranteed. AWP minus 18.75% is average performance expected.	
Maximum Brand Drug Dispensing Fee Guarantee*	\$1.45 on average guaranteed. \$1.40 is average performance expected.	\$0.60 on average guaranteed. \$0.55 is average performance expected.	
Minimum Generic Drug Effective Rate Guarantee*	AWP minus 75.5% on average guaranteed. AWP minus 76.5% is average performance expected inclusive of MAC and Non-MAC generics.	AWP minus 78.5% on average guaranteed. AWP minus 79% is average performance expected inclusive of MAC and Non-MAC generics.	
Maximum Generic Drug Dispensing Fee Guarantee*	\$1.45 on average guaranteed. \$1.40 is average performance expected.	\$0.65 on average guaranteed. \$0.60 is average performance expected.	
Rebate Guarantees**	2014	2015	2016
Per Retail Brand Drug	\$24.00	\$24.00	\$24.00
Per Retail Maintenance Brand Drug	\$60.00	\$60.00	\$60.00
Per Specialty Brand Drug	\$174.00	\$174.00	\$174.00

* AWP/WAC pricing for all claims is based on the 11-digit National Drug Code (NDC) in Navitus records as of the date of service. Medi-Span is Navitus' only source of drug pricing data and is utilized for all claims adjudication as of the Effective Date. Network discounts and fees may exclude claims originating from non-traditional providers, such as long-term care pharmacies, home infusion providers, military pharmacies, Indian Tribal pharmacies, and those pharmacies deemed by client as necessary to include in the network but which do not meet Navitus discount or credential standards. Additional exclusions from retail network discounts include claims from pharmacies subject to states' most-favored nations Medicaid pricing formulas and claims from the preferred specialty pharmacy. Pharmacy network discount guarantees are applicable upon Client satisfaction of minimum of 1,000 paid claims within the pricing parameter in the quarterly reporting period.** Rebate guarantees are based on primary claims and use of the Navitus Select Formulary with either a 3-Tier or 4-Tier design with a minimum copay differential of \$20 between preferred brands and non-preferred brands. Excludes any claims for which Navitus is unable to submit and collect rebates (e.g., 340B, Long Term Care facilities, FSS pharmacies, GPO pricing), including any claims that may qualify for rebates under any government program (e.g., Managed Medicaid rebate discounts). Per brand guarantees do not include vaccines, medical supplies, non-rebated brands with generic equivalents or non-legend drugs, designated as over-the-counter (OTC) excluding diabetic test strips and supplies. In the event a member pays greater than 50% of the cost of the claim, the plan may not be eligible for that claim's rebates. Year one rebates are guarantees, subsequent years are estimates. In order to qualify for stated guarantees, client must realize and maintain a minimum prescription volume (i.e. utilization) of 100 qualifying brand claims in the respective, stated channel (e.g. mail, retail-90) per quarter.

Performance Guarantees

Category	Performance Standard	Measurement	Assessment***
Mail Order Dispensing Accuracy Rate	99.9% of all claims will be dispensed to members accurately with respect to the correct prescription drug dosage, directions for use, quantity and authorized refills.	Quarterly report.	
Mail Order Claims Turnaround - Clean Claims (no intervention)	95% of all clean prescriptions for covered products will be dispensed and shipped within an average of two (2) business days of receipt of the order at the mail service pharmacy.	Quarterly report.	
Mail Order Claims Turnaround - Claims Requiring Administrative or	100% of all prescriptions for covered products will be dispensed and shipped within an average of five (5) business	Quarterly report.	

Category	Performance Standard	Measurement	Assessment***
Clinical Intervention	days of receipt of the order at the mail service pharmacy for orders that require administrative or clinical intervention.		
Customer Care - Abandonment Rate	Not more than three percent (3%) of calls, excluding short abandons (callers who abandon in 30 seconds or fewer), will be abandoned.	Quarterly report.	
Customer Care - Average Speed to Answer (ASTA)	Calls will be answered with an average of less than 30 seconds. ASTA is the average amount of time all calls are held before being answered. ASTA is reported in seconds.	Quarterly report.	
Customer Care - First Call Resolution	90% of member inquiries will be resolved during one contact with Navitus Customer Care	Quarterly report.	
Customer Care - Written Inquiries	95% of written inquiries will be responded to within five (5) business days. 100% will be responded to within ten (10) business days.	Quarterly report.	
Member Satisfaction	Navitus will conduct an annual member satisfaction survey, utilizing its internally developed survey tool, and will guarantee a satisfaction rate of 90% of responses satisfied or	Quarterly report.	

Category	Performance Standard	Measurement	Assessment***
	very satisfied.		
Member Fulfillment	<p>Initial implementation and full re-issues: Members will receive ID cards and/or any associated member materials (as agreed to in the Pharmacy Services Agreement) within a mutually agreed-upon timeline that factors plan sponsor submission of complete and accurate eligibility and timely plan sponsor sign-off on group structure and benefit plan design.</p> <p>Ongoing maintenance and new enrollees: ID cards and/or any associated member materials (as agreed to in the Pharmacy Services Agreement) will be produced and mailed within an annual average of 98% mailed within five (5) business days of receipt of a complete and accurate eligibility; 100% mailed within seven (7) business days.</p>	Quarterly report.	
Eligibility Management	Navitus guarantees that clean eligibility files received in the mutually agreed upon format will be uploaded and available within the system within two (2) business days of receipt.	Quarterly report.	

Category	Performance Standard	Measurement	Assessment***
Information Management - Standard Reports	100% of standard reports are distributed to the client within 15 business days after the end of cycle close.	Quarterly report.	
Information Management – On-line Reporting	PBM guarantees that data for on-line reporting will be available within fifteen (15) business days following the end of each month.	Quarterly report.	
Benefit Design Error Resolution	PBM guarantees that any identified errors in benefit design set-up will be resolved within five (5) business days unless mutually agreed upon by Client and PBM.	Quarterly report.	
Client Services - Inquiry Response Time	Navitus will acknowledge receipt of service or information request within 2 business days, and will guarantee timely and accurate resolution of service requests within a mutually agreed upon timeframe.	Annual report.	
Client Satisfaction Survey	Navitus will agree to a standard that requires that the survey receives an average of 3 or better on a scale of 1 to 5 on an annual basis (5 being the best based on a range of performance criteria).	Annual report.	
Client Services – Action Log	Navitus guarantees that the Account Team will maintain and distribute on a bi-weekly basis an Action Log which documents and tracks any administrative, operational, clinical, and financial issues.	Annual report.	

Category	Performance Standard	Measurement	Assessment***
Client Services – Quarterly Meetings	Navitus guarantees that the Account Team will schedule and participate in quarterly meetings or reviews with PremierSource to discuss quarterly utilization, financial, and clinical results. The Account Team will prepare and distribute agenda and meeting materials at least five (5) business days prior to the meeting date. Meeting notes and follow-up items will be distributed by the Account Team within five (5) business days following the meeting.	Annual report.	
Client Services – Modeling/Forecasting	Navitus will provide any modeling/forecasting for plan design changes to Client within ten (10) business days of written request. Requests for modeling/forecasting for formulary/rebate changes will be provided within ten (10) weeks of written requests.	Annual report.	

If Navitus performance falls below the financial or performance guarantee level for two consecutive quarters, payment for the standard will be enforced unless the parties have mutually agreed to waive the penalty due to extenuating or other “special cause” circumstances. Any payments owed by Navitus for failing to meet the performance guarantees set forth above will be paid within ninety (90) days after the end of the applicable calendar year. The maximum amount of all penalties payable by Navitus under the Agreement shall not exceed 25% in total of the administration fees in that reporting period.