

**SEVENTH MODIFICATION TO PHARMACY PURCHASING POOL MANAGEMENT AND PHARMACY BENEFITS ADMINISTRATION SERVICES CONTRACT**

**THIS SEVENTH MODIFICATION AGREEMENT** is made effective this 22<sup>nd</sup> day of December, 2010 by and between Catalyst Rx, Inc. ("Contractor") and the State of Maryland, acting through the Department of Budget and Management.

**IN CONSIDERATION** of the promises and the covenants herein contained, the parties agree to modify the Contract for Pharmacy Benefits Purchasing Pool Management and Pharmacy Benefits Administration Services dated April 4, 2007, as amended by a first Modification dated July 1, 2008, a second modification dated July 1, 2008, a third modification dated July 1, 2008, a fourth modification dated November 25, 2008, a fifth modification dated August 27, 2009, and a sixth dated September 28, 2009, between the Contractor and the State of Maryland, acting through the Department of Budget and Management as follows:

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**1. Definitions.**

1.1. In this Modification, the term "Modification" means this Seventh Modification.

1.2. In this Modification, the term "RDS Center" means the Retiree Drug Subsidy Center of the Centers for Medicare and Medicaid Services.

1.3. Capitalized terms in this Modification have the same meaning as provided in the Contract or the RFP.

**2. Scope of Modification.** This Modification amends the Contract specifically as described herein. Except as specifically revised by the terms of this Modification, all of the terms of the Contract shall remain in full force and effect and shall apply to this Modification.

**3. Performance Guarantees,**

3.1 The Contractor's preparation and submission of necessary reports related to the State's participation in the federal retiree drug subsidy program shall meet certain Performance Guarantees, as outlined below. The parties agree that it is critical to the success of the State's benefits plans that services be maintained in a timely manner and that the Contractor operates in an extremely reliable manner. It would be impracticable and extremely difficult to fix the actual damage sustained by the State in the event of certain delays or failures in claims administration, service, reporting, and attendance of Contractor personnel on scheduled work and provision of services to the State employees, retirees and dependents served by this Contract. The State and the Contractor, therefore, presume that in the event of certain such delays and failures, the amount of damage which will be sustained from a failure to perform to certain standards will be the amounts set forth below for the performance items listed; and the Contractor agrees that in the event of any such failure of performance, the Contractor shall pay such amount as liquidated damages and not as a penalty. The State, at its option for amount due the State as liquidated damages, may deduct such from any money payable to the Contractor or may bill the Contractor as a separate item.

3.2 On a monthly basis, the Contractor shall review, for accuracy, completeness, and errors, the reports submitted in connection with the State's participation in the federal retiree drug subsidy program, including but not limited to cost reports, eligibility reports and claims reports. Based on that review, the Contractor shall provide written notice of any errors in the reports. Such error notification shall include, at a minimum, an explanation of the error information and an action plan relating to eligibility, claims or

cost report discrepancies, noted either internally or by the client, within five (5) business days after identification of the issue. In the event of no errors or discrepancies in the reviewed report, the Contractor shall provide an e-mail notice indicating that the report is submitted and that no errors or discrepancies were found. If the Contractor fails to supply the required notice within the identified timeframe, the Contractor shall pay as damages to the State the sum of [REDACTED] for each month of such failure of performance.

3.3 On a monthly basis, the Contractor shall submit eligibility files to the RDS Center by either: (1) the 15<sup>th</sup> of the month following the last day of the previous month or (2) in the event that the 15th calendar day falls on a weekend or holiday, by the next business day. If the Contractor fails to submit the required eligibility files within the identified timeframe, the Contractor shall pay as damages to the State the sum of [REDACTED] for each month of such failure of performance.

3.4 On a monthly basis, the Contractor shall submit monthly claims files to RDS Center by the last business day of the month that follows the month for which the claims files are submitted. For example, the claim(s) files containing July claims data shall be submitted on or before August 31<sup>st</sup>. In the event that August 31<sup>st</sup> falls on a weekend or holiday, such files shall be submitted on or before the last preceding business day. If the Contractor fails to submit the required monthly claims files within the identified timeframe, the Contractor shall pay as damages to the State the sum of [REDACTED] for each month of such failure of performance.

3.5 (a) The Contractor shall ensure accuracy in calculation methodologies for RDS reporting. During the annual reconciliation process after the close of the plan year, the Contractor shall identify and report discrepancies between the submitted monthly files and the accurately annual data. In the event that there is a greater than 1% variance (i.e. 1.01% or more) that is the result of the Contractor's act(s), error(s) or omission(s) in connection with the reporting, the Contractor shall pay as damages to the State the following: the sum of [REDACTED] plus any interest, penalties or costs assessed against the State, as the sponsor of the prescription drug plan, as a result of the "act(s), error(s) or omission(s)" of Contractor. The Contractor shall not be liable for the amount of any overpayment that the State must reimburse but shall be liable for any penalties or additional costs assessed against the State as a result of the discrepancy.

(b) Discrepancies will be measured as follows:

(i) Eligibility files: [include but are not limited to eligibility differences due to changes by the State of Maryland or CMS and estimated rebates]

(ii) Claims files and Cost reports: During annual reconciliation process, the Contractor will identify any report discrepancies that occurred resulting in a greater than a 1% variance between the total of the Medicare Part D reimbursements for the twelve months of a plan year (July through June) versus the final annual reconciliation Medicare Part D reimbursement due the State. If the variance is caused by an inaccuracy and due to a Contractor error, the guarantee will be applicable. Examples of valid variances include but are not limited to eligibility differences due to changes by the State of Maryland or CMS and estimated rebates. The Contractor will have to provide a report to the State reflecting the annual reconciliation, total reimbursement prior to any adjustment, (after identification of an error) and a computation of total reimbursement after the error was corrected.

4. The Contractor's performance, and the Contractor's reporting of its performance, pertaining to these Performance Guarantees and any other Performance Guarantees included in the Contractor's Technical Proposal shall be subject to any audit performed by the State.

5. The Performance Guarantees outlined in this Modification shall be effective with the fiscal 2011 plan year.

IN WITNESS THEREOF, the parties have executed this Modification.

CONTRACTOR

STATE OF MARYLAND  
DEPARTMENT OF BUDGET AND  
MANAGEMENT

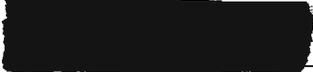
  
By: Richard A. Bates                      Date  
President and Chief Operating Officer

 2/25/11  
By: T. Eloise Foster                      Date  
Secretary

 12/22/10  
Witness                                      Date

 2/25/11  
Witness                                      Date

Approved for form and legal  
sufficiency this 23<sup>rd</sup> day <sup>February</sup> December 2010.

  
Assistant Attorney General

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FEBRUARY 25 2011  
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