



HEALTH SERVICES AGREEMENT (Network and Anywhere)

THIS HEALTH SERVICES AGREEMENT (this “Agreement”) is made and entered into as of September 13, 2023 (the “Effective Date”) by and between Town of Whitestown, acting as and on behalf of the Whitestown Employee Benefits Plan (“Client”), with its principal place of business located at 6210 Veterans Drive, Whitestown IN 46075, and Marathon Health, LLC (“Marathon”), a Delaware limited liability company with its principal place of business located at 10 W. Market Street, Suite 2900, Indianapolis, IN 46204. Client and Marathon may each be referred to in this Agreement as a “Party” and, collectively, as the “Parties”.

WITNESSETH

WHEREAS, as part of its overall healthcare program, Client desires to furnish to its Members (as defined below) certain preventive, wellness, disease management, health consultation, and/or primary care services;

WHEREAS, Client desires to retain Marathon to provide the preventive, wellness, disease management, health consultation, and/or primary care services set forth on Exhibit A to Members; and

WHEREAS, Marathon wishes to provide such services in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement together with all exhibits, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Client and Marathon hereby agree as follows:

Article I Definitions

- 1.1 “Anywhere Services” means the virtual preventive, wellness, disease management, health consultation, and/or primary care services described in Exhibit A.
- 1.2 “Care Provider” means an employee or independent contractor of Marathon who provides Health Services to Members.
- 1.3 “EBP” means Client’s Employee Benefit Plan provided for the health care benefit of Client’s Members.
- 1.4 “Eligibility File” has the meaning set forth in Section 7.2.



- 1.5 “Health Center” means the Network Health Centers and any other health center where Marathon provides Health Services.
- 1.6 “Health Services” means, collectively, the Anywhere Services and the Network Services, as described on Exhibit A.
- 1.7 “Implementation Services” means the services described on Exhibit B related to the promotion of the Health Services.
- 1.8 “Marathon Services” means the Health Services and Implementation Services and such other professional or support services necessary for the performance of Marathon’s obligations under this Agreement.
- 1.9 “Member” means an individual eligible to receive the Health Services who is listed in the Eligibility File.
- 1.10 “Network” means the Network Health Centers located in and around the Metropolitan Statistical Areas (“MSA”) indicated in Exhibit A-1.
- 1.11 “Network Health Centers” means Marathon’s owned or leased location(s) within the Network where Marathon will provide the Network Services.
- 1.12 “Network Services” has the meaning set forth in Exhibit A.
- 1.13 “Start Date” means, as applicable, the Anywhere Start Date and the Network Start Date indicated on Exhibit A-1 on which the respective Health Services will commence.

Article II Services

- 2.1 Health Services. Commencing on the applicable Start Date, Marathon will provide Members with the Health Services described on Exhibit A. Health Services that do not fall within the description set forth on Exhibit A shall be outside the scope of this Agreement.
- 2.2 Implementation Services. Commencing on the Effective Date, Marathon will provide the Implementation Services described on Exhibit B. The Parties will mutually agree to necessary modifications to Marathon’s standard implementation timeline and/or the Start Date on account of reasons beyond either Party’s reasonable control.
- 2.3 Service Orders and Amendments. Marathon may provide additional services, or the Parties may modify the existing services, by executing a mutually agreed service order or an amendment to this Agreement. Service orders and amendments will include terms and conditions specific to the services described



therein including but not limited to the scope of services, fees, timeline and any deliverables. In the event of any conflict between this Agreement and any service order or amendment, the provisions of the service order or amendment, as the case may be, will govern. To be binding on the Client, any such service orders or amendments must be executed by Client.

Article III Term

- 3.1 **Term.** The “Initial Term” of this Agreement shall begin on the Effective Date. Unless terminated earlier in accordance with the terms of this Agreement: (i) if the Start Date occurs on the first day of the month, the Initial Term shall end on the last day of the month immediately preceding the third anniversary of the Start Date; or (ii) if the Start Date occurs any time after the first day of the month, the Initial Term ends on the last day of the month in which the third anniversary of the Start Date occurs. The Initial Term and any Renewal Term(s) shall be the “Term.”
- 3.2 **Renewal Terms.** This Agreement shall automatically renew for additional terms of one (1) year (each a “Renewal Term”), unless either Party terminates this Agreement by delivering written notice to the other Party not less than sixty (60) days prior to the expiration of the then current term. Failure to provide timely written notice shall indicate a Party’s intent to automatically renew the Agreement at the end of the then current term.

Article IV Payment Terms

- 4.1 **Fees.** Any applicable fees charged to Client by or through Marathon under this Agreement are the obligation of EBP and not Client, absent a specific appropriation of Client for such purposes in Client’s sole legislative discretion. Client guarantees any and all payments to be made by EBP to Marathon under this Agreement. In consideration for the provision of the Marathon Services, EBP will pay the implementation fee (the “Implementation Fee”) and recurring service fees set forth on Exhibit D (the “Recurring Service Fees”). Marathon will submit invoices to EBP for the Implementation Fee and Recurring Service Fees as set forth in Exhibit D. Marathon will invoice EBP monthly for all other services that EBP elects to receive (e.g., lab services, pharmaceuticals, customization services). EBP shall remit payment for all invoiced amounts within forty-five (45) days of the date of an invoice. A one percent (1%) per month late fee will be charged for payments on undisputed charges not received when due.
- 4.2 **Non-Payment.** Failure to pay an invoice when due shall constitute a material breach of this Agreement and Marathon reserves the right to terminate this Agreement or suspend services upon such breach by Client that continues more than sixty (60) days after the invoice due date. Marathon reserves the right to refrain from providing services to Client if full payment is not made when due for undisputed charges, until such time as payment in full has been made. In the



event that Marathon continues to provide services during a period of time when Client is in breach, such continuance of services will not operate as a waiver of Marathon's right and ability to utilize any and all remedies available to Marathon under applicable laws.

- 4.3 Tax Obligations. All fees for services purchased in this Agreement, unless otherwise noted, are exclusive of applicable taxes. EBP agrees to pay all applicable sales, use or service taxes imposed by any state or local tax authority on the services or payments provided hereunder (other than taxes on Marathon's income) which Marathon may be required to pay or collect. Any such tax due is in addition to the fees charged by Marathon herein and will be listed separately on invoices. To the extent Marathon has not collected and remitted any applicable tax for EBP in reliance upon an erroneous representation of EBP as to its tax status, EBP's obligation to pay taxes shall include any interest and penalties imposed by any taxing authorities. If a certificate of exemption or similar document or proceeding is necessary in order to exempt the sale from sales or use tax liability, EBP shall obtain and produce such certificate, document or proceeding, at its sole expense.

Article V Network Health Centers

- 5.1 Network Health Center Operation. Marathon shall, at its sole cost and expense, own or lease the Network Health Centers and grant Members non-exclusive access to the Network Services at the Network Health Centers.
- 5.2 Equipment and Furnishings. Marathon will provide all office furnishings, medical equipment, exam room furnishings and information technology equipment as it deems appropriate for each Network Health Center. In addition, Marathon will purchase, configure and maintain all IT equipment (including telephone and internet connection) necessary for the operation of the Network Health Center.
- 5.3 Network Branding. Network Health Centers will be branded in a manner determined by Marathon in its sole discretion. Marathon will determine the colors, branding, etc. for purposes of marketing Network Health Centers to employers and Members.

Article VI Duties of Marathon; Relationship of the Parties

- 6.1 Management of Health Center(s). Marathon will be responsible for the day-to-day management of the Health Centers and will adopt appropriate policies and procedures to promote the orderly and efficient operation of the Health Centers. Unless otherwise agreed by the parties, Marathon shall procure and retain ownership of and/or control over the medical equipment and supplies used to provide the Marathon Services under this Agreement. Marathon shall be

responsible for disposing of all bio-waste and hazardous materials resulting from operation of the Health Centers in compliance with applicable laws.

- 6.2 Hours of Operation. The Health Services will be made available to Members during the hours indicated on Exhibit A-1.
- 6.3 Qualified Care Providers. Marathon shall employ or subcontract qualified and appropriately licensed or certified (if applicable) staff and Care Providers to provide the Health Services. Marathon shall obtain any licenses and permits required for its employees and subcontractors to perform the Health Services, including visas and work permits required by applicable law. It shall be Marathon's responsibility to select, contract with and manage any third-party contractors, all in accordance with the terms of this Agreement. Such third-party contractors may include an affiliated professional corporation that provides acute and other healthcare services and may include other contractors. Marathon shall retain responsibility for any such contractors and shall monitor performance of such contractors on an ongoing basis to ensure compliance with all applicable obligations under this Agreement. Care Providers shall retain the authority to direct or control his or her medical decisions, acts or judgments. Notwithstanding any other provision in this Agreement, no Care Provider will be required to provide any service that he or she believes, in his or her medical judgment, should be provided by another healthcare provider or in another setting.
- 6.4 Independent Contractor. Marathon, and each of its employees and third-party contractors, shall at all times remain an independent contractor with respect to the services provided under this Agreement. Nothing contained herein shall be construed to create an agency, joint venture, or joint enterprise relationship between the Parties. Marathon shall be solely responsible for the payment of compensation and provision of benefits to Marathon employees and contractors performing services hereunder. Marathon's employees and contractors are not entitled to receive any employee benefits from Client. Client shall not be responsible for payment of worker's compensation, disability, unemployment or other similar insurance or for withholding income, taxes or social security for any Marathon employee or contractor.
- 6.5 Standard of Performance. Marathon will perform its obligations under this Agreement in a professional manner and in compliance with all applicable laws.
- 6.6 Performance of Client Obligations. Marathon shall not be responsible for any delay or lack of performance of the Marathon Services due to the failure of Client or a Member to provide information necessary to fulfill its obligations as required under this Agreement.
- 6.7 Medical Emergencies. The Health Services do not include emergency medical services and Members contacting Care Providers for virtual care will be directed to contact urgent care in the event of an emergency. If a Member appears at a

Health Center with symptoms that are best evaluated in an emergency room (for example, chest pain or difficulty breathing, seizures, weakness/numbness on one side, slurred speech, fainting/change in mental state, serious burns, head or eye injury, concussions/confusion, etc.), then Marathon will immediately call 911 and provide Basic Life Support (“BLS”) as appropriate until an ambulance and/or paramedics arrive.

- 6.8 Refusal of Treatment. Certain Members may refuse to accept procedures or treatment recommended by Care Providers. If a Member refuses to accept treatment or procedures recommended by Care Providers, then neither the Care Providers nor Marathon will have further responsibility to provide or arrange treatment.
- 6.9 Marathon Health Reports. Marathon will provide to Client the reports described in Exhibit E. The provision by Marathon to Client of the reports listed on Exhibit E is contingent upon Client’s delivery to Marathon the medical claims data from Client’s applicable health benefit plan(s) as described in Section 7.3 and the Eligibility File as described in Section 7.2. Marathon will provide additional customized reports as requested by Client, and agreed upon by Marathon, at an additional mutually agreed cost.
- 6.10 Visit Fees. At the request of Client, Marathon will charge members and collect payment for non-preventive services at the time of the visit in accordance with details agreed to by the Parties. Any fees collected from Members will be credited to EBP on the invoice for the month immediately following the month in which the fees are collected. If the Marathon Services set forth on Exhibit A include Claims Submission Services, Marathon will submit claims to a Claim Processor (as defined in Section 7.3) for patient visits for purposes such as crediting patient deductibles for visit fees collected by Marathon on behalf of Client or for aggregating Marathon encounter activity with other Client group health plan activity. For the avoidance of doubt, if applicable, Client will establish the fair market value for non-preventive services to be charged to Members.
- 6.11 Member Outreach. Marathon shall conduct such Member outreach as it deems reasonably necessary to support the Health Services to be provided under this Agreement, including campaigns notifying Members and potential Members not currently receiving services from Marathon of available services. The campaigns may be conducted in print, by telephone or via e-mail and text message (to the extent permitted under applicable law). Client shall support such outreach by Client providing Marathon with contact information of all Members appearing on the Eligibility File, including but not limited to the following (if available): email address, phone number, work address, home address. Member outreach initiated by Marathon shall be at Marathon’s cost. Outreach materials requested by Client beyond the standard customization described in Exhibit B will be billed as additional services pursuant to a service order.

Article VII Duties of Client

- 7.1 Promotion of Health Services. Client will publicize and provide descriptive information about the Marathon Services, including standard marketing materials provided by Marathon as described in Exhibit B, to all potential Members who are eligible to receive Health Services. Client will provide Marathon with copies of other documents and materials prepared independently by Client describing or publicizing the Health Services prior to the distribution of such materials. Marathon shall review and comment on such materials within a reasonable time after receipt. Client shall use reasonable efforts to seek Marathon's input prior to providing such information to potential Members, which input shall not be unreasonably delayed.
- 7.2 Eligibility Files. Client will provide to Marathon a production-ready list of Members eligible to receive Health Services (the "Eligibility File") no later than thirty (30) days prior to the Start Date, and thereafter will provide an updated Eligibility File that reflects new and terminated Members on a frequency to be mutually agreed by the Parties. For purposes of this Section 7.2, "production-ready" means that Marathon's Data Integration Team has reviewed and approved the content and format of the Eligibility File. The Eligibility File will contain the entire population of Members and will adhere to Marathon's content and format specifications set forth on Exhibit C. In the event Client desires to use an alternative format to transmit the Eligibility File, Marathon will evaluate using such alternative format, including whether additional costs shall apply. Members will be entitled to use the Health Services as of the "eligible on date" indicated in the Eligibility File.
- 7.3 Medical Claims Data. To assist in the identification and treatment of Members with chronic conditions such as diabetes, asthma, heart disease, pulmonary disease and hypertension, and subject to applicable law and any confidentiality and business associate agreements, Client will direct its carrier, third party administrator, or third party vendor for claims data mining (each, a "Claim Processor") to provide to Marathon medical claims data and pharmaceutical claims data via SFTP for the Members enrolled in Client's health plan(s) for the 24 months prior to the initiation of the Health Services, and minimally at monthly intervals thereafter through the Term. In the event Client desires to use an alternative format to transmit the claims data, Marathon will evaluate using such alternative format, including whether additional costs shall apply.
- 7.4 Claims Submission. Client shall direct and obtain agreement from its Claims Processor to receive shadow claims for patient visits from Marathon. For the avoidance of doubt, Marathon shall not be required to be credentialed as part of a Claim Processor's provider network for the purpose of transmitting claims data to the Claim Processor. Marathon will submit claims in accordance with Marathon's standard format to one Claims Processor designated by Client. In the event Client desires to use an alternative format for the transmission of Claims to a Claim Processor or Client requests that Marathon submit claims to multiple Claims

Processors, Marathon will evaluate the feasibility of using such alternative format and/or submitting claims under multiple plans. Marathon shall advise Client of any additional costs required to satisfy such requests.

- 7.5 Business Operations/Legal Compliance. Client will be solely responsible for (a) determining the impact, if any, of offering the service to Members upon Client's business operations, including but not limited to any impact based upon Client's other benefit plans and (b) ensuring Client's compliance with all laws applicable to Client, including but not limited to benefit, reporting, disclosure and other requirements under the Employee Retirement Income Security Act of 1974, as amended, Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), the Americans with Disabilities Act of 1990, as amended and the Internal Revenue Code of 1986, as amended ("IRC"). In the event the Health Services become part of a Client employee benefit plan or program, neither Marathon nor any third-party contractors it may engage shall be considered to be in a fiduciary, trustee or sponsor relationship with respect to such plan.

Article VIII Termination

- 8.1 Termination. This Agreement will terminate:

- (a) Following written notice of material breach of this Agreement specifying the nature of the breach, given by the non-defaulting Party; provided, however, that the defaulting Party shall have thirty (30) days from the receipt of such notice in which to cure the material breach; or
- (b) Following thirty (30) days' prior written notice of termination by either Party if the other Party appoints a custodian, liquidator, trustee or receiver, for a material portion of its assets; or if such other Party files a voluntary petition in U.S. bankruptcy court; or is generally not paying its debts as they become due or makes an assignment for the benefit of creditors; or bankruptcy, reorganization, or insolvency proceedings or other proceedings for relief under any bankruptcy or similar law for relief of debtors are instituted by or against such Party and are not dismissed within sixty (60) days; or
- (c) Following sixty (60) days written notice of termination by Client, with or without cause, provided that such date of termination is not sooner than twelve (12) months after the Start Date.

- 8.2 Consequences of Termination.

- (a) In the event this Agreement is terminated by reason of a Party's default, the defaulting Party shall be liable for all direct costs, fees, expenses and damages and/or other amounts, including reasonable attorneys' fees, which the other Party may incur or sustain which are directly due to such default. In the event the Agreement is terminated due to non-payment by EBP, all



fees otherwise payable during the Initial Term or Renewal Term in effect immediately prior to termination shall be due and payable upon termination.

- (b) Upon the expiration of the Term, EBP shall remain be liable for all fees and costs payable through the expiration of the Term and such liability for payment shall survive the expiration of this Agreement. Provided that EBP has satisfied all undisputed payment obligations under this Agreement, Marathon agrees to work with Client to make an orderly transition of the Marathon Services and Client's property pursuant to the terms and conditions of a mutually agreed upon transition plan. Marathon and Client agree to negotiate in good faith the terms and conditions of any such transition plan. For the avoidance of doubt, Client guarantees EBP's payment obligations under this Agreement.
- (c) Marathon shall maintain Members' health records beyond termination of this Agreement in accordance with applicable laws. In addition, upon termination of this Agreement, Marathon agrees to provide a one-time file transfer of all eligible medical records in Consolidated Clinical Data Architecture (CCDA) format at no additional charge. Should Client request the transfer of Member health records in a format other than CCDA, Marathon's standard hourly rates for the professional services necessary to satisfy this request shall apply.

Article IX

Confidentiality of Member Records

- 9.1 Safeguard of Information. Marathon, its Care Providers and their agents will safeguard Members' personal health information to ensure that the information is not improperly disclosed and to comply with the regulations promulgated by the United States Department of Health and Human Services, pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as the same may be amended from time to time (collectively the "HIPAA Regulations"), the Health Information Technology for Economic and Clinical Health (HITECH) Act, and other federal and state regulations governing the confidentiality of health information, including without limitation mental health, substance abuse and HIV-related information. Individual electronic medical record information is the property of Marathon, subject to each Member's rights to his/her individual medical information.
- 9.2 Granting of Access. Marathon will afford access to Member's health records or personal and confidential information to other persons only as allowed, or required by law. Marathon shall not grant access to health records or other personal and confidential information to any individual or to Client except as provided in this Section 9.2.

- 9.3 HIPAA. Marathon and Client acknowledge that each Party has certain obligations under the HIPAA, and the rules and regulations promulgated thereunder. To satisfy those obligations, the Parties agree to execute the Business Associate Addendum attached to this Agreement.

Article X

Confidentiality of Business Information

- 10.1 Restriction of Use; Confidentiality. Each of the Parties agrees not to use Confidential Information (as defined below) for any purpose other than to fulfill its obligations under this Agreement. Each Party agrees to use commercially reasonable efforts to protect Confidential Information of the other party, and in any event, to take precautions at least as great as those it takes to protect its own most confidential information. Each Party agrees not to disclose any Confidential Information of the other Party to third parties; provided that each Party may disclose Confidential Information only to those of its directors, officers, employees, attorneys, accountants and consultants (“Representatives”) who need to know the information and shall ensure that such Representatives who have access to Confidential Information of the other Party are subject to written confidentiality obligations similar to the provisions hereof, prior to any disclosure of Confidential Information to such Representative. Upon request of the other Party, each Party shall return or destroy all materials, in any medium, which contain, embody, reflect or reference all or any part of any Confidential Information of the other party.
- 10.2 Confidential Information. For purposes of this provision, the term “Confidential Information” shall mean any business practices, methods of doing business, or customer information, and shall also include without limitation software programs, technical information, patents, prototypes, samples, business apparatus, forms of reports, know-how, and other materials marked “confidential”, or by the nature of the circumstances surrounding disclosure ought to in good faith to be treated as proprietary or confidential, whether the information is disclosed in writing or orally. Confidential Information shall not, however, include information that is governed by the confidentiality provisions of Article IX, or any information which recipient can establish (i) was publicly known and made generally available in the public domain prior to the time of disclosure to recipient; (ii) becomes publicly known and made generally available after disclosure to recipient through no action or inaction of recipient or its affiliates; or (iii) is in the possession of recipient, without confidentiality restrictions, at the time of disclosure as shown by recipient’s files and records immediately prior to the time of disclosure. Nothing in this Agreement shall be deemed to prohibit recipient from disclosing any Confidential Information that is (i) required by law (provided, however, that in the event of such requirement, prior to disclosing any Confidential Information, recipient will notify the disclosing Party of the scope and source of such legal requirements and shall give the disclosing Party the opportunity to challenge the need to disclose and/or limit the scope of disclosed information) or (ii) pursuant to the written consent of the disclosing Party.

- 10.3 Injunctive Relief. Each Party acknowledges and agrees that monetary damages would be both incalculable and an insufficient remedy for any breach of this Agreement and that any such breach would cause either Party irreparable harm. Accordingly, each Party also agrees that, in the event of any breach or threatened breach of this Article X, the disclosing Party, in addition to any other remedies at law or in equity it may have, shall be entitled, without the requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance.

Article XI Proprietary Rights

11.1 Trademarks.

- (a) “Client Marks” means those trademarks of Client as Client may notify Marathon in writing to be “Client Marks” within the meaning of this Agreement. “Marathon Marks” means those trademarks of Marathon as Marathon may notify Client in writing to be “Marathon Marks” within the meaning of this Agreement. Client Marks and Marathon Marks are referred to herein, collectively, as “Marks.”
- (b) During the Term, Client hereby grants to Marathon a non-exclusive, non-transferable right to reproduce, publish, perform and display the Client Marks (i) to fulfill its obligations under this Agreement; (ii) on Marathon’s website; and (iii) in connection with trade shows and marketing materials. Marathon will use all such Client Marks in accordance with any usage guidelines provided by Client to Marathon. To the extent that Client may reasonably object to the manner and means in which Marathon uses any of the Client Marks hereunder, Marathon will promptly take such action as may be reasonably required to address and remedy any such objection(s).
- (c) During the Term, Marathon hereby grants to Client a non-exclusive, non-transferable right to reproduce, publish, perform and display the Marathon Marks (i) to fulfill its obligations under this Agreement; and (ii) in Client recruiting and benefit materials. Client will use all such Marathon Marks in accordance with any usage guidelines provided by Marathon to Client. To the extent that Marathon may reasonably object to the manner and means in which Client uses any of the Marathon Marks hereunder, Client will promptly take such action as may be reasonably required to address and remedy any such objection(s).

11.2 Licenses.

- (a) License to Access Services; Marathon Materials.



- (i) To the extent a particular service (e.g., the Member Portal) is hosted by Marathon, Marathon hereby grants Client and/or the Members, as applicable, the right to access such service as described on Exhibit A during the Term.
- (ii) “Marathon Materials” means the Marathon Marks and any text, graphical content, images, techniques, methods, designs, software, hardware, code, documentation or any improvement or upgrade thereto, that is used by or on behalf of Marathon to provide certain services to Client under this Agreement. As between the parties, Marathon retains all right, title and interest in and to the Marathon Materials and the Health Services (excluding the Client Marks and Client Materials).
- (b) “Client Materials” means any proprietary materials provided by or on behalf of Client for use by Marathon in connection with the services provided hereunder including but not limited to text, graphical content and images. Client hereby grants to Marathon a nonexclusive right to use, reproduce, display and distribute the Client Materials solely to perform its obligations under this Agreement. As between the parties, Client retains all right, title and interest in and to the Client Marks and Client Materials.
- (c) Except as explicitly set forth herein, no other rights, or licenses to trademarks, inventions, copyrights, or patents are implied or granted under this Agreement.

Article XII Non-Solicitation

- 12.1 Non-Solicitation. Except as may be restricted by applicable law, as consideration for the resources dedicated to the development of the Marathon Services and for Marathon entering into this Agreement, Client agrees that it will not, either during the term of this Agreement or for a period of two (2) years after the termination or expiration of this Agreement, directly or indirectly, employ any entity or individual, including but not limited to Care Providers, employees or independent contractors furnished by Marathon to perform services under this Agreement, unless Marathon gives Client prior written approval.

Article XIII Indemnification; Insurance and Liability

- 13.1 Indemnification. Each Party (the “Indemnifying Party”) shall defend, indemnify and hold harmless the other Party, its subsidiaries and affiliated companies, and their respective directors, officers, employees and agents (the “Indemnified Parties”) from and against all claims, causes of action, suits, losses, damages, reasonable attorneys’ fees and costs (collectively referred to in this Article XIII as “Liabilities”) that arise directly from or out of any third party claim asserted against any



Indemnified Party alleging negligence by the Indemnifying Party or its employees or contractors in the performance of its obligations under this Agreement.

13.2 Marathon Insurance. Marathon shall maintain and pay for the following insurance coverages during the Term of this Agreement:

- (a) Medical malpractice liability coverage with limits of \$5 million per claim and \$5 million aggregate unless a different level of coverage is required to qualify under an applicable state medical malpractice statute and Marathon chooses to qualify under said statute, in which case Marathon will maintain the level of coverage required under said statute.
- (b) General liability coverage with limits of \$5 million per claim and \$5 million aggregate.
- (c) Umbrella/excess liability insurance covering professional and general liability with limits of \$2 million per claim and \$2 million aggregate.
- (d) Technology related errors and omissions liability and cyber-liability coverage with limits of \$5 million per claim and \$5 million aggregate.
- (e) Property and casualty coverage for its materials, equipment, furnishings, supplies, and all owned personal and/or business property and improvements located on Client's premises under the standard "Special Form" coverage to its full replacement cost, without depreciation, adjusted yearly.
- (f) Workers' compensation and other statutory insurances as required.

13.3 Waiver. Notwithstanding any other provisions of this Article XIII, to the fullest extent allowable under all policies they hold and under law, Marathon and Client hereby mutually waive (1) all rights of subrogation against one another and their directors, officers, employees, agents and representatives, (2) all rights of indemnification, to the extent Liabilities are covered by insurance of the Party that otherwise would be indemnified under the Agreement and, (3) with regard to real or personal property, the waivers under (1) and (2) of this paragraph apply regardless of whether coverage is for the full replacement cost or a depreciated or lesser value.

13.4 Liability. In no event will either Party be liable to the other Party for indirect, incidental, consequential or punitive damages resulting from any breach of this Agreement. The maximum liability of either Party to the other for any breach or violation of this Agreement shall not exceed an amount equal to the total fees payable under this Agreement during the eighteen (18) month period prior to the first date on which the liability arose. Notwithstanding the foregoing, any claim that is appropriately pursued under an applicable professional liability statute shall be

pursued under said statute and not under this Agreement and shall be subject to the protections and limitations of said statute, including, without limitation, liability limits. Nothing in this Section 13.4 limits or otherwise supersedes Client's obligations under Section 7.2(a).

Article XIV Miscellaneous

- 14.1 Force Majeure. Neither Party shall be liable for failure or delay in performance due to any cause beyond the reasonable control of such Party (a "Force Majeure Event"); provided that such Party shall have (i) used its best efforts to avoid such Force Majeure Event and to minimize the impact of same on the other Party and (ii) rendered to the other Party prompt written notice thereof when first discovered, fully describing its probable effect and duration. The term "Force Majeure Event" shall include, but not be limited to, acts of God such as flood, tornado, hurricane or earthquake; war, rebellion, civil disturbances, fires, explosions, and riots; strikes or other labor disputes; or other similar occurrences. Force Majeure Event shall not include economic hardship or changes in market conditions.
- 14.2 Authority to Execute Agreement; Entire Agreement. Client and Marathon each hereby represent, warrant and covenant that: (a) it has the authority to enter into this Agreement and to perform its obligations hereunder; (b) the execution and performance of this Agreement does not and will not violate any bylaw, charter, regulation, law, or agreement to which such Party is bound; and (c) when executed and delivered, this Agreement will constitute a legal, valid and binding obligation of such Party, enforceable in accordance with its terms. The Parties acknowledge that this Agreement, including any schedules, service orders and amendments that are attached hereto and incorporated herein by reference, represents the entire agreement and understanding of the Parties with reference to the subject matter of this Agreement. Each Party acknowledges that no other promises, representations or agreements, whether written or verbal, have been made by the other Party, its agents, employees or legal representatives as an inducement for the execution of this Agreement. As of the Effective Date, this Agreement supersedes all prior understandings and agreements of the Parties, written or oral, with respect to the subject matter covered herein.
- 14.3 Notices. All notices to be delivered under this Agreement shall be in writing and shall be delivered by hand or deposited in the United States mail, first-class, registered or certified mail, postage prepaid, to the following addresses:

To Client:	Town of Whitestown 6210 Veterans Drive Whitestown, IN 46075 (317) 671-9461 Attn: Katie Barr, Deputy Town Manager of Human Resources with copy to:
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Stephen Unger, Town Attorney
sunger@boselaw.com

To Marathon: Marathon Health, LLC
10 West Market St. Suite 2900
Indianapolis, IN 46204
Tel - (802) 857-0400
Attn: Jeff Wells, CEO

with a copy to:
Christina Wahlig, General Counsel
legal@marathon-health.com

- 14.4 Severability. If any provision of this Agreement is determined to be unenforceable or invalid, such determination will not affect the validity of the other provisions contained in this Agreement.
- 14.5 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without application of principles of conflicts of laws. Any dispute arising out of this agreement shall be resolved exclusively by the courts located in Marion County, Indiana.
- 14.6 Amendment. This Agreement may be amended by Client and Marathon only by a writing duly executed by an appropriate officer of Marathon and Client. This requirement is not intended to preclude the Parties from making decisions regarding day-to-day operations.
- 14.7 Assignment. Neither party may assign this Agreement or any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party, not to be unreasonably withheld. Notwithstanding the foregoing, either party may assign this Agreement, without the other party's consent, to any purchaser of all or substantially all of such party's assets or to any successor by way of merger, consolidation or similar transaction. Subject to the foregoing, this Agreement will be binding upon, enforceable by, and inure to the benefit of the parties and their respective successors and assigns.
- 14.8 Third Party Beneficiaries. Nothing contained herein shall be construed to confer any benefit on persons who are not Parties to this Agreement.
- 14.9 Waiver. A failure or delay of either party to this Agreement to enforce at any time any provision of this Agreement, or to exercise any option which is herein provided, shall in no way be construed to be a waiver of such provision and shall not excuse the other Party's performance of such, nor affect any rights at a later time to enforce the provision.

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

IN WITNESS WHEREOF, the undersigned have executed this Agreement effective as of the Effective Date.

CLIENT

Signed: _____
Name: _____
Title: _____
Date: _____

MARATHON HEALTH, LLC

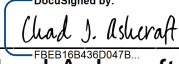
Signed:  _____
Name: Chad Ashcraft
Title: Chief Growth Officer
Date: 9/8/2023



Exhibit A Health Services

A. ANYWHERE SERVICES

Commencing on the Anywhere Start Date indicated in Exhibit A-1, Marathon shall provide the Anywhere Services the Members. The Anywhere Services are generally available to Members ages 12+ with the following exceptions: (i) acute care services (as described below) are available to Members ages 2+, and (ii) the Remote Patient Monitoring program is available only to patients 16+.

To the extent a Care Provider determines any condition cannot be treated virtually, the Care Provider will advise Member of appropriate treatment options.

Acute and Primary Care	Description
Acute Care 2+	Treatment of minor acute illnesses for Members ages 2+, including respiratory infections, urinary tract infections, skin infections, wounds or similar illnesses that are episodic in nature and short in duration. As provided in Section 6.7 of the Agreement, the Health Services do not include emergency medical services.
Annual Well Visits	Ongoing management of Member healthcare needs including annual health assessments, wellness services and comprehensive care coordination.
Proactive Health Monitoring and Outreach	Marathon will import existing claims, encounter data and biometric data if available. Using available imported data, Marathon will stratify the population based on health risk factors and chronic conditions in order to engage at-risk populations to improve health.
Depression & Anxiety Screening	Screening services for depression and anxiety at annual visits or when deemed necessary by the Care Provider. If necessary, follow up care and services will be provided to the patient as needed.
Lab Services	Labs facilitated at home or coordinated with lab services at a local facility. Lab costs will be invoiced by Marathon to client at Marathon's cost, except that the first at-home lab kit distributed for the Anywhere Annual Assessment (defined below) which will be provided to Members at no cost to Client.
Diagnostic Devices	Members will receive a set of diagnostic medical devices to assist Care Providers in collecting vitals data for diagnostics. Diagnostic devices ordered by Care Providers at their discretion.
Medication Management	Medication management services including ePrescribing and home delivery. The cost for medications will be passed through to EBP.
Condition Management 12+	Treatment of adults and children 12+ for chronic disease management inclusive of diagnosis, periodic evaluation, ongoing management and coaching, lifestyle management/education, prescription medications and laboratory monitoring. One-on-one consultation to review assessment results, health history and risk appraisal, set goals and recommend strategies to achieve goals.
Remote Patient Monitoring	Members with diabetes, hypertension and/or obesity may enroll in the Anywhere Remote Patient Monitoring (RPM) program which includes:



	<ul style="list-style-type: none"> • Bluetooth connected glucometers, test strips, lancets, BP cuffs, and/ or scales for active monitoring of participating Members. Cost of devices and supplies are billed to the client by Marathon as a pass-through expense. • Active monitoring for critical alerts during normal business hours with appropriate clinical interventions occurring when a critical alert is triggered. • One-on-one consultation with Care Providers to empower and educate participating Members to improve their health and quality of life through self-management practices and adherence to a treatment plan that aligns with national clinical guidelines for their condition (standard of care).
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Integrated Wellness	Description
Behavioral Health 12+	Behavioral health services for ages 12+. Patients will have access to Licensed Professional Counselors (LPCs) and Licensed Clinical Social Workers (LCSWs) to evaluate, diagnose and provide counseling for those needing mental health services with challenges like addiction and mental illness. Counselors can also provide psychological care to patients dealing with job-related stress, family stress, depression, generalized anxiety disorder and other life challenges.
Health Coaching	General coaching for all patients embedded in all visits where appropriate, especially when the patient is in a chronic disease management program or needs assistance with an ongoing health condition. Care Providers are trained on how to determine if coaching is needed and when/where it should be done.
Self- Assessment Tools	Access to a Health Risk Assessment (HRA) as well as other tools made available via the online portal. Patients can log into the portal to complete the HRA which will give them a health summary which is then pushed to the EMR. Client can choose to turn the HRA on or off depending on their needs.
Wellness Programs	Quarterly virtual lunch and learns on wellness topics. Client may choose to have wellness programs as part of the participation rules for incentives. For an additional cost, additional webinars, group coaching, and wellness programs are available, and can be offered as part of an incentive program.
Wellness Webinar Library	A library of various wellness webinars that are available throughout the calendar year and made available to Client upon request.
Incentive Programs	At Client's request, Marathon will manage Client's incentive program through the Member portal with the ability to track wellness activities. Administration of Client incentive programs using Marathon's standard incentive program design parameters is included at no charge. Custom incentive programs or services requiring additional coordination, staffing or supplies may be subject to additional cost.



Concierge Care Coordination Services	Description
Administrative Support	<ul style="list-style-type: none"> • Administrative support for Care Providers • Support Member check-out (as needed), triage, internal care team referral mgt, billing support, Member calls for labs/imaging, Member messages and questions, medication refills, pharmacy questions, etc.
Member Relations Call Center/After-Hours Nurse Triage	Centralized member relations call center (“MRT”) for patient appointment scheduling, responding to questions, incentive information, service escalations and other patient support during regular operating hours.
Referral Management	MRT will coordinate Member referrals to/from other providers during transitions in care. MRT will follow up on referral requests, schedule appointments with outside providers and follow up for results from referring providers to integrate health information in Member’s chart.

B. NETWORK SERVICES

Commencing on the Network Start Date, Marathon will provide the Network Services at the Network Health Centers as follows:

Primary & Urgent Care	Description
Acute Care -12+	Treatment of Members 12+ with minor acute illnesses, including respiratory infections, urinary tract infections, skin infections, wounds or similar illnesses that are episodic in nature and short in duration. Adult acute care is available via telephonic and video channels, in addition to in-person care. As provided in Section 6.7 of the Agreement, the Health Services do not include emergency medical services.
Medical Procedures	Various medical procedures that can be done at a provider visit in a health center, including pap smear, shave biopsy, simple laceration repair - dermabond/adhesive strips, ear irrigation, skin tag removal, and cryotherapy - warts cryoprobe.
Pediatric Acute Care 2+	Pediatric acute care for children 2+ with episodic medical issues (cough, cold, fever, rash etc.) and does not include well child. Pediatric acute care is available via telephonic and video channels, in addition to in-person care.
Annual Preventive Visits/Physical Exams 12+	Annual preventive physical examinations including well child checks (12+) with the ordering (or referral) of age-appropriate screenings, labs and immunizations. Age-appropriate screenings include mammography, colonoscopy, bone density and other screening tests. Includes sports/camp physicals for age 5+ without well child exams.
Workplace Injury Triage	<p>OSHA first aid care for minor work injuries. When necessary, Members will be redirected to an appropriate facility for continued treatment.</p> <p>OSHA first aid treatment includes:</p>



	<ul style="list-style-type: none"> • Using a non-prescription medication at nonprescription strength • Administering tetanus immunizations • Cleaning, flushing or soaking wounds on the surface of the skin • Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ • Using hot or cold therapy • Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. • Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister • Removing foreign bodies from the eye using only irrigation or a cotton swab • Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means • Providing fluids to drink for relief of heat stress
Patient Support: FMLA, OSHA and disability forms	Care Providers can complete FMLA, Occupational Health (first treatment of injury), and disability forms on behalf of patients when such provider is the medically appropriate resource to fill out the form.
Depression & Anxiety Screening	Screening services for depression and anxiety at annual visits or when deemed necessary by the Care Provider. If necessary, follow up care and services will be provided to the patient as needed.
Large Medical Equipment	Large medical equipment that is necessary to provide the Services which may include spirometry, cryoprobe, oxygen tanks, AED, EKG, Cholestech, exam tables and phlebotomy chairs.
Medical Supplies and Small Medical Equipment	Marathon will provide its standard package of disposable medical supplies and small equipment necessary to provide the Health Services at the Network Health Centers. Non-standard supplies and equipment requested by Client will be provided at an additional cost.
Collaborating Physician	Collaborating physician to mentor the NP and PA providers in the Network Health Centers.
Member Relations Call Center/After-Hours Nurse Triage	Centralized member relations call center (“MRT”) for patient appointment scheduling, responding to questions, incentive information, service escalations and other patient support during regular health center operating hours.
Referral Management	MRT will coordinate Member referrals to/from other providers during transitions in care. MRT will follow up on referral requests, schedule appointments with outside providers and follow up for results from referring providers to integrate health information in Member’s chart.

Lab & Pharmacy	Description
Diagnostic Tests	Diagnostic tests ordered by Care Providers at their discretion for patients at a Health Center visit.
Immunizations	Immunizations including: influenza, Tdap, Hep A - pediatrics & adult, Hep B, pneumonia, Meningococcal conjugate/Men-ACWY, HPV-9 (age 12+), recombinant zoster vaccine (age 50+) (the standard set). Marathon will invoice Client for the cost of immunizations.



Injections	Injections ordered by a Care Provider during a patient visit from Marathon's standard set can be administered in the Network Health Center. Testosterone injections are not part of the standard set and are not included. Marathon will pass on the costs of injections to EBP as administered.
Labs	Labs ordered by Care Providers within the Network Health Centers. There are over 200 approved labs on the Marathon formulary that will be used to guide the providers in the most needed and cost effective lab orders. Lab costs are billed to EPB by Marathon as pass through expenses.
External Lab Requests	Lab draws at the Network Health Center for labs ordered by external providers. The labs must be on the Marathon formulary list and with the consent of the patient. Marathon will ONLY perform the service as a collection site and will not give the patient results or additional information. Results and additional information will be provided by the external provider requesting the labs. Marathon will keep a copy of the lab results in the patient EMR for any future reference.
Medication Dispensing	Medications are available at point-of-care and over the counter via the onsite health dispensary or home delivery where legally permitted. All medications (including over the counter) medications will only be dispensed in connection with a patient visit. The Network Health Centers will stock starter medications (antibiotics, chronic condition meds etc.) and meds used most often at a provider visit onsite at the health centers based on the Marathon formulary. The cost for medical dispensing will be billed as dispensed with an administrative mark-up. Home delivery pharmaceuticals will be billed upon dispense. Medication pricing will fluctuate according to the formulary costs.
Purified Protein Derivative (PPD) Test	Administration of the purified protein derivative (PPD) skin test to determine if a patient has tuberculosis.

Condition Management	Description
Condition Management 12+	Treatment of adults and children 12+ for chronic disease management inclusive of diagnosis, periodic evaluation, ongoing management and coaching, lifestyle management/education, prescription medications and laboratory monitoring.
Health Coaching	General coaching for all patients embedded in all visits where appropriate, especially when the patient is in a chronic disease management program or needs assistance with an ongoing health condition. Care Providers are trained on how to determine if coaching is needed and when/where it should be done.
Diabetes Education and Diabetes Self-Management Support	Diabetes education and diabetes self-management support to provide diabetic patients all the resources they need from diagnosis to ongoing condition management producing changes in outcomes.
Diabetes Durable Medical Equipment	Durable medical equipment used for diabetic patients (strips, lancets and meters) kept in stock and provided at the Network Health Center.
Spirometry Testing	Spirometry testing which measures the amount of air inhaled and exhaled, and how quickly air is exhaled to diagnose asthma, chronic



	obstructive pulmonary disease (COPD) and other conditions that affect breathing.
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Integrated Wellness	Description
Behavioral Health 12+	Behavioral health services for ages 12+. Patients will have access to Licensed Professional Counselors (LPCs) and Licensed Clinical Social Workers (LCSWs) to evaluate, diagnose and provide counseling for those needing mental health services with challenges like addiction and mental illness. Counselors can also provide psychological care to patients dealing with job-related stress, family stress, depression, generalized anxiety disorder and other life challenges.
Health Coaching	General coaching for all patients embedded in all visits where appropriate, especially when the patient is in a chronic disease management program or needs assistance with an ongoing health condition. Care Providers are trained on how to determine if coaching is needed and when/where it should be done.
Self- Assessment Tools	Access to a Health Risk Assessment (HRA) as well as other tools made available via the online portal. Patients can log into the portal to complete the HRA which will give them a health summary which is then pushed to the EMR. Client can choose to turn the HRA on or off depending on their needs.
Wellness Programs	Quarterly virtual lunch and learns on wellness topics. Client may choose to have wellness programs as part of the participation rules for incentives. For an additional cost, additional webinars, group coaching, and wellness programs are available, and can be offered as part of an incentive program.
Wellness Webinar Library	A library of various wellness webinars that are available throughout the calendar year and made available to Client upon request.
Incentive Programs	Marathon provides consulting and management services for Client's incentive program. Administration of Client incentive programs using Marathon's standard incentive program design parameters is included at no charge. Custom incentive programs or services requiring additional coordination, staffing or supplies may be subject to additional cost.

Optional Integrated Wellness	Description
Annual Biometric Screening Events - Outside Health Centers	At the request of Client and for an additional cost, Marathon will arrange for mass biometric screening events or individual nurse visits to conduct biometric screenings. If applicable, Marathon will contract and help coordinate these events with a third-party vendor to provide these services at any location specified by Client. These annual screenings are designed to assess the following metrics: height, weight, BMI, waist circumference, blood pressure, lipid assessment, tobacco use (patient attestation or blood draw), blood sugar (A1c test, non-fasting glucose). Terms to be mutually agreed in a service order.



Flu Shot Events	At the request of Client and for an additional cost, Marathon will arrange for mass flu shot events. If requested by Client, Marathon will help coordinate the administering of flu-shots with a third-party vendor for onsite events, multiple employer locations or where Marathon does not have a physical location. Terms to be mutually agreed in a service order.
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C. SUPPORT SERVICES

Marathon will provide the following administrative, technology and support services in order to support the delivery of the Health Services to the Members:

Ignite Technology Platform	Description
Technology Platform	<ul style="list-style-type: none"> • Marathon Member Portal with Personal Health Record (PHR), risk profile, interactivity trackers, incentives management and secure messaging with Health Center staff • Online scheduling system and secure messaging • Ability to conduct acute care and health coaching telephonically and over video interface, accessible from the Member portal and mobile (subject to applicable state laws) • Electronic Medical Record • Ability to import encounter data from carrier to provide historical patient encounter information • Integrated technologies supporting patient education and clinical workflow (e.g., clinical decision support, medication dispensing) <p>Export standard data feeds which include demographics data, biometric values, medication dispensing/prescribing, incentive completion data, encounter data, lab data and HRA data in Marathon standard format within five (5) days of the end of each month of the Term. Marathon will provide additional mutually agreed extracts for an additional cost.</p>
Medical Claims Submission	Marathon will submit medical provider claims via Marathon's standard format to the designated payer of Client through the EMR upon request. Submission will be made to one health insurance plan designated by Client. Requests to submit claims to additional plans requiring build-out of additional payer profiles in the EMR will be evaluated on a case-by-case basis and may be subject to an additional charge.

Account Management and Advisory Services	Description
One Point of Contact	As assigned Client Advocate provides one point of contact for triaging issues that may be handled by Marathon's team of analysts, Care Providers, communications resources and others to ensure any issues are identified and addressed quickly.



Clinical Coverage Plan	Marathon will establish and provide a coverage plan for clinical staff absences due to illness, vacation or continuing medical education (CME) time off.
Monthly Reviews	Client Advocate will hold monthly calls with the client to deliver and discuss the reports described below to ensure that the client has data on progress toward goals.
Annual Reviews	Client Advocate will provide face-to-face annual reviews of the Health Services, incorporating the Client-specific key performance metrics from the previous year, as well as a strategic plan for the next year.
Ongoing Health Promotions	Client Advocate will work together with the Client to manage ongoing communications for the promotion of Health Services and operations.
Strategic Planning	Client Advocate will work to understand and support client's unique business objectives and goals for the Health Services. Client Advocate will work collaboratively with the Client's broker/consultant, as well as other health related vendors (EAP, DM, etc.) as needed to ensure that employee health resources are fully leveraged.

**EXHIBIT A-1
AVAILABILITY**

I. Anywhere. Commencing on December 4, 2023 (the “Anywhere Start Date”) and continuing through the end of the Term, Marathon shall provide the Anywhere Services to the Members. As of the Anywhere Start Date, Anywhere Services will be available 7am to 5pm in all U.S. time zones. Marathon shall have the right to change Anywhere hours of operation based on Member demand.

II. Network. Commencing on December 4, 2023 (the “Network Start Date”) and continuing through the end of the Term and subject to the terms of this Agreement, Marathon shall provide the Network Services to Members identified as “Local” on the Eligibility File in the following Metropolitan Statistical Areas:

- Marathon Network: Indianapolis, IN MSA

In addition, Marathon will provide travel access to the Members identified as “Local” to all Network Health Centers located in any other current and future Metropolitan Statistical Areas where Marathon provides Network Health Services on a travel basis.

The days on which each Network Health Center will operate, and the hours of operation, will be determined by Marathon and are intended to be Monday through Friday from 8am – 5pm. Extended hours during weekdays, before 8 am or after 5 pm, and Saturday hours, from 8am to 12 pm, will be determined by Marathon and added to accommodate patient demand as necessary.

III. Additional Terms.

- (A) Each Health Center shall be closed for the following seven (7) holidays: New Year’s Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; Day after Thanksgiving; Christmas Day. If any of these holidays falls on a Saturday, the Health Center will be closed on the preceding Friday, and if they fall on a Sunday, the Health Center will be closed on the following Monday. In the event Client wishes the Health Center to remain open during one of these holidays, Marathon will pay the non-exempt staff 1.5 times the relevant personnel salaries and pass this cost to EBP.
- (B) Each Health Center will be closed for an aggregate of five days to allow for professional development days and/or Marathon’s all company retreat.
- (C) Each of the foregoing Start Dates may be modified above by mutual agreement of the Parties. Any such modification shall be agreed to in writing. E-mails between Marathon and Client acknowledging the modification of the Start Date shall suffice to bind the Parties.



Exhibit B
IMPLEMENTATION SERVICES

Commencing on the Effective Date and continuing through the Start Dates indicated in Exhibit A-1 (the "Implementation Period"), Marathon shall provide the following Implementation Services to Client:

Standard Implementation Package	Deliverables (Exact media to be determined)
Pre-Kick Off Implementation Meeting	Sales Transition Meeting: Client, Sales VP and Project Manager meet via conference call to initiate steps in the implementation process.
Kick Off Implementation Meeting	Initial Implementation Team meeting to start the implementation process. This conference call will include all members of the implementation team (from both Marathon and Client) to provide the foundation and expectations for the implementation process.
Communication Services	Marathon will provide the Pre-Launch Communication Program described in the table below.
Project Management	
-Weekly Implementation Calls	Marathon will provide weekly implementation calls with the implementation team/Client project manager during implementation process.

PRE-LAUNCH COMMUNICATION MATERIAL

Marathon will provide the following standard pre-launch communication material, which are included in the quoted fees. Additional communication material or changes to the following beyond the standard customization will be billed as additional services pursuant to a service order.

Deliverables	Description
Pre-Launch Multimedia Communication Campaign	Communication and culture audit to understand current practices, member demographics based on audit results. Provide digital site posters, collateral, and communications materials.
Quarterly Communication Campaign	Includes customizable, templated material to promote Health Services.

Exhibit C Eligibility File Content and Format

I. Content

The Eligibility File will contain the entire population of Members with the fields set forth in the file template below (Section II) populated for each Member, including:

- (i) Employees
- (ii) Employees on leave
- (iii) Employees who may elect to receive benefits under COBRA
- (iv) Dependents of employees who are 2 years old or older who Client desires to include as Members
- (v) “Hired on Date” and “Eligible on Date”
- (vi) Designation as to whether each Member is Local, Anywhere or Remote*

***“Anywhere” means any Member eligible to receive the Health Services described in Exhibit A.*

“Local” may mean onsite, near-site, headquarters, corporate or specified department code Member identifiers in close proximity to a Network Health Center who may access Network Services at a Network Health Center.

“Remote” may mean off-site, branch or specific department code Member identifiers not in close proximity to the Network Health Center who may not access Network Services at the Network Health Centers.

Definitions of eligibility and eligibility categories are subject to change based on mutual agreement between the Parties at the time of implementation.



II. Format

Marathon Health Eligibility File Definition 7.6

Load Layout Specification

All files should be delivered in a UTF-8 PSV format (Pipe Delimited). "Required" indicates that a record will not be processed without this field being populated and will be returned to the client for correction. Certain other combinations of fields can also cause a record to be rejected and returned to the client (e.g. multiple people with the same unique_identifier).

Preferred File Format: .psv (.csv will be accepted). .xlsx will not be accepted.

Filename Convention: Client_Vendor_Eligibility_MMDDYYYY.

Required field highlighted orange.

Highly desired or contingent fields highlighted yellow.

Column Number:	Field Name/Header	Field Description	Data Type	Max. Length	Required?	Comments
1	First Name	First Name of Participant	String	50	X	Required
2	Middle Name	Middle Name of Participant	String	50		
3	Last Name	Last Name of Participant	String	50	X	Required
4	Name Suffix	Name suffix such as Jr.	String	10		
5	Gender	Participant's gender	String M,F,U,O	1	X	Required
6	Birth Date	Participant date of birth	Date	YYYY-MM-DD	X	Required
7	Email	Participant's email address	String	255	X	* Highly Desired. Required if implementing Anywhere services. Email Addresses cannot be duplicated. Record(s) will not pass if duplicate email addresses exist.
8	SSN of participant	Social Security Number of participant	String	9	X	Required. SSN cannot be duplicated. If there are two records with the same SSN, record will not pass (ex: An employee, but also a spouse of an employee). Only one record can be received.
9	Service	Services that the participant is eligible for.	String	100		This is a particular service this member is eligible for. If left NULL the eligibility is assumed to be "Clinic".



10	Relation	Designation for family members	String	25	X	Required. This is the member's relation to the client (See page 7 for list).
11	Eligible Date	Date the member is eligible for current Health Plan, Location, Relation, (or Other). This field may change throughout the course of a year, depending on updates made.		YYYY-MM-DD		Date the member is eligible for current Health Plan, Location, Relation, (or Other). In many examples, this is <u>Not</u> the Hire Date. If Health Plan, Location, Relation (or other) changes for the user, this date should also change to reflect the date the change took effect. If no date is sent, this will default to the date the file is run. Future dates are not accepted.
12	Ineligible Date	Date of termination		YYYY-MM-DD		Marathon Health prefers to terminate by omission. If no longer eligible for services, please remove from the file. This field can be left blank.
13	Clinic Proximity Code	Clients local for breakout reporting.	String	100	X	Required. Need the ability to separate locations and/or services. May be used for invoice separation. This can be determined with Marathon Health assistance.
14	Health Plan Code		String	100	X	Required. Health plan information (ex: HDHP, HSA, PPO, Silver, Bronze, CDHP, Waived, etc)
15	Wellness ID					This is Marathon Health's unique patient identifier. If provided, this will ensure an exact match on a patient record. This can be left blank.
16	Unique Identifier	Participant Employee Identifier	String	50	X	Required. This is a unique ID for <u>every</u> member on the file. This can be a social security number, employee ID, GUID or UUID, or any other unique descriptor for all members and should not change.



17	Unique Identifier Description		String	100	X	Required. A short description of the type of code used for the unique identifier.
18	Association Code		String	50	X	Required. This code is used for linking members of a family together. This code is typically the employee's unique identifier. It must be shared amongst all members of a household to ensure that families are grouped correctly.
19	Association Code Description		String	100	X	Required. A short description of the type of code used for Association Code.
20	Address 1	Home address of participant	String	255	X	Required
21	Address 2	Home address of participant	String	255	X	Required
22	City	City where participant resides	String	100	X	Required
23	State	State where participant resides	String	2	X	Required
24	Zip Code	Zip code where participant resides	String	10	X	Required
25	Province	Province where participant resides *Only provide if member resides outside of the U.S.A.	String	100		
26	Country	Country where participant resides *Only provide if member resides outside of the U.S.A.	String	100		



27	Emergency Contact First Name		String	50		
28	Emergency Contact Last Name		String	50		
29	Emergency Contact Phone Number		String	20		
30	Home Phone Number	Participant's home telephone	String	20	X	* Highly Desired. Required if implementing Anywhere services. One type of phone number is required (home, mobile or work). Cannot be duplicated to others.
31	Work Phone Number	Participant's work phone number	String	20	X	* Highly Desired. Required if implementing Anywhere services. One type of phone number is required (home, mobile or work). Cannot be duplicated to others.
32	Mobile Phone Number	Participant's mobile telephone	String	20	X	* Highly Desired. Required if implementing Anywhere services. One type of phone number is required (home, mobile or work). Cannot be duplicated to others.
33	Insurance Carrier Name		String	100		
34	Insurance Group ID Number		String	20		
35	Insurance Member ID Number		String	20		
36	Department		String	100	*	Required if reporting out by department is desired by the client
37	Department Type		String	100	*	Required if above field is utilized.
38	Work Location		String	100	*	Required if reporting out by work location is desired by the client
39	Work Location Type		String	100	*	Required if above field is utilized.
40	Work Address 1	Address of participant's work place	String	255		
41	Work Address 2	Address of participant's work place	String	2255		



42	Work City	City of participant's work place	String	100		
43	Work State	State of participant's work place	String	2		
44	Work Zip	Zip code of participant's work place	String	10		
45	Work Province	Province of participant's work place	String	2		
46	Work Country	Country of participant's work place	String	10		
47	Hire Date	Employee's actual date of hire	Date	YYYY-MM-DD	*	* Highly Desired. This is the actual date of hire for the member.

Relation Types

- Employee
 - Employee
 - COBRA
 - On Leave
 - Retiree
- Employee: Contractor
 - Contractor
- Dependent
 - Spouse
 - Dependent
 - Child
 - Domestic Partner
 - Employee/Dependent
 - Employee/Spouse
 - Same Sex Partner

Accepted Gender Codes: M, F, U, O.

Additional Notes



- All columns need to be accounted for within the file.
 - If a field is blank, please still send blank column.
- Email & Phone Numbers - Not required to process records but HIGHLY desired. Members can change email address when they create an account.

File Format:

.txt or .csv or .psv. No Excel Please

Transmission: SFTP with PGP encryption

Marathon hosts the FTP site and can provide credentials to appropriate recipients.

Termination:

Marathon terminates by omission. If a member is no longer eligible for services, please remove them from the file.

File Naming Convention

Marathon's general naming convention for eligibility files is as follows:

MarathonHealth_ClientName_VendorName_Eligibility_Date

(Underscores only, no spaces)

- ClientName – This is the client whose data is contained in the file, i.e. IU.
- VendorName – This is the name of the vendor sending Marathon the eligibility file.
- Date – Date should represent when the file was loaded and sent. Use yyyyymmdd format.
- Format – .psv (Pipe Delimited is preferred)

Sample File Name:

MarathonHealth_ABCVendor_AnyClient_eligibility_20170125.psv

Frequency:

Weekly feed is preferred, but not required.

We prefer flat text file, pipe delimited. We can accept .csv.

Transferred via SFTP and PGP encrypted (Marathon will provide credentials and the public key)

Critical Fields that will cause the file to fail processing:

- Duplicate, Non-valid or missing SSNs
- First name missing
- Last Name missing
- Gender missing (or not M, F, U, O)
- Birthdate missing or inaccurate (less than today or greater than 90 years)
- Relation missing
- Unique identifier missing or duplicated
- Association code missing
- Duplicate email addresses
- Missing physical addresses

Exhibit D
FEES AND PAYMENT SCHEDULE

IMPLEMENTATION FEES

Marathon will provide the Implementation Services described on Exhibit B for a fee in the amount of \$15,000 (the "Implementation Fee"). Marathon will invoice EBP for the Implementation Fee on or after the Effective Date and EBP will pay the invoiced amount within 45 days of the date of invoice.

RECURRING SERVICE FEES

In consideration of the Network Services and Anywhere Services, EBP will pay the Per Employee Per Month fee ("PEPM Fee") set forth in the table below.

Marathon bills for Network Services and Anywhere Services thirty (30) days in advance. Commencing thirty (30) days prior to the Start Date, Marathon will invoice EBP a monthly fee equal to the product of: (i) applicable PEPM Fee; and (ii) the Employee Minimum set forth below, with the first month's payment pro-rated if the Network Start Date is scheduled to occur after the first day of the month. If the number of Employees on the first Eligibility File received from Client exceeds the Employee Minimum, Marathon may true-up the monthly fee charged to reflect the actual number of Employees in a subsequent invoice.

After the Start Date, during the Term, Marathon will invoice EBP for a monthly fee (the "PEPM Monthly Fee") equal to the applicable PEPM Fee multiplied by the greater of: (i) the Employee Minimum; or (ii) the actual number of Employees set forth on the Eligibility File.

Employee Minimum

The Employee Minimum is 130.

PEPM Fee:

October 1, 2023 – September 30, 2024 ("Year 1")	October 1, 2024 – September 30, 2025 ("Year 2")	October 1, 2025 – September 30, 2026 ("Year 3")
\$65.00	\$68.25	\$71.66

ANNUAL FEE ADJUSTMENT

On each anniversary the Start Date (if the Start Date occurred on the first day of the month), or on each anniversary of the first day of the month during which the Start Date occurred (if the Start Date occurred after the first day of the month), each PEPM Fee tier shall automatically increase by 5% over the then-current PEPM Fee.



OTHER FEES

Fees for Other Services. Following the Start Date, Marathon will invoice EBP monthly for all other services that Client elects for Members to receive (e.g., laboratory services and pharmaceutical services), optional Health Services, and any customization to the standard Marathon Services described in Exhibit A and Exhibit B. Laboratory charges will be invoiced to EBP at cost. Pharmaceuticals will be invoiced as follows: (i) for pharmaceuticals dispensed out of a Partnership Health Center, Marathon will invoice for pharmaceuticals at Marathon's acquisition cost (including any shipping or administrative fees charged by third-party vendors) at the time of Marathon's purchase; (ii) for pharmaceuticals dispensed out of a Network Health Center, Marathon will invoice for pharmaceuticals upon Marathon dispense with an administrative mark-up, to cover transport, storage and spoilage of medication, not to exceed 13% of the actual costs; and (iii) pharmaceuticals delivered via home delivery service will be invoiced upon dispense.

If Client directs Marathon to contract with a preferred third-party provider for out-of-scope services, EBP will reimburse Marathon for all costs incurred by Marathon under any such contracts.

Diagnostic Devices; Remote Patient Monitoring Equipment. EBP will be responsible for paying equipment costs incurred in connection with diagnostic testing and remote patient monitoring services (described as part of the Anywhere Services in Exhibit A), including, without limitation, Bluetooth connected glucometers, test strips, lancets, BP cuffs, and/ or scales (collectively, "Anywhere Equipment"). Anywhere Equipment will be invoiced to EBP at Marathon's cost plus an administrative mark-up, to cover transport, storage and handling of devices, not to exceed 13% of actual costs.

Travel Cost. Travel costs for Health Center staff and health screeners to visit Members at offsite locations will be invoiced separately. Any such travel will be pre-approved by Client and in accordance with Marathon's travel policy.

Exhibit E Reports

The following reports will be provided by Marathon at no additional fee. All reports will include aggregated, de-identified data in compliance with applicable state and federal privacy laws. To the extent required by such laws, the content of certain reports may be limited, as determined by Marathon.

Quarterly Reports:

- Quarterly Update (including an end of year summary every twelve (12) months)
- Engagement Trends demonstrating trends over time compared to prior period
- Anywhere Program Utilization
 - Appointment detail report demonstrating the number of visits, type of visits and length of visits
 - Lab utilization report demonstrating the type, number, and cost of laboratory services
 - Drug utilization report demonstrating the type, number, and cost of drugs prescribed by the Anywhere providers
- Health Center Utilization
 - Appointment detail report demonstrating the number of visits, type of visits and length of visits
 - Lab utilization report demonstrating the type, number and cost of laboratory services provided in the Health Center
 - Immunization utilization report demonstrating the type, number and cost of drugs dispensed at the Health Center
- Biometric Risk Stratification
- Member Satisfaction and Comment

Annual Reports:

- Health Improvement
- Return on Investment Reporting (contingent on Client sharing medical and pharmacy claims data in accordance with this Agreement)

Marathon will provide additional customized reports as requested by Client, and agreed upon by Marathon, at an additional mutually agreed upon cost

Upon Client request and execution of a data use agreement by Client's third-party vendor(s), Marathon will provide standard extracts including Demographics, Biometrics, Appointments, Diagnosis, Drugs, Labs, Lab Results and Incentives to Client's third-party vendor(s). The standard extracts are available on a monthly basis in a generally accepted format to allow for the integration with claims data. Any customizations to the extracts or changes to the frequency or timing of the extracts requested by Client, and agreed upon by Marathon, may result in an additional mutually agreed upon cost.



Business Associate Addendum

This Business Associate Addendum (this "Addendum") is entered into by and between Town of Whitestown, acting as and on behalf of the Whitestown Employee Benefits Plan ("Covered Entity"), with principal offices at 6210 Veterans Drive, Whitestown IN 46075 and Marathon Health, LLC ("Business Associate"), with principal offices at 10 W. Market Street, Suite 2900, Indianapolis, IN 46204. Covered Entity and Business Associate may be referred to herein individually as a "Party" or collectively as the "Parties."

WHEREAS, the Covered Entity and the Business Associate are parties to a separate agreement (the "Underlying Agreement") and have a business relationship which may involve the use or disclosure of Protected Health Information and Electronic Protected Health Information (collectively, "PHI"); and

WHEREAS, the Parties intend to protect the privacy and provide for the security of PHI in compliance the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and the regulations promulgated thereunder, which include the Standards for the Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164 (the "Privacy Standards"); the Security Standards for the Protection of Electronic Protected Health Information (E PHI), 45 C.F.R. Parts 160 and 164 (the "Security Standards"); and the applicable privacy and security provisions of the Health Information Technology for Economic and Clinical Health Act (Title XIII, Subtitle D) (the "HITECH Act") (collectively, the "HIPAA Regulations"); and

WHEREAS, the HIPAA Regulations require the Parties to enter into an agreement containing certain requirements with respect to the use and disclosure of PHI and which are contained in this Addendum;

NOW THEREFORE, in consideration of the mutual promises and other consideration contained herein and in the Underlying Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. Definitions.

- A. Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Privacy Standards, Security Standards, HIPAA Regulations or the HITECH Act.

II. Obligations and Activities of Business Associate

- A. Business Associate shall not use or disclose PHI other than as permitted or required by this Addendum or as required by law.
- B. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Addendum. Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any EPHI that Business Associate creates, receives, maintains or transmits on behalf of Covered Entity, as provided for in the Security Rule.
- C. Business Associate shall report to Covered Entity any use or disclosure of PHI not provided for by this Addendum of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any successful security incident of



which it becomes aware. Notice is hereby given that Business Associate may, from time to time, experience unsuccessful security incidents that do not result in unauthorized access to or use of PHI and are associated with ordinary network traffic, including broadcast attacks on firewalls or edge servers, port scans, unsuccessful log-on attempts, denial of service attacks, packet sniffing (or other unauthorized access to traffic data that does not result in access beyond headers), or similar incidents. Covered Entity acknowledges that Business Associate has satisfied its obligation to provide notice of the above-described unsuccessful security incidents to Covered Entity.

- D. Following the discovery of a Breach of unsecured PHI, Business Associate shall notify the Covered Entity in writing of such Breach without unreasonable delay and in no event later than thirty (30) calendar days after the discovery. Such notification shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired or disclosed during the Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known or reasonably should have been known by Business Associate.
- E. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
- F. Business Associate shall make available PHI in a designated record set to the Individual or the Individual's designee as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524.
- G. To the extent applicable, Business Associate shall make any amendment(s) to PHI in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526.
- H. Business Associate shall maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528
- I. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s);
- J. Business Associate shall make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

III. Permitted Uses and Disclosures by Business Associate

- A. Pursuant to this Addendum, Business Associate may use/disclose PHI obtained by Business Associate from Covered Entity as required under the Underlying Agreement, unless such use/disclosure violates the HIPAA Regulations or applicable state privacy laws in which case such use/disclosure is prohibited.
- B. Business Associate may use or disclose PHI as required by law.
- C. Business Associate agrees that uses and disclosures of PHI by Business Associate shall be consistent with the requirements of the Privacy Rule.



- D. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except that Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- E. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. §164.502(j)(1).
- F. Business Associate may de-identify PHI in accordance with 45 C.F.R. § 164.514 for use as part of its proprietary database. Covered Entity also agrees that the terms of this Addendum restricting the use or disclosure of PHI shall not apply to the use or disclosure of De-Identified Information gathered or created by Business Associate, and that nothing in this Addendum shall impair the proprietary rights of Business Associate with respect to the foregoing database.

IV. Obligations of Covered Entity

- A. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity under 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- B. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- C. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

V. Permissible Requests by Covered Entity

- A. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity. Nothing in this paragraph shall restrict the ability of Business Associate to use or disclose PHI pursuant to the provisions of Section III.D. of this Addendum.

VI. Term and Termination

- A. This Addendum shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- B. Business Associate authorizes termination of this Addendum by Covered Entity, if Covered Entity determines Business Associate has violated a material term of this



Addendum and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

VII. Obligations of Business Associate Upon Termination Termination.

- A. Upon termination of this Addendum for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
 1. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 2. Return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining PHI that the Business Associate still maintains in any form;
 3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI.
 4. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at Section III.D. of this Addendum which applied prior to termination; and
 5. Return to Covered Entity or, if agreed to by Covered Entity, destroy the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- B. The obligations of Business Associate under this Section shall survive the termination of this Addendum.

VIII. General Provisions

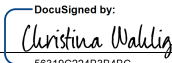
- A. Regulatory References. A reference in this Addendum to a section in the HIPAA Regulations means the section as in effect or as amended.
- B. Interpretation. Any ambiguity in this Addendum shall be resolved to permit Covered Entity to comply with the HIPAA Regulations.
- C. Amendment. The Parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for compliance with the requirements of the HIPAA Regulations and any other applicable law.

IN WITNESS WHEREOF, the Parties enter into this Addendum, to become effective as of the later of the date set forth below.

COVERED ENTITY:

Signed: _____
 Name: _____
 Title: _____
 Date: _____

BUSINESS ASSOCIATE:

Signed:  _____
 Name: Christina wahlig
 Title: General Counsel
 Date: 9/8/2023

