

EMPATHIA, INC.

EMPLOYEE ASSISTANCE & WORKLIFE SERVICES PROGRAM AGREEMENT

AGREEMENT made as of December 6, 2019, by and between **Empathia, Inc.**, a Wisconsin corporation, N17 W24100 Riverwood Drive, Waukesha, WI 53188 (hereinafter referred to as "Empathia"), and **Sauk County**, a Wisconsin organization, 505 Broadway Street, Baraboo, WI 53913 (hereinafter referred to as "Client").

The parties to this Agreement, in consideration of the mutual covenants and stipulations set forth herein, agree as follows:

1. **TERM:** This Agreement shall commence on **January 1, 2020** and remain in force until either party provides written notification of its intent to terminate the Agreement, which must occur 90 days in advance of the date of termination, and which notice may not be given during the initial one-year period.

Should either party wish to alter the terms of the Agreement following the first annual period, it shall deliver notice of such in writing to the other party and said party agrees to commence negotiations in good faith within 30 days of notice.

2. **COVERED PERSONS:** Empathia shall provide the services described in this Agreement to the following persons, hereinafter referred to as "Covered Persons":

- a) all U.S., Puerto Rico and Canada based employees of Client (hereinafter "Covered Employees");
- b) dependents of a Covered Employee as dependents are defined under Client's applicable health care plan;
- c) the spouse or significant other of a Covered Employee, whether or not defined as a "dependent" for the purposes of Client's health care plan;
- d) other persons permanently residing with a Covered Employee, whether or not defined as a "dependent" for the purposes of Client's health care plan.

3. **OBLIGATIONS OF EMPATHIA:** Empathia hereby agrees to provide Employee Assistance and Work/Life services (hereinafter "EAP"):

a. Services for Covered Persons as follows:

- 1) Unlimited unscheduled 24-hour telephonic access to Empathia counselors for problem assessment, counseling, crisis intervention, resource finding and referral.
- 2) Up to three (3) sessions of scheduled face-to-face or scheduled telephonic assessment and counseling per case when clinically appropriate with an Empathia counselor or affiliate.
- 3) Unlimited telephonic and online access to WorkLife Complete, to include, when appropriate, referral to local child and elder care provider resources, the provision of

dependent care information, referral to work/life balance resources, convenience, wellness and pet care resources, and the provision of related information.

- 4) Provision of specialized consultation for legal concerns of Covered Persons, except for employment and business law matters, and except where the interests of a Covered Employee would be adversely affected.
 - 5) Provision of specialized consultation for financial concerns of Covered Persons, including counseling on budget and debt management issues. Financial planning services, if requested, shall be made available to Covered Persons for an additional charge made directly to the Covered Person.
- b. Services to Client's management and supervisors as follows:
- 1) 24-hour telephone consultation for Client's managers and/or supervisors regarding intervention strategies with employees exhibiting poor work performance and/or experiencing personal difficulties, and regarding the appropriate use of EAP services in supporting rehabilitation as part of any necessary job action.
 - 2) Assistance in investigating and resolving any complaints and/or concerns expressed by Client or Covered Persons regarding the EAP.
 - 3) Provision of trauma response services and other on-site consultation services may be purchased on a fee-for-service basis.
 - 4) Assistance in expediting referral of Covered Employees for "fitness for duty" evaluations in conjunction with alleged mental health or chemical dependency problems. Empathia will not make fitness for duty determinations. Empathia will identify and refer to a licensed physician/psychiatrist or psychologist for this purpose. Costs for fitness for duty evaluations are the responsibility of Client.
- c. Program utilization reporting is available online and includes the number of program participants, presenting issues, services utilized and client satisfaction. All such data will be presented so as to keep confidential the identities of Covered Persons who use the EAP.
- d. Onsite training and related materials for topics listed on the Empathia training catalogue are available fee-for-service. Customization is available on a fee-for-service basis.
- e. Program promotional materials are available and include brochures with wallet cards, posters, newsletters and topical campaigns. The quantity of brochures with wallet cards is up to 110% of Covered Employees during the first year and up to 20% of Covered Employees for subsequent years.
- f. Empathia assumes responsibility for compliance with the laws and regulations applicable to services to be provided under this Agreement, and Empathia agrees to maintain professional liability insurance in the amount of not less than \$1,000,000 per claim or \$3,000,000 annual aggregate during the term of this Agreement. Affiliate counselors under contract to Empathia currently maintain professional liability insurance of not less

than \$1,000,000 per claim or \$1,000,000 annual aggregate. A copy of the insurance certificate will be furnished to Client upon request. Empathia will be solely liable in any claim or suit for damages brought as a result of the negligence of Empathia or its employees/representatives, affiliates or sub-contractors, and any damages sustained by Client due to the negligence of Empathia or its employees/representatives, affiliates or sub-contractors will be recoverable from Empathia by Client. Client will be solely liable in any claim or suit for damages brought as a result of the negligence of Client or its employees/representatives and any damages sustained by Empathia will be recoverable from Client by Empathia.

- g. Empathia and its employees and affiliates shall be deemed to be independent contractors and in no sense shall be considered employees or agents of Client.
- h. Empathia will maintain confidential records on Covered Persons for a minimum period of seven (7) years. All records that Empathia prepares and maintains are the sole property of Empathia and will be confidentially retained by Empathia in the event this Agreement is terminated.
- i. Empathia will maintain the confidentiality of all Covered Persons' EAP records except to the extent that disclosure is authorized by the Covered Person in writing, or is otherwise mandated by federal and state law. All EAP case records are maintained in compliance with all federal and state laws protecting the confidentiality and security of EAP records. Empathia maintains a comprehensive standard procedure on the confidentiality of case records that prescribes how Covered Persons' case records are to be maintained.

4. OBLIGATIONS OF CLIENT:

- a. For the services specified in section 3, except items identified as available on a fee-for-service basis, Client agrees to pay Empathia the sum of \$9,000.00 payable in quarterly installments of \$2,250.00 on or before the first day of each quarter during the term hereof, beginning January 1, 2020. The sum specified in this section is based on a range of 540 to 660 Covered Employees, and shall be subject to per capita adjustment in the event of a change in employment as provided in this subsection. In the event that the number of Covered Employees shall vary outside of such range, Client agrees to notify Empathia in writing of such change, within 30 days thereof, stating the new number of Covered Employees. Effective as of the beginning of the quarter following such change in employment, or the date of such notice, whichever is later, the amount payable specified above shall be adjusted by \$3.75 per Covered Employee per quarter, which rate shall be effective for a range of employees equal to the number specified in such notice plus or minus 10% thereof, subject to further adjustment as provided in this subsection. Notwithstanding the preceding language of this subsection, Client's payment under this subsection shall never be less than \$375.00 per quarter, in recognition that certain of Empathia's costs in providing services to Client exist regardless of the number of Covered Employees.

- b. Client acknowledges that Empathia's rates, specified in this Section, are based on the assumption that Covered Persons' utilization of services will not be mandatory as a condition of accessing behavioral healthcare services and will not be "incentivized". For the purposes of this Agreement, "incentivized" means use of the services by Covered Persons that is promoted by Client through monetary or other material incentives or rewards offered or provided to Covered Persons. Situations in which a Covered Employee is encouraged or required to use Empathia's services in conjunction with a Client-initiated performance referral to Empathia are not "incentivized". In the event Client wishes to incentivize Covered Persons to use any or all services by means of monetary or other material incentives or rewards, then the rates specified herein are subject to change. If Client wishes to incentivize use of the services by Covered Persons, then parties to this Agreement will establish a revised rate structure to be implemented at the time said incentives become active. If a new rate structure cannot be agreed to by the parties, then Empathia may elect to terminate this Agreement upon not less than thirty (30) days written notice to Client.
- c. For the services specified in section 3 as available on a fee-for-service basis, which are requested by Client, Client agrees to pay Empathia at the rates in place at the time of service. Such amounts shall be invoiced monthly as incurred, which invoices shall be payable upon receipt.
- d. Preapproved non-local travel and per diem costs incurred by Empathia in the provision of services requested by Client will be paid by Client. Such amounts shall be invoiced as incurred, which invoices shall be payable upon receipt.
- e. Without limiting any of Empathia's legal or equitable rights or remedies, Empathia may terminate this Agreement effective upon notice to Client if Client shall have failed to pay any amount owing to Empathia pursuant to this Agreement and shall not have cured that failure in full within thirty (30) days following Empathia's notice of that failure.
- f. Client agrees to assume mutual responsibility with Empathia for facilitating any and all program promotion and/or training efforts specified in this Agreement, and further acknowledges and agrees that in the event that said efforts do not occur because of the inability of Client to facilitate them despite Empathia's readiness and availability in this regard, that Empathia will not be held accountable for such failure.
- g. Client agrees to assume mutual responsibility with Empathia for implementing and maintaining the Policy on Confidentiality of Client Records and Information attached hereto and referenced herein as Exhibit A.

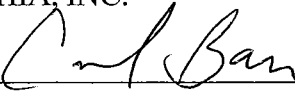
5. MISCELLANEOUS:

- a. Neither party to this Agreement shall use the other party's name or trademarks or other intellectual property in any advertising, written sales promotion, press releases and/or other publicity matters relating to this Agreement without the other party's consent. Notwithstanding the foregoing, during the term of this Agreement, Empathia may list Client's name on customer lists provided to prospective buyers of Empathia's services and Client may include Empathia's name in any public filings.


- b. This Agreement shall be binding upon and inure to the benefit of Client's successors in interest and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Waukesha, WI as of the day and year written above.

EMPATHIA, INC.

By: 
Carol Barr, Vice President, Finance

Date: 12/6/19

By: 
Jeremy Schabow, Account Manager

Date: 12-10-19

SAUK COUNTY

By: _____
Representative of Organization

Date: _____

By: _____
Organization Contact Person

Date: _____

(Rev 5/16 - CB)

Exhibit A: Policy on Confidentiality of Covered Person Records and Information

Mandatory Reporting:

Employee Assistance Programs (EAP) are governed by federal and state statutes that mandate the reporting of certain situations that, in the judgment of an EAP professional, pose risks of grave physical or emotional harm to one or more persons. The following situations, if brought to the attention of the EAP, will require reporting to a designated authority or otherwise permit breach of confidentiality for purposes of safeguarding persons:

- Probable or imminent risk of suicide.
- Probable or imminent risk of homicide or grave physical harm to another person.
- Possible abuse or neglect of a child or vulnerable adult.
- Probable threat to national security.

Like other mandatory reporters (i.e., teachers, physicians, psychologists, etc.), EAP professionals are required to comply with these provisions. In cases of suspected abuse or neglect of a child or vulnerable adult, Empathia will first contact the authorized government social service agency and present the situation in question in a hypothetical fashion. If the authorized agency determines that the situation in question is reportable, then Empathia will disclose Covered Person information as required by law.

Confidentiality in Relation to Client:

Even when EAP Covered Person confidentiality is breached due to imminent threat of suicide or homicide, or because of the possibility of abuse or neglect of a child or vulnerable adult, or any other legally mandated cause, EAP Covered Person records are not shared with the Client unless specifically requested by the Covered Person in conjunction with an Informed Consent document signed by the Covered Person. When applicable law mandates disclosure of Covered Person information, such disclosure shall be made only to the extent necessary to comply with the law, and does not extend to the Client unless notification of the Client is necessary to prevent grave physical harm to the Covered Person or others in the workplace.

Confidentiality in Formal Client Referrals to the EAP:

When a supervisor, manager, or HR representative makes a formal (performance-based) referral of a Covered Employee to the EAP and requests feedback regarding Covered Employee compliance, every effort will be made to obtain an authorization from that referred Covered Employee permitting disclosure of pertinent information to an appropriate Client representative. If the referred Covered Employee refuses to consent to such a release, the EAP will not be at liberty to disclose information to the referring manager or HR representative except as noted in previous sections of this Policy.

Confidentiality in Relation to External Requests for Information:

If any person or entity solicits EAP Covered Person information or requests to know the identity of persons using the EAP, Empathia will not release any such information nor acknowledge any Covered Person's use of the program without an authorization from the Covered Person in question, or unless compelled to do so by statutory obligation or appropriate court order.

Regulatory Compliance:

Empathia is an "excepted benefit as defined by HIPAA, though follows HIPAA/HITECH information privacy and security regulatory requirements as a best practice.