



## Rx LINC/eRx PRE & POST EDIT SERVICES AGREEMENT

This Services Agreement (“Agreement”) is made and entered into by and between RxLinc, Inc. (RxL) of Oklahoma City, Oklahoma and \_\_\_\_\_ (“Customer”) effective on the date signed by RxL (“Effective Date”). WHEREAS, RxL is, among other things, in the business of providing electronic transaction processing and related services to the pharmacy industry and is an authorized Value Added Retailer (VAR) for eRx Pre and Post edit services (PPE), and WHEREAS, eRx is, among other things, in the business of providing electronic transaction processing services to the pharmacy industry; and WHEREAS, Customer desires to utilize RxL PPE services shown on Exhibit “A” and the parties hereto desire to set forth their agreement relating to eRx PPE Services which Customer desires to purchase from RxL; NOW THEREFORE, for and in consideration of the mutual promises, covenants and conditions contained herein, the parties agree as follows:

**1. Modifications.** RxL may, in its sole discretion, modify and/or update its services. In such event, RxL will provide to Customer, within a reasonable time, any additional specifications and related materials needed by Customer for such PPE Services. Customer may request custom edits from RxL for which RxL will make available to Customer at Custom Edit pricing if such Custom edits are available from eRx.

**2. Fees.** Customer agrees to the Fees, set forth on Exhibit “A” attached hereto for the PPE Services provided by RxL to Customer during the preceding month. RxL utilizes the National Automated Clearing House Association (NACHA) Rules and Operating Standards to debit (and as may be necessary, credit) customers designated bank account (Account) for services provided by RxL to Customer. RxL may modify the fees set forth on Exhibit “A” upon 90-days written notice to Customer. Customer is not responsible for fees owed to eRx by RxL for Services Customer purchases from RxL. RxL reserves the right to suspend PPE services for failure to pay fees including disputed fees not resolved 45-days past the original ACH debit date if not resolved through good faith negotiations.

**3. Disputed Charges.** If Customer disputes charges, customer has the right to reverse a debit according to U. S Banking Laws. Should Customer reverse a debit or dispute charges. In such instances, Customer has the following duties: (1) Notify RxL of the disputed amount, (2) work with RxL to resolve the dispute, (3) immediately pay RxL for undisputed amounts, and (4) upon resolution of disputed charges, pay RxL by check (or RxL can ACH debit Customer’s Account) for disputed amounts due.

**4. Taxes or Charges.** Customer is responsible for the payment of any taxes or charges, including any increases, imposed by any governmental or regulatory authority with respect to the delivery of products or services hereunder, excluding taxes on the net income of RxL, but including, without limitation, all sales and use taxes. Prior notification of any increase in communications tariffs or regulatory charges related to the PPE Services is not require of RxL. Such increases could include, but not limited to government imposed access fees, fees resulting from changes in regulation or statute, or any 3<sup>rd</sup>-party imposed access fees or any other fees assessed against RxL. Upon request, RxL shall make available to Customer documentation relating to these pass-through fees in connection with the PPE Services.

**5. RxL Obligations.** RxL shall provide PPE Services in accordance with its advertised and delivered specifications and the services will be available during the hours designated in such specifications. RxL will provide reasonable ongoing support for Customer through RxL’s Customer Support Staff or available online resources.

**6. Obligations of Customer.** Customer shall cause its transmission of its prescription transactions to be through RxL according to RxL’s specifications. Customer is responsible for maintaining all computer hardware and software required to use PPE Services.

**7. Intellectual Property and Confidentiality Obligations.** It is understood and agreed that all intellectual property rights including, but not limited to, patentability, copyright, trade secrets and otherwise, relating to the PPE Services, specifications and materials belong to RxL and/or eRx. It is also agreed that all such materials and information constitute confidential information of RxL and/or eRx. As such, Customer agrees to treat all such information confidential and not to use same outside the scope of this Agreement. Customer also agrees not to infringe upon the intellectual property rights of RxL and/or eRx relating to its services and materials.

**8. Compliance with Privacy Standards.**

**A. Compliance with Privacy Standards.** Personally identifiable health information about healthcare customers (“Protected Health Information” or “PHI”) is subject to various statutory privacy standards, including the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and regulations adopted thereunder by the Department of Health and Human Services (45 C.F.R. Parts 160, 162, and 164), hereafter referred to as the “Privacy Rule”. RxL, eRx and Customer shall treat such information in accordance with those standards. Customer shall use and/or disclose PHI with RxL and/or eRx: (a) solely to carry out treatment, payment and health care operations described in § 164.506(c) of the Privacy Rule; and (b) in compliance with the minimum necessary standard described in § 164.502(b) of the Privacy Rule. RxL and/or eRx shall use and/or disclose PHI solely as contemplated by this Agreement or as otherwise required by law.

**B. Further Obligations.** Upon expiration or any termination of this Agreement, RxL and/or eRx shall return or destroy, all material in any medium that contains, refers to, or relates to such confidential information, and retain no copies except as may be required to comply with applicable law. In the event that RxL, eRx or Customer determines that returning or destroying the Protected Health Information is infeasible, RxL and/or eRx shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as RxL and/or eRx maintains such Protected Health Information.

**C. Consent.** Customer represents and warrants to RxL and eRx that: Customer has obtained warrants from Covered Entities that “Covered Entity”, as defined in the Privacy Rule, which it contracts with has obtained the requisite consents, acknowledgements, authorization and other approvals necessary to release Prescription Data, confidential patient information and PHI to RxL and/or eRx in compliance with applicable

law. To the best of Customer's knowledge, information and belief the requisite consents, acknowledgements, authorization and other approvals necessary to release Prescription Data, confidential patient information and PHI to RxL and/or eRx has been provided and obtained or will have been provided and obtained as of the date of release of the applicable confidential patient information or PHI to Connectivity Partner.

**D. Permitted Uses and Disclosures of PHI by RxL and/or eRx.** Except as otherwise limited in this Agreement, RxL and/or eRx may use or disclose PHI (i) to perform functions, activities, or services for, or on behalf of, Customer as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Customer; and (ii) for the proper management and administration of RxL and/or eRx or to carry out the legal responsibilities of RxL and/or eRx; and (iii) may de-identify any and all PHI created or received by RxL and/or eRx under this Agreement; provided, however, that the de-identification conforms to the requirements of the Privacy Rule. Customer authorizes RxL and/or eRx to release or use de-identified data derived from use of the services by Customer for the use of RxL and eRx Edit™ Services only.

**9. Warranties and Limitations.** eRx warrants that its eRx PPE Services will substantially conform to its applicable specifications in all material respects. In the event of a breach of this warranty, eRx's sole responsibility is to use commercially reasonable efforts to attempt to correct such flaw in a timely manner. EXCEPT FOR THE WARRANTY CONTAINED IN THIS PARAGRAPH, THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURCHASE AND THE WARRANTY OF WORKMANLIKE MANNER. IN NO EVENT WILL RxL or eRx BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES EVEN IF PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. RxL AND/OR eRx's AGGREGATE LIABILITY UNDER THIS AGREEMENT TO CUSTOMER SHALL BE LIMITED TO A MAXIMUM OF THE PREVIOUS 6-MONTHS FEES PAID BY CUSTOMER TO RxL FOR THE SERVICES HEREUNDER.

**10. Liability Limitations.** RxL and/or eRx is not liable for (1) the unavailability of any eRx Services arising from a cause over which RxL and it's network partners do not have direct control, including, but not limited to, severe weather, earthquakes, natural disasters, strikes, labor problems, wars, governmental restrictions, when PPE services are in a "by-pass" mode due to telecommunications issues, telecommunication failures, Customer Pharmacy System incompatibilities or issues, or when customer fails to utilize reports. Network issues include, but are not limited to: (1) backend processor's unavailability or inability to communicate with RxL and/or eRx, (2) Customer's Internet Service Provider, hardware or software issues, (3) Equipment malfunction or telecommunications issues, regardless of the source. Furthermore, RxL and it network partners are not liable for the unavailability of any PPE Services that arise from acts or omissions of the Customer, its employees, contractors, agents, or its end users, or due to Customer's inability to communicate with RxL and/or eRx.

**11. Term and Termination.** This Agreement is a 1-year term beginning with the Effective Date. Either party may cancel this contract with 30-days written notice in the event of dissatisfaction with the service provided, an inability to resolve performance, technical, network, or computer system issues, or material breach. At the end of the initial term, this Agreement will automatically renew for additional 1-year term, and annually thereafter, unless cancelled by either party. Upon termination, the intellectual property and confidentiality provisions set forth above shall survive termination, and all outstanding fees and charges due RxL shall become immediately due and payable.

**12. Indemnification.** Customer and RxL agree to indemnify, defend and hold harmless each other and each other's respective employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as "indemnified party", against all actual and direct losses suffered by the indemnified party and all liability to 3<sup>rd</sup> parties arising from or in connection with any breach of this Agreement or of any warranty hereunder or from any negligence or wrongful acts or omissions, including failure to perform its obligations under the Privacy Regulation, by the indemnifying party or its employees, directors, officers, subcontractors, agents or other members of its workforce. Accordingly, on demand, the indemnifying party shall reimburse any indemnified party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any indemnified party by reason of any suit, claim, action, proceeding or demand by any 3<sup>rd</sup>-party which results from the indemnifying party's breach hereunder. The provisions of this paragraph shall survive the expiration or termination of this Agreement for any reason.

**13. Regulatory References.** A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.

**14. Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time-to-time as is necessary for Customer to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191. However, no change, amendment, or modification to this Agreement shall be valid unless it is set forth in writing and signed by both parties.

**15. Price and Terms Confidentiality.** The pricing, terms and conditions of this Agreement are proprietary information and shall be treated in confidence.

**16. Miscellaneous.** This Agreement is governed by the laws of the State of Oklahoma and is performable in Oklahoma City, Oklahoma. Customer may not assign or transfer this Agreement without the prior written consent of RxL. This Agreement supersedes all prior written or oral agreements or expressions of intent and constitutes the entire agreement by the parties with respect to its subject matter. Upon breach of this Agreement, the breaching party shall be responsible to the other party hereto for reasonable and necessary attorney's fees and costs of court.



# Rx LINC PRE & POST EDIT SERVICES AGREEMENT

## Exhibit A

**Rx Linc (RxL) Pre & Post Edit (PPE) Services:** For purposes of this Agreement, RxL PPE Services are provided to RxL for resale to Customer by eRx and said services are known as “eRx Edit™ Services”. Services contain RxL Standard Set of Edits that include, but are not limited to, the following for pharmaceutical claims submitted by or on behalf of Customer: (1) Pre-edits include Obsolete NDC’s, DEA #’s, DAW, AWP, and Standard Quantity Dispensed, and (2) Post Edits include Reimbursement, U&C, and Acquisition Cost. Customized editing is available.

**Service Availability:** RxL shall provide PPE Edit Services Customer Support to Customer during RxL “Normal Business Hours”, defined as 8:30AM to 5:00PM Central Time Monday through Friday, excluding holidays. eRx Services are generally available from 6:00AM to 12:00AM Central Time but eRx will periodically administer maintenance to systems and require service outages outside of Normal Business Hours. RxL will endeavor to give Customers advance notice of any eRx maintenance or systems testing that occur during eRx’s “Normal Business Hours” or that will extend eRx’s normal maintenance windows. RxL will notify Customer by telephone or electronic communication when services will be unavailable for more than 10-minutes during “RxL Normal Business Hours” and when such lapses occur during “RxL Normal Business Hours”, RxL will notify Customer of the estimated up time when available and when the service has been restored.

**Pricing Methodology:** Fees are based on a post edit basis.

**PPE Pricing:**

- Internet Stores - 6¢ per claim – Standard Edit Set
- Modem Stores - 7¢ per claim – Standard Edit Set

Note: Pricing for a Customized set of edits is on a case-by-case basis.

The above pricing is based on Customer assuming all costs related to Internet connectivity, leased lines, frame-relay or other telecommunication connections including, but not limited to, monthly recurring fees, installation fees, security fees, and hardware costs.

**Profit Pledge:** If Customer’s quarterly savings from RxL Standard set of edits for eRx Edit™ Services purchased through RxL for any calendar quarter, as documented in the eRx Edit™ Savings Report, are below the fees charged by RxL for the eRx Edit™ service in that quarter, after notification, as defined below, RxL will credit against the Customer’s next invoice the amount by which the Customer’s PPE fees exceed its savings for that quarter providing that the customer meets the following qualifying criteria. Customer must:

- I. Elect to receive eRx Edit™ Services through RxL and utilize all such services;
- II. Be current in its payments to RxL and must not have breached any term or condition of the Agreement;
- III. Have a minimum volume of 2,000 PPE processed claims for the subject quarter;
- IV. Must utilize the DAW, Obsolete NDC edits, and must have the AWP edit in the “replace mode”, and
- V. Notify RxL in writing requesting the above credit within 15-days after the end of subject calendar quarter.

**Set-up and support for Standard and Rx Linc Set Pre/Post Edits:** RxL Standard edits may be modified periodically by RxL. RxL will provide all customer support during regular business hours at no charge to customer. All RxL PPE users will have web-enabled access to the eRx Edit™ Reports through RxL’s website.

**Training:** RxL will provide initial training to Customer’s designated (or future replacement) representative.

**Billing and Administration:** RxL agrees to provide monthly ACH debit to Customer’s Account for PPE services provided.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the Effective Date.

Pharmacy Name \_\_\_\_\_ NABP \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ St \_\_\_\_\_ Zip \_\_\_\_\_

E-Mail Address \_\_\_\_\_ Preferred Password \_\_\_\_\_

Provider ID’s (e.g. Medicaid) \_\_\_\_\_

Authorized Signature \_\_\_\_\_ Printed Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_