

EMPLOYEE ASSISTANCE PROGRAM CLIENT AGREEMENT

THIS EMPLOYEE ASSISTANCE PROGRAM CLIENT AGREEMENT (“Agreement”) is made and entered into effective as of the 1st day of January, 2020, (“Effective Date”) by and between New Directions Behavioral Health, L.L.C. (“New Directions”), and City of Lee’s Summit (“Employer”).

Recitals

WHEREAS, New Directions provides administrative and referral services to employers for employee assistance programs established for the benefit of their Covered Persons;

WHEREAS, New Directions is willing and able to provide the Product Services described herein;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto do hereby agree as follows:

Article I **Definitions**

1.1 “Business Associate Agreement” is an acknowledgment between Employer and New Directions regarding compliance and obligations under HIPAA and HITECH as well as other obligations related to the information privacy of New Directions and Employer.

1.2 “Covered Person” is an Eligible Employee or an Eligible Dependent.

1.3 “Eligible Dependent” is any household member or immediate family member of an Eligible Employee who is able to receive Program Services under the Employee Assistance Program.

1.4 “Eligible Employee” is a full-time and part-time employee of Employer who is able to receive Program Services under the Employee Assistance Program as established by the Employer.

1.5 “Employee Assistance Program” or “EAP” is the program established by Employer to provide Covered Persons with an assessment of a personal, emotional, marital, family, financial, or legal issue and either: (a) a referral of the Covered Person to an EAP Provider or other resource for assistance in resolving the presenting issue, as appropriate, or (b) short-term counseling by an EAP counselor to resolve the presenting issue, as appropriate.

1.6 “ERISA” is the Employee Retirement Income Security Act of 1974, as amended.

1.7 “Program Services” are the services described in Exhibit A attached hereto.

1.8 “Proprietary Information” is the terms and provisions of this Agreement, all financial information and data including the fees and rates charged or paid hereunder, management information systems and procedures, contracts or business relationships with any party, any other

business information regarding a party to this Agreement which is obtained in connection with the arrangements and responsibilities contemplated herein, and other trade secrets and matters traditionally considered to constitute proprietary information which is not publically known or discoverable.

1.9 “Wellness Program” is a program developed by Employer to include activities that are designed to help employees improve their overall health.

Article II **Duties of New Directions**

2.1 Services. During the term of this Agreement, New Directions shall provide certain services to the Employee Assistance Program(s) as described below:

(a) New Directions shall provide the services to the Employee Assistance Program that are described in Exhibit A attached hereto and made a part hereof (the “Program Services”).

(b) New Directions shall provide EAP counselors or coaches who may be either employees of New Directions or independent contractors of New Directions (an “EAP Provider”). Each EAP Provider shall have the appropriate professional licensure, and if applicable, shall be certified to perform requested services in their respective state of practice.

(c) Program Services shall be provided by appointment at the office of an EAP Provider, telephonically, or via any other New Directions approved electronic medium. Access to an EAP Provider will be available through either a referral of a Covered Person by Employer to New Directions or by a Covered Person’s self-referral to New Directions.

(d) In the event a Covered Person’s presenting issues require a non-mental health or substance use specialized service, e.g. a legal or financial issue, New Directions will refer such Covered Person to an appropriate resource.

(e) In the event a Covered Person’s presenting issues require acute care needs, psychiatric care, or represent issues not amenable to short-term counseling, e.g. major depression, psychosis, panic disorder, and severe chemical dependency, the Covered Person shall be referred to an appropriate resource. Fees for non-Program Services or professional services rendered by resources other than an EAP Provider, if any, shall be the responsibility of the Covered Person and are not the responsibility of New Directions.

(f) New Directions shall have the sole financial responsibility to pay each claim for Program Services rendered by an EAP Provider. In no event including, but not limited to, non-payment by New Directions or a breach of this Agreement by New Directions or Employer, shall an EAP Provider bill, collect any payment, or seek reimbursement from a Covered Person for Program Services. An EAP Provider may bill a Covered Person if the Covered Person agrees in writing to a Provider’s no-show billing policy, then elects to not attend a scheduled session.

(g) New Directions and its EAP Providers shall not assume any responsibility in any circumstance for the supervision or the employment status of any employee of Employer. Supervision and decisions regarding the employment status of an employee of Employer shall be the sole responsibility of Employer.

2.2 Preparation and Maintenance of Business Records. New Directions agrees to prepare and maintain, for each Covered Person receiving Program Services under this Agreement, adequate business records documenting the Program Services arranged by New Directions and the payment for such service. Such records shall be in the form, contain such information, and be retained for such time period as is required by applicable laws, licensing requirements, and professional standards governing the provision of Program Services. New Directions' obligation to maintain such records shall not expire upon the termination of this Agreement.

2.3 Licensure and Conduct. During the term of this Agreement, New Directions shall comply with all applicable federal and state licensing requirements and shall perform the Program Services in conformance with all applicable federal and state statutes, regulations, and rules.

2.4 Liability Insurance. During the term of this Agreement, New Directions, at its sole cost and expense, shall procure and maintain the following: managed care errors and omissions insurance in an amount covering its activities under this agreement with limits of not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate; commercial general liability insurance with a limit of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate; and workers compensation pursuant to state law. New Directions shall provide the Employer with an endorsed waiver of subrogation related to the commercial general liability and workers compensation coverages. New Directions shall name and endorse Employer as an additional insured as to the commercial general liability policy. New Directions shall provide written evidence of such coverage to Employer upon request. New Directions' insurance shall be primary, non-contributory insurance with respect to the performance of this Agreement. For purposes of this Section, Employer shall include Employer and its agents, employees, officers and officials.

Article III **Duties of Employer**

3.1 Compensation to New Directions. Employer agrees to pay New Directions for the Program Services described in this Agreement at the rate and frequency detailed in Exhibit B (the "Program Fee"). If New Directions is not paid within thirty (30) days of the date on which payment is due, then, in addition to such delinquent payment, Employer shall pay New Directions a late payment charge equal to one and one-half percent (1.5%) of the delinquent payment which charge shall accrue monthly until the delinquent payment is paid in full. If at any time the number of Covered Employees increases by (10%), is reduced by more than twenty percent (20%), or clinical utilization exceeds ten percent (10%), New Directions reserves the right to review pricing and negotiate new pricing if necessary.

3.2 Census Reports. Employer shall deliver to New Directions a count of the number of Eligible Employees, minimally, on an annual basis. At New Directions discretion it may request a listing of the name of each Covered Person and the date that such person becomes eligible for

benefits under the Employee Assistance Program. Invoicing may be adjusted to reflect increases or decreases of ten percent (10%) or more of the number of Covered Employees.

3.3 Final Authority, Plan Administrator. New Directions acknowledges and agrees that Employer shall retain all final authority and responsibility for the EAP including, but not limited to, compliance with ERISA and any other state or federal law applicable to Employer or the administration of the EAP. New Directions and Employer agree that New Directions role shall be limited to that of providing the Program Services on behalf of Employer in accordance with the EAP and this Agreement. New Directions shall not for any purpose be deemed the Employer's "Plan Administrator" or a "fiduciary" under ERISA or any other applicable law or regulation. Employer shall be responsible for the preparation and filing of any reports, returns, or disclosures required by the U.S. Department of Labor, the Internal Revenue Service, or any other federal or state agency.

3.4 Meeting Space. Employer will provide such meeting places and facilities as may be required for planning and evaluation meetings, group orientation sessions, trainings, and individual conferences with managers, supervisors, and executives.

3.5 Meeting Facilitation. Employer assumes the responsibility of informing applicable employees of all trainings, orientations, or meetings the Employer schedules through New Directions. New Directions will have no liability or responsibility to ensure any level of turnout for scheduled trainings, orientations, or meetings, and low or no turnout will not invalidate the service request for that training, orientation, or meeting, and the Employer will still remain liable for the cost of the services requested.

3.6 Account Contact. Employer will designate an employee ("Account Contact") to be the coordinator of the EAP and to represent the Employer to New Directions in the day-to-day contacts regarding the EAP and Program Services contemplated by this Agreement. New Directions will have the ability to rely on the guidance and requests of the Account Contact as the authoritative and authorized voice of the Employer. New Directions will not be held liable in any circumstance or in any manner when it has relied on the advice, guidance, or direction of the Account Contact at the detriment of the Employer.

Article IV **Term of Agreement/Termination**

4.1 Term. This Agreement shall be effective as of the Effective Date listed above, and shall remain in full force and effect for a period of twelve (12) months ("Initial Term"), and thereafter shall automatically renew for successive one-year terms ("Renewal Terms" or singularly "Renewal Term") until terminated in accordance with this Agreement. During the initial twelve (12) months, termination of this Agreement is not permissible, except in the circumstances contemplated in Section 4.2.

4.2 Termination for Cause. Notwithstanding Section 4.1, either party may terminate this Agreement upon sixty (60) days prior written notice to the other party in the event: (a) a party fails to perform any material duty or obligation imposed upon it by this Agreement; provided, that

the breaching party does not cure such breach within sixty (60) days following the written notice specifying the facts underlying the claim that a breach exists and requesting that such breach be cured; or (b) a party becomes “bankrupt” as defined below. As used herein, a party shall be deemed to be “bankrupt” if: (i) an involuntary petition under any bankruptcy or insolvency law is filed with respect to a party or a receiver of, or for the property of, such party without the acquiescence of such party, which petition or appointment remains undischarged or unstayed for an aggregate period of sixty (60) days (whether or not consecutive), or (ii) a voluntary petition under any bankruptcy or insolvency law is filed by or on behalf of such party, or a receiver of or for the property of such party is acquiesced in by such party, or such party does any similar act of like import.

4.3 No Cause Termination. Following the initial twelve (12) months, either party may terminate this Agreement for any or no reason with ninety (90) days prior written notice to the other party.

4.4 Provision of Services Upon Termination. If on the termination date of this Agreement a Covered Person is then engaged in treatment with an EAP Provider, the Employer may request, and at its sole option and discretion, New Directions may agree, that New Directions will continue to provide Program Services, for up to a maximum of three (3) sessions with the same EAP Provider. Employer agrees to compensate New Directions for any Program Services provided after the termination of this Agreement at a rate of Eighty Dollars (**\$80.00**) per session.

Article V General Provisions

5.1 Independent Contractor. This Agreement is not intended to create, nor is it to be construed as creating, any relationship between New Directions and Employer other than that of independent parties contracting with each other solely for the purpose of effectuating the provisions of this Agreement. Neither New Directions nor Employer, nor any of their respective officers, directors, or employees, shall act as or be construed to be the agent, employee, partner, or representative of the other. Neither party to this Agreement shall hold itself out as the partner or agent of the other party or make representations or warranties on behalf of the other party, except as otherwise expressly agreed upon herein.

5.2 HIPAA Compliance. Each party acknowledges that the use and disclosure of individually identifiable health information is limited by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and any current and future regulations promulgated thereunder including without limitation the federal privacy regulations contained in 45 CFR Parts 160 and 164, the federal security standards contained in 45 CFR Part 160, 162 and 164, and the federal standards for electronic transactions contained in 45 CFR Parts 160 and 162, all collectively referred to herein as the “HIPAA Requirements.” Each party agrees to comply with the HIPAA Requirements to the extent applicable to such party and further agrees that it shall not use or further disclose Protected Health Information (as defined under the HIPAA Requirements) other than as permitted by the HIPAA Requirements. The parties further agree to execute such other agreements and understandings as may be necessary or required to satisfy all HIPAA Requirements applicable to this Agreement.

5.3 Indemnification.

(a) New Directions shall indemnify and hold Employer harmless from any and all liability (including without limitation reasonable attorney's fees) arising from acts of fraud, negligence, or dishonesty and any errors and omissions committed by New Directions, its officers, or employees in connection with or a result of the performance of this agreement.

5.4 Assignment. This Agreement may not be assigned without the prior written consent of both parties, which shall not be unreasonably withheld. In the event of a valid assignment, this Agreement will inure to the benefit of and be binding upon each party and its respective successors and permitted assigns.

5.5 Notices. Any notice, request, demand, report, offer, acceptance, certificate, or other instrument which may be required or permitted to be given under this Agreement shall be in writing, signed by a duly authorized representative, and sent by U.S. certified mail, return receipt requested, addressed to the other party at the address set forth below or at such other address of which either party may later so notify the other party in writing:

If to Employer:

City of Lee's Summit
220 SE Green Street
Lee's Summit, MO 64063
ATTN: Human Resources

If to New Directions:

New Directions Behavioral Health, L.L.C.
6100 Sprint Parkway, Suite 200
Overland Park, KS 66211
Attn: EAP Account Management

Any such notice, request, demand, or other communication shall be deemed given upon the date of mailing if mailed pursuant to the provisions of this section.

5.6 Sections. The captions, articles, and section numbers appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such provisions of this Agreement.

5.7 Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such provision shall not affect the remaining provisions of this Agreement.

5.8 Change in Law or Regulations. Should any statute, regulation, or rule be enacted, amended, or interpreted by any governmental body, court, or agency having jurisdiction over the terms of this Agreement so as to materially affect the ability of a party to perform any provision of this Agreement, then the parties shall forthwith and in good faith renegotiate the provision of

this Agreement affected by such action so that the same can be performed in accordance with the pertinent change in such statute, regulation, or rule.

5.9 Third-Party Beneficiaries. Nothing in this Agreement is intended to be construed or to be deemed to create any right or remedy to the benefit of any third party.

5.10 Amendment. This Agreement may only be amended or modified by a written instrument executed by the parties hereto. Notwithstanding the foregoing, New Directions has the ability to alter and amend the Program Services and to rename certain Program Services so as to facilitate the growth and evolution of the Program Services.

5.11 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

5.12 Intellectual Property. Employer acknowledges that this Agreement does not transfer to Employer, any rights in and to the design, materials, documentation, specifications, procedures, discoveries, inventions, or anything created or developed in accordance with or on behalf of the EAP Program or Program Services, in the past, present, or future, by New Directions. All right, title, and interest, including without limitation intellectual property rights, in and to the EAP Program and Program Services will remain solely with New Directions.

5.13 Defend Trade Secrets Act of 2016. Notwithstanding the nondisclosure obligations contained in this Agreement, nothing in this Agreement is intended to interfere with or discourage a good faith disclosure to any governmental entity related to a suspected violation of the law. Employer will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret, or confidential information, that is made: (i) in confidence to a federal, state, or local government official, either directly or indirectly, to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (ii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. New Directions will not retaliate against the Employer in any way for a disclosure made in accordance with 18 U.S.C. Section 1833.

5.14 Equal Employment Opportunity Clause for Contracts Involving Federal Contractors. New Directions is an Equal Employment Opportunity and Affirmative Action employer. The parties hereby incorporate by reference the provisions of Executive Order 11246, as amended, and 41 C.F.R. 60-1.4(a); the Rehabilitation Act of 1973, as amended, and 41 C.F.R.60-741.5(a); the Vietnam Era Veterans' Readjustment Assistance Act, as amended, and 29 C.F.R. 60-250.5(a); and Executive Order 13496 and 29 C.F.R. Part 471, Appendix A to Subpart A.

5.15 Trademarks and Symbols. New Directions reserves the right to control the use of its name and any of its respective symbols, trademarks, and service marks, presently existing or subsequently established. Employer agrees to not use words, symbols, trademarks, service marks, and other devices including the corporate name of New Directions in advertising, promotional materials, or otherwise, without the prior written consent of New Directions. Employer will cease any previously approved usage immediately upon termination of this Agreement

5.16 Entire Agreement. This Agreement and any attachments, exhibits, or addendums attached hereto constitute the sole and complete agreement among the parties, and supersede any and all prior or contemporaneous oral or written understandings, negotiations, or communications on behalf of such parties with respect to the subject matter hereof.

5.17 Marketing. New Directions may list Employer as its client in New Directions marketing literature and proposals while this Agreement is in effect.

5.18 Proprietary Information. Each party hereto shall keep secret and confidential any Proprietary Information regarding the other party. Each party shall take all reasonable and necessary precaution to prevent unauthorized disclosure to third-parties of Proprietary Information regarding the other party, and shall require all of its officers, employees, and agents to whom it is necessary to disclose Proprietary Information to keep such Proprietary Information confidential.

Notwithstanding the foregoing, the terms and provisions of this Agreement may be disclosed in response to a lawful inquiry by a governmental agency or a legally valid information request, including compliance with the Missouri open records laws, court order, subpoena, or summons. In the circumstance that Employer receives a request to disclose New Directions Proprietary Information to any third party, Employer will inform a New Directions account manager as soon as reasonably possible after receiving the request. The provisions of this Section shall survive the termination of this Agreement.

5.19 Waiver. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach thereof.

5.20 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but which together shall constitute one and the same agreement.

5.21 Governing Law; Jurisdiction. This Agreement and performance hereunder shall be governed by the law of the State of Missouri, without giving effect to the principles of conflict of law of such state. The Parties hereby submit to the exclusive jurisdiction and venue of eastern Jackson County, Missouri for State courts actions, or the Western District of Missouri Federal Court for federal filings with respect to any action between the Parties relating to this Agreement.

5.22 Immigration Requirements. Pursuant to Section 258.530, RSMo., New Directions warrants and affirms to Employer that (i) New Directions is enrolled and participates in a federal work authorization program with respect to the employees working in connection with the contracted services and (ii) New Directions does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

5.23 New Directions shall swear to and sign an affidavit declaring such affirmation, and provide Employer with supporting documentation of its enrollment and participation in a federal work authorization program with respect to the employees working in connection with a Contract. The required documentation must be from the federal work authorization program provider (e.g. the electronic signature page from the E-Verify program's Memorandum of Understanding); a letter from New Directions reciting compliance is not sufficient.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective organizations to execute on its behalf, have executed this Agreement as of the date indicated below.

New Directions Behavioral Health, L.L.C.

City of Lee's Summit

By: _____

By: _____

Printed: Stephen Macias

Printed: _____

Title: SVP and Chief Revenue Officer

Title: _____

Dated: _____

Dated: _____

Exhibit A **Program Services**

Standard Program Services

A. **Evaluation and Assessment.** Each Covered Person upon contacting New Directions shall receive initial evaluation and assessment by a New Directions Counselor or EAP Provider, and the New Directions Counselor or EAP Provider shall refer the Covered Person to the appropriate Program Services for the presenting issue, or to a non-EAP Provider or agency if the presenting issue is not amenable to short-term EAP counseling or other Program Services.

B. **Telephone Consultation and Referral.** Each Covered Person shall be eligible to receive consultation for personal and life issues.

C. **Counseling Sessions.** Each Covered Person may receive the maximum number of counseling sessions with an EAP Provider (including the initial evaluation and assessment session) per issue as described in Exhibit B.

D. **Emergency Triage.** New Directions will provide a toll-free telephone line twenty four (24) hours a day, seven (7) days a week for emergency intake and referral for Covered Persons with a mental health or substance use crisis.

E. **Management Consultation and Referral Services.** New Directions will provide telephonic consultation related to troubled employees for Employer's managers, supervisors, and executive level personnel.

F. **Legal Services.** New Directions offers telephonic legal counseling services with an attorney on a wide array of legal topics. New Directions also will coordinate a face-to-face consultation with an attorney at a discounted rate to the employee.

G. **Financial Services.** New Directions offers telephonic financial counseling services with a trained financial professional on a wide array of topics. New Directions also will coordinate a face-to-face consultation with a financial planner/professional at a discounted rate to the employee.

H. **Online Services.** New Directions offers online Program Services and materials to the Employer and its Covered Persons. The materials online include online training programs, forms, articles, assessments, a library on health and wellness topics, legal and financial information, and the ability to access web-based and face-to-face services.

I. **Telephonic Worklife.** Covered Persons can access New Directions exclusive, phone-based program designed to assist members with a full range of worklife issues. Members are connected with worklife specialists who can assist them with child and elder care issues, temporary care, special needs, disaster relief, personal and convenience services, and many other needs.

J. **Employee Communication Materials.** New Directions will make available to Employer and Eligible Employees, standard program communication materials designed to increase manager and employee awareness of the EAP and its Program Services. In an effort to support New Directions global sustainability initiative, these materials will be sent in electronic copy only. Should Employer wish to have a hard copy to send to Eligible Employees, New Directions will provide its standard

brochure, without customizations, in an amount equal to 100% of the employee census/count one time per contract year.

K. Formal Management Referral (“FMR”). Upon the request of an Employer’s manager, supervisor, or human resource professional and upon receipt of permission to release information signed by the affected employee, New Directions will:

1. Make performance-based referrals within the context of the employee assistance benefit;
2. Coordinate and monitor an employee’s attendance and general cooperation with a counseling program; and,
3. Report employee’s compliance with counseling to the referring manager, supervisor, or human resource professional designated on the permission to release information signed by the employee.

Program Services Available upon Request

The following Program Services are available upon request (“On-Request Services”) and the fees for such services shown below are in addition to the Program Fee:

A. Onsite Hours. New Directions will provide Onsite Hours at the rate of Four Hundred Dollars (**\$400.00**) per hour/per clinician. Onsite hours must be requested by Employer for New Directions to schedule the onsite visit. Onsite Hours may be allocated between the following services at the Employer’s discretion:

Seminars, Wellness Programs, and Trainings. New Directions will make available to Covered Persons seminars, wellness programs, and trainings on such topics as stress management, weight loss, smoking, conflict resolution, and substance abuse prevention.

Employee Orientation and Supervisor Orientation/Training Meetings. New Directions will make available on-site meetings for Eligible Employees and their supervisors to acquaint Eligible Employees and their supervisors with the operation of the EAP. The supervisor orientation is intended to better inform supervisors so they are able to encourage Eligible Employees to effectively utilize the EAP when appropriate. The date and time of such orientation meetings shall be mutually agreed-upon by New Directions and Employer.

Health and Wellness Fairs. New Directions will make available on-site support for promotion of Employer’s EAP during Health and Wellness Fairs. New Directions will provide printed promotional materials for these events in order to assist with promoting EAP capabilities.

Onsite Hours Details:

- 1) Applicable trainings can be selected from the specified EAP training list.
- 2) Four (4) hours of benefit/health fair is equivalent to one (1) onsite hour.
- 3) Three (3) business days cancellation notice of scheduled training or benefit/health fair is required. Less than three (3) business day cancellation notice of scheduled training or benefit/health fair will result in Employer being charged in full for the requested hours.

- 4) Six (6) weeks' prior notice is required to schedule a training presentation.
- 5) Customized training and organizational development training fees are negotiated separately.

B. Critical Incident Response ("CIR"). New Directions will make available to Employer, upon its request, at Employer's premises, an EAP Provider to provide group counseling to Employer's employees in the event of a catastrophic incident affecting a group of employees (e.g. employee suicide, on-the-job injury causing death), at the rate of Two Hundred and Fifty Dollars (**\$250.00**) per hour/per clinician. Cancellations within twenty-four (24) hours of requested service will be charged a Two Hundred Dollar (**\$200.00**) administrative fee.

C. Department of Transportation Substance Abuse Professional ("DOT/SAP"). When a Department of Transportation ("DOT") regulated employee violates a DOT drug and alcohol rule or regulation and is referred by the designated employer representative for treatment, Employer may contact New Directions and it will arrange for the employee to see a DOT/SAP certified counselor. New Directions will manage the case to assure the employee is attending the DOT/SAP sessions and is generally following the DOT/SAP's recommendations. New Directions will pay the counseling and consultation fees of the DOT/SAP. Final reports and recommendations will be generated by the DOT/SAP, and will be transmitted to the designated employer representative. The fee for each DOT/SAP case is eight hundred dollars (**\$800.00**).

D. Fitness For Duty ("FFD"). When the Employer believes that an employee may not be able to carry out the essential job duties expected of a person in the employee's position due to a physical or behavioral health issue, or may present dangers to him/herself or his/her co-workers due to a physical or behavioral health issue, the Employer may desire to refer the employee to New Directions so that New Directions can facilitate a FFD evaluation and report. The Employer may consult New Directions to determine if a FFD referral may be appropriate prior to requesting the FFD. The fee for each FFD referral to New Directions is specific to the type of FFD referral and will be quoted to the Employer at the time of the FFD request.

Exhibit B

Program Services Compensation Overview

This Exhibit demonstrates the rate and frequency at which Employer will compensate New Directions for the Program Services outlined in this Agreement. All Program Services listed in this Exhibit are described in more detail within the body of the Agreement or Exhibit A.

The Program Fee for the EAP Program Services Contemplated by this Agreement shall be:

\$2.32 Per Employee Per Month (PEPM) for contract year January 1, 2020 to December 31, 2020.

The Program Fee shall be paid in Monthly installments shall be due on the 1st day of each MONTH during the term of this agreement.

New Directions will invoice Employer for all On-Request Services, and payment for those services should be completed upon the earlier of: 1) within thirty (30) days of receipt of the invoice, or 2) with the Employer's next scheduled Program Fee payment.

Services Included with the Program Fee:

Services Included with the Program Fee	Sessions / Quantity
EAP Session Model	6 Sessions*
Telephonic WorkLife Services	Included
Annual Training/Critical Incident Response	7 hours annually

*The maximum number of short term counseling sessions per member per issue; this number includes the evaluation and assessment session(s).

Additional On-Request Services Fees:

On-Request Services	Rate
Onsite Hours	\$400.00 per clinician per hour
Critical Incident Response	\$250.00 per clinician per hour
DOT/SAP referrals to New Directions	\$800.00 per case referred to New Directions
Fitness For Duty Examination	Dependent upon specific FFD referral, will be quoted at time of Employer request

Exhibit C

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into as of the effective date of the Agreement to which this BAA is an Exhibit (“Effective Date”) by and between the Employer (“Covered Entity”) and New Directions Behavioral Health, L.L.C. (“Business Associate”) (each “Party” and collectively the “Parties”).

WHEREAS, the Parties are committed to compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology and Clinical Health Act of 2009 (“HITECH”), all regulations promulgated thereunder, including but not limited to Title 45, Parts 160 and 164 and any future regulations promulgated under either HIPAA or HITECH;

WHEREAS, the Business Associate will provide services to the Covered Entity that may involve the creation, receipt, use, transmission, maintenance, or disclosure of Protected Health Information (PHI); and

WHEREAS, the Parties enter into this Agreement to protect the privacy and security of PHI disclosed to the Business Associate and to establish the terms and conditions for the use and disclosure of such PHI.

In consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Terms used but not otherwise defined in this Agreement will have the same meaning as the meaning ascribed to those terms in HIPAA, HITECH and their corresponding regulations.
 - a. “Breach” shall have the meaning as set forth in 45 CFR 164.402.
 - b. “Electronic Health Record” and “EHR” shall have the meaning as in §13400(5) of HITECH, and any corresponding regulations, limited to records created or received by the Business Associate from or on behalf of the Covered Entity.
 - c. “Electronic Protected Health Information” or “EPHI” shall have the meaning as set forth in 45 CFR 160.103, limited to the information created or received by the Business Associate from or on behalf of the Covered Entity.
 - d. “Individual” shall have the meaning set forth in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
 - e. “Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and 164, Subparts A and E.
 - f. “Protected Health Information” or “PHI” shall have the meaning as set forth in 45 CFR 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
 - g. “Security Incident” shall have the meaning as set forth in 45 CFR 164.304.

- h. “Secretary” shall mean the Secretary of the federal Department of Health and Human Services.
 - i. “Security Rule” means the Security Standards and Implementation Specifications found at 45 CFR Parts 160 and 164, Subpart C.
 - j. “Standards for Electronic Transactions Rule” means the final regulations issued by the Department of Health and Human Services concerning standard transactions and code sets under the Administration Simplification provisions found at 45 CFR Parts 160 and 162.
 - k. “Unsecured Protected Health Information” shall have the meaning as set forth in 45 CFR 164.402 and the guidance issued under §13402(h)(2) of Public Law 111-5.
2. Obligations of Business Associate.
- a. Business Associate shall directly comply with the requirements found at 45 CFR 164.504 of the Privacy Rule and the privacy provisions of HITECH.
 - b. Business Associate shall directly comply with the administrative, technical and physical safeguards, documentation requirements and policies and procedures in accordance with the Security Rule.
 - c. Permitted Uses and Disclosures. Business Associate may not use or disclose PHI received from or created on behalf of Covered Entity except as permitted by this Agreement or as required by law. Business Associate will limit all uses and disclosures of PHI to the minimum amount necessary to accomplish the intended purpose of the use or disclosure. Business Associate may:
 - i. Use or disclose PHI to perform services as specified under an effective Services Agreement duly executed by both Parties, provided that any use or disclosure would not violate the Privacy or Security Rule if disclosed by the Covered Entity.
 - ii. Use PHI to provide data aggregation services related to the health care operations of the Covered Entity, as provided in 45 CFR § 164.504(2)(i)(B).
 - d. Safeguards. Business Associate shall use appropriate safeguards, including but not limited to, policies, procedures, training and documentation requirements to prevent the unauthorized use or disclosure of Covered Entity’s PHI as required by the Security Rule and § 13401 of HITECH. Business Associate shall maintain a comprehensive information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate’s operations and the nature and scope of its activities. Business Associates shall provide a copy of and evidence of such safeguards to Covered Entity upon request.
 - e. If Business Associate electronically transmits or receives PHI on behalf of the Covered Entity, Business Associate shall comply with the Standards for Electronic Transactions Rule to the extent required by law. Business Associate will require any employee, agent, subagent, contractor, or subcontractor that assists Business Associate in electronically transmitting or receiving PHI to agree in writing to comply with the Standards for Electronic Transactions Rule to the extent required by law.

- f. Business Associate's Agents. Business Associate shall require any employee, agent, subagent, contractor, subcontractor, or any other person who may have access to Covered Entity's PHI to agree in writing to the same terms and conditions that apply to Business Associate with respect to Covered Entity's PHI. If Business Associate becomes aware of a pattern of activity or practice by an employee, agent, sub-agent, or contractor that violates this Agreement, Business Associate agrees to take steps to cure the breach or end the violation. If Business Associate is unable to cure the breach or end the violation within a reasonable time, Business Associate is required to terminate its arrangement with that employee, agent, sub-agent, or contractor. Nothing in this paragraph removes Business Associate's responsibility to report the breach to Covered Entity as found in this Section.
- g. Business Associate shall provide Covered Entity, within a reasonable time, all information to enable Covered Entity to respond to, provide access to, provide a copy of and account for disclosures of PHI in accordance with 45 CFR § 164.528. Upon requested by Covered Entity, Business Associate shall produce an accounting of disclosures to an Individual consistent with HIPAA.
- h. Business Associate shall provide Covered Entity, within a reasonable time, all information to enable Covered Entity respond to a request for access to PHI as provided in 45 CFR §164.524 or to amend PHI in accordance with 45 CFR §164.526.
- i. Business Associate shall notify Covered Entity of any request or demand by the Secretary or information related to the Covered Entity. Business Associate shall provide the Covered Entity with a copy of all information related to the Covered Entity that the Business Associate provides to the Secretary.
- j. If Business Associate receives a subpoena or similar request or notice from any judicial, administrative, or other regulatory body in connection with this Agreement, Business Associate will immediately notify Covered Entity and forward a copy of such subpoena, request, or notice to Covered Entity to enable Covered Entity to seek appropriate protections and exercise any rights it may have under law.
- k. Notification of Breach. Business Associate shall provide written notice to Covered Entity within a reasonable time, but no more than (5) business days, after Business Associate discovers any unauthorized acquisition, access, use, or disclosure of PHI, or any successful Security Incident. The Business Associate shall be considered to have discovered an unauthorized acquisition, access, use, or disclosure of PHI, or successful Security Incident on the first day on which such Breach is known to Business Associate, or by exercising reasonable diligence would have been known to Business Associate. Business Associate shall include in the written notice the following:
 - i. The date the unauthorized act occurred;
 - ii. The date the unauthorized act was discovered by Business Associate;
 - iii. The nature of the unauthorized acquisition, access, use, or disclosure, including to whom Covered Entity's PHI was disclosed;
 - iv. The type of PHI involved;
 - v. Who made the unauthorized use or disclosure and/or who received the unauthorized disclosure;

- vi. The steps Business Associate has taken or will take to mitigate harm from the unauthorized acquisition, use or disclosure; and
 - vii. The corrective actions that Business Associate has taken or will take to prevent further unauthorized acts.
- l. Covered Entity shall be responsible for determining the need for and directing the implementation of any notifications of the unauthorized acquisition, use or disclosure of PHI. Business Associate shall, at Covered Entity's direction, cooperate with or perform any additional investigation or assessment necessary related to the unauthorized acquisition, use, or disclosure of PHI.
- m. Notification of Security Incident. Business Associate shall report in writing to Covered Entity any successful Security Incident within a reasonable time after Business Associate becomes aware of such Security Incident, and shall submit any requested follow-up documentation to Covered Entity upon request. Business Associate shall include in the written notice:
- i. The date the Security Incident occurred;
 - ii. The date the Security Incident was discovered by Business Associate;
 - iii. The nature of the Security Incident;
 - iv. The type of PHI involved;
 - v. The steps Business Associate has taken or will take to mitigate harm from the Security Incident; and
 - vi. The corrective actions that Business Associate has taken or will take to prevent further Security Incidents.
- n. Covered Entity shall be responsible for determining the need for and directing the implementation of any notifications of the unauthorized acquisition, use or disclosure of PHI. Business Associate shall, at Covered Entity's direction, cooperate with or perform any additional investigation or assessment necessary related to the unauthorized acquisition, use, or disclosure of PHI.
- o. Business Associate shall include in the written notice required under this Section, to the extent known by Business Associate:
- i. The identity of the individuals whose PHI was involved in the unauthorized act or Security Incident;
 - ii. Any information necessary to enable the Covered Entity to assess the risk of harm to those individuals; and
 - iii. Any information necessary to enable the Covered Entity to determine whether the unauthorized act or Security Incident qualifies as a Breach under HITECH.
- p. Business Associate agrees to supplement the notice required under this Section with any new information that becomes available. Upon request, Covered Entity may have access to any additional information to enable Covered Entity to meet its obligations with respect to an unauthorized acquisition, use, or disclosure of PHI or Security Incident.

- q. Business Associate shall exercise due diligence to become aware of any unauthorized access, use, or disclosure of PHI and/or Security Incidents.
- r. Business Associate agrees to mitigate any harmful effect that is known or reasonably anticipated by Business Associate resulting from any unauthorized acquisition, access, use, or disclosure of PHI or Security Incident.
- s. Business Associate shall maintain Cyber Liability insurance with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Business Associate and shall include, but not be limited to, claims involving invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

3. Obligations of Covered Entity

- a. The Covered Entity will notify Business Associate of any facts or circumstances which affect Business Associate's access to, use, or disclosure of PHI is including:
 - i. Any change in Covered Entity's notice of privacy practices;
 - ii. Any change in, or withdrawal of, an authorization provided to Covered Entity pursuant to 45 CFR §164.522; and
 - iii. Any restriction to Business Associate's use or disclosure of PHI in accordance with 45 CFR §164.522.
- b. From time to time upon reasonable notice, Covered Entity (or its agent) may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement.
- c. Business Associate shall promptly remedy any violation of any term of this Agreement and shall certify the same to Covered Entity in writing.
- d. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, and procedures does not relieve Business Associate of its responsibility to comply with this Agreement, nor does Covered Entity's (i) failure to detect or (ii) upon detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Agreement.

4. Effective Date and Termination

- a. This Agreement is effective on the Effective Date, replaces and supersedes any prior Business Associate Agreement executed by the Parties. This Agreement supersedes any provision in any other Agreement executed by the Parties related to Business Associate's obligations concerning PHI with respect to the Privacy and Security Rule.
- b. This Agreement terminates on the date the Business Associate ceases to be obligated to perform the functions, activities, or services contemplated by this Agreement.

5. Termination

- a. This Agreement shall remain in full force and effect until termination of the business relationship of the parties contemplated by this Agreement or the termination of the agreement to which this BAA is an exhibit. Any terms of this Agreement, which by their nature extend beyond the termination of the business relationship, shall remain in effect until fulfilled.
- b. A breach by Business Associate of any provision of this Agreement, as determined by Covered Entity, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement. If termination of the Agreement is not feasible, the Covered Entity will report the breach to the Secretary to the extent required by law.
- c. Either Party may terminate the Agreement, effective immediately, if (i) the other Party is named as a defendant in a criminal proceeding for a violation of the Privacy Rule, the Security Rule, or HITECH; or (ii) a finding or stipulation that the other Party has violated the Privacy Rule, the Security Rule, or HITECH by any administrative or regulatory body, or civil proceeding..
- d. Upon termination of the Agreement, Business Associate shall return or destroy all Covered Entity's PHI in accordance with 45 CFR § 164.504(e)(2)(ii)(I). If Business Associate is required by law to retain a copy of such information, Business Associate will maintain the PHI for the requisite period required by law, after which Business Associate shall return or destroy Covered Entity's PHI. This provision extends to all PHI that may be in the possession of Business Associate's employees, agents, sub-agents, or contractors.

6. Integration

- a. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the Privacy Rule, the Security Rule, HITECH and the regulations promulgated thereunder.
- b. The Parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the Privacy Rule, the Security Rule, HITECH and the regulations promulgated thereunder.
- c. A reference in this Agreement to a specific section in HIPAA, the Privacy Rule, the Security Rule, HITECH, or the regulations promulgated thereunder means that section as amended from time to time. Should future amendments referenced in this Agreement change the section designation, or transfer a substantive regulatory provision to a different sections, the section references herein will be deemed to be amended accordingly.
- d. The provisions of this Agreement are severable and if any provision is held or declared to be illegal, invalid, or unenforceable, the remainder of the provisions in this Agreement will continue in full force and effect.

7. Assignment and Amendment

- a. This Agreement shall be binding on the Parties, their legal representatives, successors, heirs and assigns, provided however, that unless otherwise expressly stated in this Agreement, neither Party may assign any of its respective rights or delegate any of its respective obligations under this Agreement without the prior written consent of the other Party to this Agreement.
- b. Neither this Agreement, nor any provisions thereof, may be modified, amended, supplemented, or altered except by the written consent of the Parties.

8. Insurance Coverage

- a. During the term of this Agreement, Business Associate shall maintain liability insurance covering claims based on a violation of HIPAA and claims based on its obligations pursuant to this Agreement in an amount of not less than \$1,000,000 per claim.

9. Governing Law

- a. The Parties agree and acknowledge that this Agreement, and the rights, remedies and obligations of the parties hereunder, will be governed and construed in accordance with the laws of the State of Missouri without giving effect to the principles of conflict of law of such state. The Parties hereby submit to the exclusive jurisdiction and venue of eastern Jackson County, Missouri for State court actions, or the Western District of Missouri Federal Court for federal filings with respect to any action between the Parties relating to this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective organizations to execute on its behalf, have executed this Agreement as of the date indicated below.

New Directions Behavioral Health, L.L.C.

City of Lee's Summit

By: _____

By: _____

Printed: Stephen Macias

Printed: _____

Title: SVP and Chief Revenue Officer

Title: _____

Dated: _____

Dated: _____