

HEALTH SERVICES AGREEMENT

This **HEALTH SERVICES AGREEMENT** (“**Agreement**”) is entered into as of January 1, 2024 (“**Effective Date**”), by and between **Presence Behavioral Health** (“**PBH**”) and City of Aurora (“**Company**”).

A. PBH is experienced in and furnishes healthcare and related services to employers, both directly and by contracting with third-party vendors.

B. Company is the plan sponsor and plan administrator of Company’s self-funded employee welfare benefit plan (“**Health Plan**”).

C. Company desires to engage PBH to provide direct-to-employer healthcare services (as further defined below) to its eligible employees and their beneficiaries, if applicable (the “**Participants**”).

D. PBH agrees to provide such services to Company as pursuant to the terms and conditions of this Agreement.

The parties agree as follows:

1. Services.

A. PBH shall make available to the Participants certain direct-to-employer health care services available under Company’s medical and disability plans. (the “**Services**”) identified on Service Attachments, as addenda to this Agreement. In the event that the Parties agree to expand the direct-to-employer services, additional Service Attachments may be attached hereto, each identified with a subsequent letter of the alphabet, A, B, C, etc. Company shall provide PBH current information regarding Company’s medical and disability plans and keep PBH apprised of any changes to these plans.

B. Company shall utilize PBH as its sole provider of Services during the “**Term**” of this Agreement.

2. Participants.

A. Company is solely entitled to identify Participants under this Agreement, except that PBH may refuse to treat a patient in accordance with PBH’s policies and applicable law. Company shall deliver to PBH a list of Participants eligible to receive Services under each Service Attachment upon (i) execution of this Agreement or, if applicable, completion of initial enrollment under this Agreement, (ii) any addition of new Participants or change in the eligibility of any existing Participant, or (iii) written request by PBH. Company shall require each Participant, before he/she obtains any Covered Service from PBH, to advise PBH that he/she is obtaining Services under the agreement between PBH and Company.

B. PBH may, in its sole discretion, require each Participant to execute a written agreement or acknowledgement consistent with the terms of this Agreement. PBH will provide a copy of such written agreement or acknowledgement to Company upon request.

3. **Clinic Locations, Facilities, and Equipment.** To the extent that Services are provided onsite at by PBH, such location(s) will be identified in the applicable Service Attachment (each a “**Clinic Location**”). PBH or Company (as applicable) shall (A) provide the clinical and office space for each Clinic Location, (B) provide the furnishings and equipment, and (C) maintain the clinical and office space, as well as the furnishings and equipment, all in accordance with the applicable Service Attachment.

4. **PBH Personnel.**

A. PBH shall ensure that all PBH personnel (the “**PBH Personnel**”) who provide Services are qualified by training, licensure, certification or experience to perform such services. If requested by Company, PBH shall provide Company with documentation required to confirm any necessary training, licensure, certification or experience of personnel. PBH Personnel providing Services under this Agreement shall perform such services in accordance with all applicable requirements of the appropriate regulatory and accrediting agencies.

B. PBH Personnel shall determine their own means and methods of furnishing the Services. Neither PBH nor any PBH Personnel is obligated to furnish to any Participant any Covered Service that PBH or the PBH Personnel determines, in his/her/its sole discretion is not medically necessary.

C. If Company has a concern about the competency, performance, behavior or other event involving PBH Personnel providing Covered Service, PBH will respond promptly to Company’s reasonable request. If such concern can be cured by additional training, Company will afford PBH time to supply additional training to such individual. Notwithstanding the forgoing, PBH Personnel shall be immediately removed from providing Services upon Company notifying PBH in writing that Company reasonably believes such personnel to be imminently or immediately dangerous to patients, other employees, or Company’s reputation in the community.

5. **Billing and Fees.** As consideration for the Services, PBH will bill for the Services, and Company shall pay PBH fees (the “**Fees**”), as set forth in the applicable Service Attachment. Except as otherwise set forth in the applicable Service Attachment, PBH will invoice Company for the Fees on a monthly basis, and Company shall pay the invoice amount within thirty days after the invoice date.

6. **Term and Termination.**

A. The term of this Agreement commences on the Effective Date and will continue for a period of three (3) years unless earlier terminated as set forth in this Agreement (the “**Initial Term**”). After the Initial Term, this Agreement will automatically renew for successive additional one- (1-) year terms (each a “**Renewal Term**”) unless earlier terminated as set forth in this Agreement. The Initial Term and any Renewal Terms are collectively referred to in this Agreement as the “**Term.**” “**Contract Year**” means the consecutive twelve-month period beginning on the Effective Date, and each consecutive twelve-month period thereafter.

B. This Agreement may be terminated as follows:

i. Termination for Cause. Either party may terminate this Agreement if a party (the “**Breaching Party**”) commits a material breach of this Agreement and the Breaching Party does not cure such material breach within thirty (30) days after receiving written notice of such breach from the other party.

ii. Termination Without Cause. Either party may terminate this Agreement or any Service Attachment at any time for any or no reason upon 120 days prior written notice to the other party.

C. Effect of Termination. The termination of this Agreement will not affect any rights or obligation of the parties which accrue or arise prior to the effective date of termination.

7. **Medical Records; Reporting.**

A. PBH shall prepare and maintain appropriate patient medical records, including without limitation records of examination, diagnosis, and treatment for all Participants receiving healthcare services pursuant to this Agreement (“**Medical Records**”), in accordance with good practice and customary and reasonable standards within the medical industry, and in conformance with applicable law. Medical Records may include Protected Health Information (“**PHI**”) as HIPAA (defined below) defines that term and do not include a Participant’s occupational health, pre-employment, and workers’ compensation records, which shall be considered the property of Company. All Medical Records created for the Participants are, and shall remain, PBH’s property. Each party shall provide the other party with access to all Medical Records as reasonable and necessary for the other party to perform its obligations under this Agreement, so long as such access is permitted by law.

B. PBH will (if applicable) deliver to Company written reports regarding the Services in accordance with the applicable Service Attachment.

8. **HIPAA Compliance.**

A. Each party agrees that it will comply in all material respects with all federal and state-mandated regulations, rules or orders applicable to privacy, security and electronic transactions, including without limitation, regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996, and its’ implementing regulations, as amended or later amended (“**HIPAA**”).

B. To the extent PBH has agreed in any Service Attachment to provide Participant PHI to Company or Company’s business associate, Company certifies that the PHI will be used for only the following HIPAA-compliant purposes: (i) Company will use the PHI to perform services in connection with the administration of the Health Plan; (ii) Company will disclose the PHI to the Health Plan’s business associate, or PBH may disclose the PHI directly to the Health Plan’s business associate, in furtherance of a HIPAA-compliant business associate purpose as permitted by Office of Civil Rights guidance (including guidance that specifically allows a covered entity to share PHI directly with another covered entity’s business associate); or (iii) if PBH provides Services to a Participant at Company’s request in order for Company to

conduct medical surveillance of the workplace or to evaluate whether the Participant has a work-related illness or injury, Company will use the PHI for such purposes, subject to and consistent with the requirements of 45 C.F.R. 164.512 (b)(1)(v).

C. Company shall not use any Participant PHI for employment related actions or as otherwise prohibited by HIPAA.

9. **Independent Contractor Relationship.** PBH is an independent contractor, and nothing in this Agreement is intended or may be construed to create any joint venture or employment relationship between the parties. No employee or agent of either party may be deemed an employee or agent of the other party by reason of this Agreement. PBH shall be fully responsible for all tax liabilities arising from its status as an independent contractor. Each party shall reasonably notify the other party and permit the other party to participate in the resolution of any inquiry or audit related to PBH's status as an independent contractor.

10. **Insurance.**

A. Throughout the Term of this Agreement, both parties agree to obtain and maintain commercial general liability insurance with minimum limits of liability of \$1 million per occurrence and \$3 million annual general aggregate; and workers' compensation and employers' liability insurance, with a minimum employers' liability limit of \$1 million each accident, each employee for disease, and a policy limit for disease.

B. Throughout the Term of this Agreement, PBH shall maintain professional liability insurance, covering it and its employees, with minimum amounts of liability of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate.

C. Each party will furnish to the other evidence of such insurance coverage upon execution of the Agreement, at each insurance renewal, and otherwise upon request. PBH may satisfy the insurance requirements with a funded self-insurance program.

11. **Indemnification.** Each party shall be legally and financially responsible for the acts and omissions of itself and its employees, directors, officers, representatives or agents and will pay all losses and damages attributable to such acts or omissions for which it is legally liable. NEITHER PARTY (NOR ANY AFFILIATE, SUBSIDIARY OR PARENT OF PBH) SHALL BE LIABLE FOR ANY OF THE OTHER PARTY'S INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, REGARDLESS OF WHETHER THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. This Agreement shall not be construed to create a contractual obligation for one party to indemnify the other party for loss or damage resulting from any act or omission of such other party or its employees, directors, officers,

representatives or agents, nor to constitute a waiver by either party of any rights to indemnification, contribution or subrogation that the party may have by operation of law.

12. **Communications Regarding Services.** PBH and Company agree to work collaboratively to develop a plan for promoting Services to Participants. In any of its communications regarding the Services, Company shall use only the approved promotional images and materials provided by PBH and as developed, modified and made available from time to time at PBH's sole discretion. Company shall obtain PBH's written consent before using any PBH's or its affiliates' patented, trademarked, trade-named, service-marked or copyrighted material or property.

13. **Confidentiality.** Each party acknowledges that in the course of performance under this Agreement, it may have access to or become familiar with certain non-public proprietary information or intellectual property of the other which will be marked as such or, if not marked as such, would be considered confidential by a reasonable person under the circumstances (collectively, "Confidential Information"). The Parties agree that this Agreement and the terms set forth herein are Confidential Information. Neither party may use, publish, or disclose, or authorize any of its agents or employees to use, publish, or disclose, any Confidential Information without the other party's prior written consent of the other party (except to the extent necessary to perform its obligations under this Agreement).

14. **No Solicitation of PBH Personnel.** During the Term of this Agreement and for one (1) year thereafter, Company shall not, directly or indirectly, on its own behalf or on behalf of any other person: (A) solicit or employ as an employee, independent contractor, or otherwise any person who furnished Services in connection with this Agreement as an PBH employee, (B) entice any PBH employee who furnished Services in connection with this Agreement to respond to any Company job advertisement; or (C) induce any PBH employee to terminate his relationship with PBH or breach any PBH employment. The restrictions set forth above do not apply to any solicitation for employment or other contractual relationship through general public advertisements.

15. **No Discrimination.** PBH shall impartially provide the Services to Participants regardless of race, color, religion, creed, sex, national origin, age, disability, sources of payment, or any other protected characteristic.

16. **Compliance with Laws.** Each party shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances.

17. **ERISA and COBRA Compliance.** The parties acknowledge and agree that Company is solely responsible for its own compliance with the Employee Retirement Income Security Act, as amended ("ERISA"), including ensuring that the Participants are informed of any disclosure, reporting, and other requirements under ERISA, and with the Consolidated Omnibus Budget Reconciliation Act, as amended ("COBRA").

18. **AGREEMENT IS NOT INSURANCE.** THIS AGREEMENT MAY NOT BE CONSTRUED AS HEALTH INSURANCE OR THE BUSINESS OF INSURANCE. THIS AGREEMENT DOES NOT INCLUDE ANY OBLIGATION TO FURNISH PBH SERVICES,

SPECIALIST SERVICES, CATASTROPHIC SERVICES, OR ANY OTHER SERVICES NOT DIRECTLY OFFERED BY PBH IN ACCORDANCE WITH THIS AGREEMENT. THE HEALTH SERVICES FURNISHED BY PBH UNDER THIS AGREEMENT ARE NOT A SUBSTITUTE FOR HEALTH INSURANCE.

19. **Corporate Responsibility.** PBH has in place a Corporate Responsibility Program (“**Program**”), which has as its goal to ensure that PBH complies with federal state and local laws and regulations. The Program focuses on risk management, the promotion of good corporate citizenship, including the commitment to uphold a high standard of ethical and legal business practices, and the prevention of misconduct. The parties acknowledge PBH’s commitment to corporate responsibility and agree to conduct all business transactions which occur pursuant to this Agreement in accordance with the general philosophy and objectives of corporate responsibility and business ethics.

20. **Ethical and Religious Directives.** PBH operates in accordance with the Ethical and Religious Directives for Catholic Health Care Services, as promulgated by the United States Conference of Catholic Bishops, Washington, D.C., of Roman Catholic Church or its successor (“**Directives**”), and the principles and beliefs of the Roman Catholic Church are a matter of conscience to PBH. Nothing in this Agreement may be construed to require PBH to violate the Directives, and this Agreement must be interpreted in a manner that is consistent with the Directives.

21. **Amendment.** No changes or additions to this Agreement will be recognized and binding unless and until made in writing and signed by all parties to this Agreement.

22. **Waiver of Breach.** The waiver by either party of a breach or violation of any provision of this Agreement will not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision thereof.

23. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of **Illinois**. Any judicial or other action of proceeding arising from or relating to this Agreement shall be filed exclusively in the state or federal courts sitting in Kane County, Illinois.

24. **Merger; Entire Agreement.** This Agreement, including the recitals set forth above and any Service Attachments, other attachments, exhibits or schedules attached hereto or thereto, constitutes the entire agreement between the parties. If any conflicts exist between the terms and conditions within the body of this Agreement and any Service Attachment, attachment, exhibit, or schedule, the terms and conditions within the body of this Agreement shall govern. No oral statements or prior written material not specifically incorporated herein shall be of any force and effect. This Agreement cancels and supersedes all previous contracts and agreements between the parties relating to the subject matter covered by this Agreement.

25. **Severability.** If any provision of this Agreement is held to be unenforceable for any reason, (A) the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms, and (B) this Agreement shall be reformed to include a provision as similar in terms as possible to

the unenforceable provision so as to retain as much of the original intent and purposes of this Agreement as possible.

26. **Notice.** Any notice herein required or permitted to be given shall be in writing and shall be deemed to be duly given on the date of service if served personally on the other Party, or on the date of verified delivery on if mailed to the other Party by certified mail, postage pre-paid or if sent through overnight courier service, and addressed to the Parties as follows, or such other address provided in writing:

If to PBH: Presence Behavioral Health
 1820 S. 25th Ave.
 Broadview, IL 60155
 Attn: Vice President

With a copy to: Ascension Illinois
 Attention: Legal Services
 200 S. Wacker Dr., 12th Floor
 Chicago, IL 60606

If to Company: City of Aurora
 44 E Downer Place
 Aurora , IL 60505


27. **Assignment.** Neither party may assign this Agreement or any Service Attachment without the written consent of the other party, except that a party may assign this Agreement to an affiliate of the party or to an entity that acquires the equity or substantially all the assets of the party.

28. **No Third-Party Beneficiaries.** Nothing in this Agreement may be construed to create any rights or benefits of any third parties.

29. **Service Attachment Terms.** The terms of each Service Attachment apply solely to that Service Attachment and do not apply to any other Service Attachment. Defined terms set forth in a Service Attachment not defined in that Service Attachment have the meaning ascribed to them in this Agreement.

[Signature page follows]

A duly authorized officer or executive from each party has executed this Agreement, effective as of the Effective Date.

Company:	PBH:
City of Aurora	Presence Behavioral Health
Signed:	 Signed:
Print Name:	Print Name: Rick Germann
Title:	Title: Vice President, Behavioral Health

SERVICE ATTACHMENT A

Employee Assistance Program
Effective January 1, 2024

1. DEFINITIONS

A. **EAP.** EAP is an employee assistance program whereby Company makes available to Participants professional and confidential assessment and referral of social, behavioral and other life problems.

B. **Participant.** Participants include all full-time and part-time employees of the Company.

C. **Participants.** Participants include all employees and any member of the Participant's immediate family, the Participant's partner if not a spouse, and members of the Participant's extended family (e.g., mother-in-law, stepfather, etc.) if residing in the Participant's household.

D. **EAP Supervisor.** The EAP Supervisor shall be an employee of PBH, designated to carry out the administrative and account management responsibility of PBH, pursuant to this Agreement.

E. **EAP Counselor.** The EAP Counselor shall be an employee of PBH, designated to carry out the assessment, consultation and referral responsibility of PBH, pursuant to this Agreement. The EAP Counselor shall be experienced in employee assistance counseling and have medical and psychiatric consultation available.

F. **Service Provider.** A Service Provider is a physician, advanced practice clinician or other individual, health care provider, agency, institution, or organization to whom the EAP Director or Counselor refers a Participant for further diagnosis and treatment.

2. EAP. The basic elements of implementing an EAP include: (i) assigning an Participant assistance liaison; (ii) assisting the Company in finding industry samples of written EAP policies and promotional plans; (iii) Company supervisor training; (iv) notification to and orientation of Participants and other Covered Persons; and (v) establishing a reporting mechanism with Company regarding utilization of the EAP, provided, however that no PHI or other identifiable patient information shall be reported to Company.

A. Company shall implement the EAP in conjunction with its own personnel policies and procedures ("Company Personnel Policies"), offering EAP Services to its employees on a voluntary basis and as part of its personnel processes, but not as substitute for, Company's disciplinary procedures. Company shall provide to PBH the Company Personnel Policies relevant to providing EAP Services.

B. The EAP Services shall be delivered in accordance with the PBH's policies and procedures, as may be amended from time to time (each individually referred to herein as a "**PBH Policy**") and collectively as "**PBH Policies**"), and professional standards applicable to EAP Services.

C. Notwithstanding anything stated herein to the contrary, PBH's obligations under this Agreement do not include rendering long-term counseling services to Participants (i.e. greater than counseling sessions) or treatment of Participants on an inpatient basis.

3. **DESCRIPTION OF SERVICES.** Subject to the approval of Company, PBH will provide the following EAP Services:

A. **EAP Policy Samples.** PBH will assist Company in finding industry sample EAP policies, which may describe the EAP, Participant eligibility and procedures for utilization of the EAP. Company understands and agrees that PBH is in no way providing legal advice with respect to EAP policies and promotional plans and makes no guarantee, assurance or warranty with respect to the legality of any EAP policy samples found or provided to Company by PBH.

B. **EAP Promotion.** PBH will provide a sample letter for distribution by Company to Participants, introducing and describing the EAP. As mutually agreed between the Parties, PBH will provide Company with EAP brochures, posters and digital promotional materials. The Company will be responsible for distribution of these materials.

C. **Education.** Company will use commercially reasonable efforts to encourage Participants to avail themselves of any education provided by PBH regarding EAP program services.

- 1) **Management/supervisor training:** At the time of start up of the EAP, PBH will provide two (2), one (1) hour session(s) or the equivalent, for Company managers and supervisors that include utilizing the EAP as a management tool.
- 2) **Participant orientations:** PBH will provide three (3), thirty (30) minute sessions to educate all Participants regarding EAP Services. Additional required training can be negotiated with the EAP Director.
- 3) **Wellness training/ programs:** Two (2) hours of wellness programs are included for every contract year.

4. **EAP FEES, ADJUSTMENTS.**

A. **Per Participant Fees.** Company shall pay PBH Thirty and no/100 (\$30.00) Dollars per Participant, per each twelve (12) month term of this Agreement. An initial payment shall be made upon completion of management/supervisor training, and quarterly payments made thereafter, adjusted as set forth below.

B. **Participant Reports and Adjustments.** On the Effective Date, the Company shall furnish PBH with satisfactory written evidence of the total number of covered Participants. Company shall provide PBH with a quarterly report listing the number of Participants covered by this Agreement. In addition, Company warrants that it will provide PBH with written notification and evidence, should the number of Participants increase or decrease by ten percent (10%) at any time during the Term of the Agreement. Company agrees that the Fee will be adjusted quarterly based on the corrected Participant count. Any adjustment made to Participant Fee within the year, will be reflected in the next subsequent quarterly payments. Company shall cooperate in good

faith in response to any reasonable request from PBH to perform periodic audits of Company's records to evaluate Company's compliance with this provision.

C. **EAP Services Covered by the Participant Fee.** The following EAP Services are included in the Participant fee:

- 1) **Assessment and referral or short-term counseling for up to eight (8) sessions per case/per year for all Participants.** The EAP Director or Counselor will identify and coordinate referrals for situations that require longer term counseling or additional intervention.
- 2) **Individual, marital and family sessions.** Many issues can be addressed within the context of the EAP thus reducing the number of cases referred to outside resources that would require accessing insurance benefits.
- 3) Coordination of referrals with insurance administrators, community Service Providers, and/or private practitioners provided as necessary.
- 4) Participant Orientations to acquaint the Participants with the EAP and how to access services. New Participant orientation may be offered up to at no additional cost.
- 5) Management and supervisory consultations available to respond to concerns about Participant job performance and/or general well-being.
- 6) Crisis counseling and crisis intervention is available twenty-four (24) hours a day, seven (7) days a week.
- 7) Critical Incident Response offered as part of the EAP services. All EAP counselors are trained in critical incident stress management.
- 8) Management reports provided annually which include information on utilization of the EAP with no PHI or other identifiable patient information included.
- 9) Twelve (12) month follow-up on all substance abuse cases including coordination with the designated treatment programs for support services.
- 10) Monthly newsletter/other informational item provided for Company to distribute.
- 11) Promotional materials provided as needed, include posters, digital media and brochures printed in English and Spanish.
- 12) Bilingual EAP Counselor (English/Spanish) available to Participants.
- 13) Two (2) office locations include Elgin and Aurora, and a HIPAA-secure telehealth platform.

D. **EAP Services offered for additional cost:**

- 1) **Supervisor Training:** Includes instruction for Company managers/supervisors in identifying and intervening with a troubled Participant, utilizing the EAP as a management tool, and procedure for making referrals to the EAP, etc. This training may be provided at the PBH's prevailing hourly rate for professional training and consultation services.
- 2) **Health Education and Wellness Seminars:** Seminars may be provided at Company's request at the PBH's prevailing hourly rate for professional training and consultation services.
- 3) **Organizational Development, Consultation, Assessment, Intervention Design and Project Management:** These services may be provided at Company's request at the PBH's prevailing hourly rate for such services.

E. **Invoices and Payment.** Invoices for amounts due PBH more than thirty (30) days past due, shall bear interest at the rate of one percent (1%) per month, pursuant to the Illinois Government Prompt Payment Act 50 ILCS 505/4. EAP Services may be suspended for past due invoices which exceed ninety (90) days. It is expressly understood and agreed that the compensation stated herein is exclusively for the EAP Services provided pursuant to this Agreement. Fees and charges for other services provided by a Service Provider, including PBH as a Service Provider, will be as established between the Participant and the Service Provider.