

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between City of Clearwater, with offices located at 401 Corbett Street, Suite 401, Clearwater, Florida 33756 ("Client"), and Evernorth Direct Health, LLC, with offices located at 8888 E. Raintree Drive, Scottsdale, Arizona 85260 ("Evernorth") and is made effective as of October 1, 2023 ("Effective Date"). The parties hereto shall each be referred to individually as the "Party" or collectively as the "Parties." This Agreement supersedes and replaces the Professional Services Agreement effective October 1, 2015, between the Parties regarding the subject matter herein as of the Effective Date of this Agreement.

WHEREAS, Evernorth is engaged in the business of offering onsite health centers to employers and employer-sponsored group health plans, providing certain low acuity, urgent and episodic health care and ancillary services, for the benefit of Client employees and their dependents; and

WHEREAS, Client owns or leases a facility located 401 Corbett Street, Suite 401, Clearwater, Florida, 33756 (the "Facility") and desires to provide an onsite health center at the Facility for the benefit of its employees and their dependents (the "Health Center");

WHEREAS, Client wishes to engage Evernorth to provide, and Evernorth wishes to provide, a Health Center; and

WHEREAS, Client selected Evernorth based on Request for Proposals ("RFP") #22-23 OnSite Medical and Prescription Drug Title, and responses by Evernorth to RFP #22-23, all of which are incorporated by reference and form a basis for this Agreement.

NOW THEREFORE, in consideration of the mutual promises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1 DEFINITIONS

Capitalized terms used in this Agreement without definition have the meanings ascribed for them on Exhibit A.

2 SERVICES

2.1 Clinical Services. Commencing on the Effective Date and continuing for the Term, Evernorth will operate and staff a Health Center at the Facility and provide or arrange for the provision of the following clinical services ("Clinical Services"), which shall be within the scope of the licensure and practice of Evernorth Personnel, for the benefit of Participants (as defined in Section 2.2 below) and shall include:

2.1.1 Health and Wellness Services. These services will include minor office based procedures, routine physicals, medical history, and exams.

2.1.2 Low Acuity Urgent Care/Episodic Care Services.

- i. Health Center shall provide episodic and acute care visits, with no, or limited, follow-up. Examples include sprains and strains, sore throats, ear infections, urinary tract infections and headaches.
- ii. Acute care visits include sufficient scheduled time to allow Evernorth Personnel to perform a full history and exam, lifestyle risk assessments, health promotion and preventive care discussion when needed and includes care coordination referrals and community physician referrals as appropriate.

2.1.3 Immunization Services. Evernorth shall provide, or arrange for the provision of, immunizations, as agreed upon by the Parties, including:

- i. Annual flu vaccinations
- ii. Hepatitis B Series
- iii. Tetanus & Pertussis (Tdap)
- iv. Tetanus (Td)
- v. Tuberculosis (TB PPD) (Test)
- vi. Pneumovax
- vii. Shingles
- viii. Covid

Cost to purchase immunizations will be included in the monthly invoices. Pediatric vaccinations are excluded, except for annual flu vaccinations for Pediatric Participants age two and older.

2.1.4 Monitoring Chronic Conditions. Evernorth Personnel shall:

- i. Verify that Participants with chronic medical conditions have appropriate community primary care provider relationships and collaborate with primary care provider, as needed.
- ii. Refer Participants with chronic conditions to appropriate condition or lifestyle management programs available to the Client.
- iii. Encourage health lifestyle habits that address the chronic condition.

2.1.5 Preventive Health Screenings. Clinic shall provide the following Preventive Health Screenings:

- i. Pre-employment physicals to include vitals, vision testing using eye chart, and physical exam by a provider. Depending on eligibility, some tests include:

Audiogram, medical history form, Rapid 5 Panel Drug Test, back screen, and Spirometry.

- ii. Annual physical examinations with extended testing capabilities. Evernorth also provides skin screening and other skin related procedures.
- iii. Pediatric physicals (including well-child exams and “check-ups”) are excluded.

2.1.6 Laboratory Services. Evernorth shall conduct the following laboratory testing onsite at the Health Center:

- i. CLIA-waived testing (rapid testing).
- ii. Specimen collection, including: blood draw station, urine collection, and collection of other specimens ordered by Health Center’s medical staff or by community providers for pick up by contracted lab vendor. Results will be delivered to ordering provider.

2.1.7 Biometric Screening. Evernorth shall provide scheduled screenings that may include but not limited to: Height, Weight, BMI, Body Composition, Blood Pressure, Total Cholesterol, HDL Cholesterol, LDL Cholesterol, Coronary Risk Ratio, and Blood Glucose.

2.1.8 Lifestyle Risk Assessment. Evernorth and Evernorth Personnel shall

- i. Conduct lifestyle risk assessments;
- ii. Facilitate a discussion of health improvement and preventive care opportunities;
- iii. Provide referrals and coordinate additional care for Participants, as required;
- iv. Provide written prescriptions by Health Center Staff, as allowed by law; and
- v. Encourage Participant engagement in Client-sponsored wellness programs (if any) as appropriate.

2.1.9 Pharmacy. Evernorth and Evernorth Personnel shall make available to Participants as needed:

- i. Limited selection of first dose medications to treat acute ailments.
- ii. Written prescription and/or e-prescribing by Provider, as allowed by law.

2.1.10 Primary Care. Basic primary care performed in support of Participants’ individual primary care physicians.

2.1.11 Radiology Services. Evernorth shall arrange for the provision of radiology services (“Radiology Services”) through a local radiology provider participating in the provider network of Evernorth’s parent company or affiliate and located near the Health Center. Digital radiology equipment will not be located at the Health Center.

Radiology Services include Flat Plate, Ultrasound, and CT capabilities to be conducted by a licensed radiologist. Evernorth shall invoice Client directly for Radiology Services based on referrals provided to Participants by Clinical Personnel only. Other radiology referrals, such as referrals for MRIs or other radiologic studies, and any referrals provided by non-Clinical Personnel are not considered Clinical Services under this Agreement and must be submitted to the health benefit plan and are subject to prior authorization review.

2.2 Participants. Participants are individuals who are eligible to receive Clinical Services at the Health Center in accordance with this Agreement as determined by the Client, including:

- 2.2.1 Client's full-time and part-time employees covered under the Client's benefit plan;
- 2.2.2 Spouses and dependents of Client employees age two (2) years and older covered under the Client's benefit plan;
- 2.2.3 Client's retired employees covered under the Client's benefit plan covered under the Client's benefit plan;
- 2.2.4 Elected officials covered under the Client's benefit plan; and
- 2.2.5 Former employees entitled to Clinical Services as Participants under the Consolidated Omnibus Budget Reconciliation Act (COBRA).

2.3 Health Center Management.

- 2.3.1 Operation and Personnel. Evernorth shall be solely responsible for management of all Health Center and Health Center-related administrative activities, including Health Center operations and Evernorth Personnel. Evernorth shall provide all equipment, materials, systems and supplies necessary to provide the Clinical Services and to manage the Health Center that are not specifically identified as a Client responsibility under Section 5, including without limitation, Electronic Health Record (EHR) licenses, routers, printers, practice management systems or other equipment as mutually agreed to by the Parties in writing.
- 2.3.2 Biohazard Waste Management. Evernorth shall be responsible for waste management and removal of biohazard waste from the Health Center and Facility. All expenses associated with biohazard waste removal shall be eligible for reimbursement pursuant to the provisions of Section 7.

2.4 Periodic Reporting. Evernorth will arrange for the production and delivery of reports ("Reports") to Client in accordance with Evernorth's standard reporting package and capabilities at no additional cost to Client. Such Reports shall include the following:

2.4.1 Monthly Key Performance Indicators Dashboard. Each month, Evernorth shall produce and provide to Client a dashboard report of key performance indicators to include:

- i. Clinical Services Activity and Trends
- ii. Diagnostic Conditions Treated
- iii. Labs Performed
- iv. Medications Prescribed
- v. Medical Cost Savings
- vi. Return on Investment (ROI)
- vii. Productivity
- viii. Referrals
- ix. Patient Satisfaction

2.4.2 Ad Hoc Reports. Client may request other reporting from time to time, not specifically delineated herein. Evernorth will produce and deliver ad hoc reports in such formats and timeframes, and at an additional cost, as is mutually agreed upon by the Parties.

2.4.3 Report Privacy. Any and all Reports provided by Evernorth or the Health Center to Client or its designees concerning the Clinical Services shall be in aggregate, de-identified form, in compliance with applicable federal and state privacy laws and regulations, including but not limited to the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR Parts 160 and 164, as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act.

2.5 Excluded Services. Neither Facility nor the Health Center is open to the general public. Evernorth shall not solicit business from the general public at the Health Center nor use the Health Center to provide services to individuals other than Client Participants.

3 HEALTH CENTER HOURS OF OPERATION

3.1 Days and Hours of Operation. The Health Center will operate fifty (50) hours per week, Monday through Friday, from 7:00 a.m. until 5:00 p.m. (subject to legally required work breaks) ("Health Center Operating Hours"). Parties may change Days and Hours of Operation from time to time, as mutually agreed in writing. Electronic communication is deemed acceptable for such written agreement.

3.2 Health Center Closure. The Health Center will be closed on inclement weather days as determined by Client, and on Evernorth recognized holidays, including: New Year’s Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, day after Thanksgiving, and Christmas Day. The Health Center may be closed during Evernorth Personnel vacancies as further described in Section 15.

4 CHANGES IN SCOPE OR ADDITIONAL SERVICES

4.1 Request. Client may at any time, and from time to time, during the term of the Agreement, request that Evernorth provide or arrange for the provision of additional clinical and/or administrative services not covered under this Agreement (“Additional Services”).

4.2 Response. Upon receipt of such a request, Evernorth shall submit a written proposal to Client for such Additional Services which shall include:

4.2.1 A description of the services, functions, and responsibilities Evernorth anticipates performing in connection with such Additional Services;

4.2.2 A schedule for commencing and completing such Additional Services;

4.2.3 Evernorth’s prospective charges for such Additional Services, including a detailed breakdown of such charges; and

4.2.4 A description of the human resources necessary to provide the Additional Services.

4.3 Amendment Required. Evernorth shall not begin performing any Additional Services until Client and Evernorth have entered into a mutually agreed upon written amendment to the Agreement governing such Additional Services.

5 CLIENT OBLIGATIONS

At its sole cost and expense, unless otherwise indicated herein, Client shall provide or arrange for the provision of those Client obligations set forth below:

5.1 Health Center Improvements

5.1.1 Signage. Client shall install, affix and maintain at its sole expense signage at the entrance to the Health Center in a mutually agreed upon form and which, at minimum shall contain the Health Center name, as the Parties may mutually agree, the Health Center telephone number, and the hours of operation. Any and all signs shall conform to all applicable regulations and governmental requirements. Client shall at its sole expense remove any signs placed on or about the Health Center upon the termination of this Agreement or any extensions thereof, and repair the effects of any such removal.

- 5.1.2 Common Areas / Access. Evernorth, its invitees and employees and Participants shall have the right, in common with other occupants of the Facility and their invitees and employees, to use all stairways, elevators, halls, toilets and sanitary facilities, and all other general common facilities contained in the Facility, and all sidewalks, delivery areas, parking facilities and other appurtenances to the Facility. At no additional cost or expense to Evernorth, Evernorth shall have access to the Health Center three hundred sixty-five (365) days a year, on a twenty-four (24) hour a day basis.
- 5.1.3 Repairs and Improvements. Evernorth shall maintain the Health Center in an attractive and neat condition and shall not permit or allow any waste to any portion of the Health Center. Client or its agents and employees shall have the right to enter the Health Center for the purpose of making repairs necessary for the preservation of the Health Center Facility. Client shall make a reasonable effort to affect such repairs with a minimum interference to Evernorth, and, when practicable, all work shall be done outside Health Center Operating Hours.
- 5.1.4 Access Modifications. If modification to the Health Center is required to comply with standards imposed by applicable law and regulations, and Client is unwilling to make such modifications, then Evernorth, at its sole expense, shall have the right (but not the obligation) to make such modifications to the Health Center, as it deems necessary or desirable, to permit access by any employee or invitee with disabilities that restrict such person's ability to otherwise gain access to the Health Center.
- 5.1.5 Additions or Improvements by Evernorth. With written permission of Client, which shall not be unreasonably withheld or delayed, Evernorth may make alterations, additions and improvements ("Alterations") upon the Health Center as desired, with the right to remove the same upon termination of the Agreement, or any renewal or extension thereof; provided, however, that (i) as indicated above, Evernorth shall obtain written approval from Client of the Alterations to be made and written approval of the added costs to Client; and (ii) the Health Center must be left in as good a state as when received, reasonable wear and tear and damage by fire or other casualty excepted. Failure to remove such Alterations shall not be deemed a renewal or extension under the terms of the Agreement, but shall be deemed an abandonment of such Alterations, and Evernorth shall incur no costs for the removal thereof. In addition, any installation of special equipment requiring exceptional electric service or exceeding the live load rating shall be subject to Client written approval, which shall not be unreasonably withheld or delayed.
- 5.2 Health Center Utilities and Services. Client shall, at its sole expense, provide the following services and utilities necessary to the operation of the Health Center.

- 5.2.1 Telephone and Computer System Connections. For each Health Center, Client shall furnish a telephone system and computer hook-ups necessary for the provision of the Services.
- 5.2.2 High Speed Internet Access. For each Health Center, Client shall ensure there are High Speed Internet services available to the building and extended to the Health Center. A minimum of 20 Mbps Down / 20 Mbps Up bandwidth to enable the Evernorth Personnel to access the data tracking documentation and reporting system throughout the worksite and any other expanded services that require bandwidth. If no internet service providers have services established to the building or if services are not adequate to support the Health Center due to stability issues, Client shall:
- i. Be responsible for all costs associated with establishing service to the building and installation of the line, including but not limited to trenching, wiring, materials and labor charges; or
 - ii. Provide connectivity to the Client network and supply two (2) Public IP addresses.
- 5.2.3 IT Resource for Internet Troubleshooting. Client and Evernorth shall identify IT resources to work collaboratively to:
- i. Coordinate with the internet service provider to resolve issues at the Health Center;
 - ii. Acknowledge notice of the issue within one (1) hour; and
 - iii. Be available within a three (3) hour timeframe after acknowledgement. If Client IT resources are unable to provide IT assistance within the three (3) hour timeframe, Client shall be responsible for travel expenses incurred to resolve the issue.
- 5.2.4 Utilities, Services and Supplies. Client shall provide the following:
- i. adequate heating, ventilation, and air conditioning to maintain conditions and temperatures appropriate for the operation of the Health Center during Health Center Operating Hours;
 - ii. hot and cold running water;
 - iii. restroom facilities and supplies for use by Evernorth Personnel and Participants;
 - iv. electricity adequate for computer systems, lighting, normal office use and heating and air conditioning;

- v. lighting, and replacement of standard lamps when necessary;
- vi. pest control and extermination services in accordance with LEED standards;
- vii. cleaning and janitorial services each day the Health Center is open that meet safety and exposure control requirements of Occupational Safety and Health Regulations, including those relating to slip/trip/falls, blood borne pathogens and toxic and hazardous material. Such cleaning and waste removal must be adequate to minimize or eliminate risk to Evernorth Personnel and Participants from germs, unsanitary conditions and blood borne pathogens. Client agrees to require janitorial service to comply with Evernorth specifications for cleaning;
- viii. sufficient elevator service for access to the Health Center, if Health Center is located other than on the ground floor, with at least one (1) elevator that operates during non-business hours affording access to the Health Center;
- ix. adequate security services for the Health Center and Facility and common areas around the Facility, including fire and burglar alarm devices and guard protection. Client shall monitor the burglary alarm, motion and duress alarms and temperature alarm and shall perform annual inspection and/or testing of the smoke detectors and fire extinguishers in the Health Center and elsewhere in the Building. Client shall also provide for the periodic maintenance and annual inspection of the Facility fire alarm system; and
- x. adequate parking spaces for Evernorth Personnel at no charge to Evernorth or the Evernorth Personnel (as defined herein).

6 TERM AND TERMINATION

6.1 Term. The initial term of this Agreement ("Initial Term") shall commence on the Effective Date and shall continue for a period of thirty-six (36) months. Client shall have the option of renewing for two (2) additional three (3) year terms (each a "Renewal Term"). The Initial Term and any Renewal Terms shall constitute the "Term" of the Agreement. This subsection is subject to the termination rights set forth elsewhere in this Agreement.

6.2 Client Termination.

6.2.1 **For Cause.** Client may terminate this Agreement by written notice to Evernorth if Evernorth materially breaches this Agreement and does not cure such breach to Client's reasonable satisfaction within sixty (60) calendar days after receiving a written notice of breach from Client (the "Cure Period"). Client may extend the Cure Period at any time prior to the end of the expiration of the initial Cure Period by providing

notice of such extension to Evernorth. Client will notify Evernorth when breach has been cured to Client's reasonable satisfaction; otherwise the breach shall be deemed cured at the end of the Cure Period unless Evernorth receives a notice of termination from Client within ten (10) days after the expiration of the Cure Period notifying Evernorth of the continued breach and Client's intent to terminate. In such case, termination shall be effective on the sixty-first (61st) calendar day after receiving the notice of termination. Client shall remain liable for any unpaid balance for Implementation Costs and Operational Expenses incurred prior to the date of termination.

6.2.2 For Convenience. Client may also terminate this Agreement, in its entirety or with respect to a specific Facility, at any time after the Initial Term by providing ninety (90) days' written termination notice to Evernorth. Such termination is effective on the ninety-first (91st) calendar day after the notice is received by Evernorth. When terminating the Agreement for convenience, Client shall pay a "Severance Fee" to Evernorth in an amount equal to the actual severance obligation owed by Evernorth to Evernorth Personnel as of the date such termination of this Agreement is effective. The Severance Fee will be reduced to the extent that Evernorth can recoup costs by successfully redeploying Evernorth Personnel to a similar position within Evernorth. Client shall remain liable for any Operating Expenses incurred prior to the date of termination.

6.2.3 For Evernorth Financial Instability. If Evernorth becomes insolvent, Client may terminate this Agreement upon ten (10) days' notice to Evernorth provided that such termination shall be deemed effective as of the date said notice is delivered.

6.3 Evernorth Termination

6.3.1 For Cause. Evernorth may terminate this Agreement by written notice to Client if Client materially breaches this Agreement and does not cure such breach to Evernorth's reasonable satisfaction within sixty (60) calendar days after receiving a written notice of breach from Client (the "Cure Period"). Evernorth may extend the Cure Period at any time prior to the end of the expiration of the initial Cure Period by providing notice of such extension to Client. Evernorth will notify Client when breach has been cured to Evernorth's reasonable satisfaction; otherwise the breach shall be deemed cured at the end of the Cure Period unless Client receives a notice of termination from Evernorth within ten (10) days after the expiration of the Cure Period notifying Client of the continued breach and Evernorth's intent to terminate. In such case, termination shall be effective on the sixty-first (61st) calendar day after receiving the notice of termination.. Client shall remain liable for any unpaid balance

for Implementation Costs and Operational Expenses incurred prior to the date of termination.

6.3.2 **For Client Nonpayment.** Evernorth may terminate this Agreement if Client has failed to make payment due under the Agreement. Prior to termination, Evernorth shall give Client notice of intent to terminate based on non-payment. Termination shall be effective within thirty (30) days' of receipt of such notice if Client fails to provide the payment due before the expiration of the thirty (30) day period.

6.3.3 **For Convenience.** Evernorth may also terminate this Agreement at any time after the Initial Term by providing ninety (90) days' written termination notice to Client. Such termination is effective on the ninety-first (91st) calendar day after the notice is received by Client.

6.3.4 **For Client Financial Instability.** If Client becomes insolvent, Evernorth may terminate this Agreement upon ten (10) days' notice to Client provided that such termination shall be deemed effective as of the date said notice is delivered.

6.4 **Effects of Termination.** In addition to any other rights or remedies Client or Evernorth may have, if either Party terminates this Agreement for cause, Termination will not constitute a Party's exclusive remedy for any default, and neither Party will be deemed to have waived any of its rights accruing hereunder prior to such default.

7 OPERATING EXPENSES, COMPENSATION, REPORTING AND PAYMENTS

7.1 **Operational Expenses.** Evernorth will use the attached **Appendix 1: Operating Budget** as the projected budget for Operational Expenses (Salaries and Benefits, Supplies, Other Direct Expenses, System Expenses) and Other Infrastructure Costs, estimated Implementation Costs and Management Fees related to the Health Center Services for the Initial Term. The Operating Budget may be modified based on any change in the Health Center Commencement Date, delay in the required Build-Out, or modification of services requested by the Client, as mutually agreed upon by the Client and the Evernorth. Evernorth shall use its best efforts to manage all Total Operational Expenses to those amounts listed in the Operating Budget. Client acknowledges that said Operating Budget constitutes Evernorth's good faith projection of anticipated operating costs and expenses for the Health Centers. Client understands and acknowledges that the Operating Budget may change, based upon the volume of Participants seen at the Health Centers and other factors, such as a change in Evernorth Personnel with respect to level of professional licensure or salary.

7.2 Adjustment to Budget.

7.2.1 Additional Resources. In the event that Client requests permanent additional clinical and/or administrative personnel to provide the Services at the Health Center or other services, the cost of which will exceed the estimates set forth in the **Appendix 1: Operating Budget**, Client shall pay to Evernorth, in addition to all Management Fees and Operational Expenses, an amount equal to the additional expenses incurred in connection with the additional Services ("Additional Resource Charges").

7.2.2 Temporary Resources. If Clinical Personnel take Paid Time Off or Leave (as described in Section 15) or there is otherwise an inability to provide Services that is to be expected to be in excess of ten (10) business days ("Vacancy"), Evernorth will inform Client of such Vacancy, and will determine in consultation with Client if the position will be temporarily staffed. In the event that Client elects to have such position filled on a temporary basis, Client shall so notify Evernorth in writing. Evernorth shall use best efforts to secure the temporary labor requested to fill Vacancy. Client shall remain responsible for the payment of the costs for the Evernorth Personnel that has taken PTO or Leave in addition to paying for any additional temporary resources requested by Client.

7.2.3 Payment. Client shall pay and reimburse Evernorth for the following as listed in the **Appendix 1: Operating Budget:**

- i. Total Operational Expenses (Salaries and Benefits, Supplies, Other Direct Expenses, Systems Expenses);
- ii. Infrastructure Costs;
- iii. Implementation Costs; and
- iv. Management Fees.

In addition, Client shall reimburse Evernorth for Additional Resource Charges incurred under this Scope of Services. Payments shall be sent to: **Evernorth Direct Health, LLC, PO Box 847217, Los Angeles, CA 90084-7217.**

7.2.4 Invoicing Procedures. On or before the 20th day of each month, Evernorth will issue to Client an invoice for Fees, Operational Expenses, Implementation Costs and Additional Resource Charges (collectively, "Health Center Fees") due and owing for Health Center Services performed during the preceding month. Client shall pay Evernorth within thirty (30) days of receipt of an invoice for Health Center Fees. Invoice charges for supplies shall reflect actual amounts billed to Evernorth from the supply manufacturer/vendor and shall not be adjusted for any rebate Evernorth may receive from an affiliated Group Purchasing Organization.

7.2.5 **Renewal Terms.** Sixty (60) days prior to the expiration of the Initial Term of the Agreement, Evernorth shall present to Client a proposed Operating Budget for the Health Center for any Renewal Term, and Client and Evernorth shall mutually agree on such Operating Budget. Thereafter during any Renewal Term of the Agreement, sixty (60) days prior to the expiration of the Renewal Term, Evernorth shall present to Client a proposed Operating Budget for the Health Center for the upcoming Renewal Term, and Client and Evernorth shall mutually agree on such Operating Budget.

8 REPORTING, BOOKS, AND RECORDS

8.1 **Maintenance of Records.** Evernorth shall keep, maintain and preserve, in Evernorth's principal place of business or at such other secure locations as may be determined by Evernorth, during the Term and for at least three (3) years following termination or expiration of the Term, complete and accurate records and accounts covering all transactions relating to this Agreement. All such records and accounts shall be maintained in accordance with generally accepted accounting principles consistently applied.

8.2 **Notice of Audit, Audit Limitations.** At any time during the Term and up to three (3) calendar years following the expiration or termination of this Agreement, Client or its designee shall have the right, upon forty-five (45) days prior written notice to Evernorth, to audit all documents and records related to the Operational Expenses of the Health Center, with the exception of certain administrative and medical supplies and equipment where prohibited by confidentiality provisions in the applicable vendor agreement with Evernorth or its Affiliate, for the purchase of such administrative and medical supplies and equipment. Such audits shall be limited to one (1) every twelve (12) months, and shall be conducted during normal business hours, at Evernorth's office or at mutually agreeable locations. Notwithstanding the above, Client shall have no obligation to perform such audit. If not otherwise subject to confidentiality provisions set forth in this Agreement, Client shall be required to sign a confidentiality agreement as mutually agreed upon by the Parties. Designees or representatives of Client shall be required to execute a confidentiality agreement mutually agreed upon by the Parties. Such audits shall not include the disclosure of Protected Health Information (PHI) as defined in HIPAA, or the disclosure of employee records or other confidential or commercially sensitive, trade secret information. Client will promptly provide Evernorth with a copy of any audit reports, findings and summaries.

8.3 **Contest of Audit.** Auditor shall provide Evernorth with a copy of the audit results for Evernorth's review and opportunity to comment before auditor shares the results with the Client. Evernorth shall, at its sole expense, have the right to contest the results of any audit conducted by Client, and in such event, a second audit shall be conducted by an

independent certified public accountant acceptable to both Parties. The results of this second audit shall be binding upon the Parties hereto.

9 NOTICES

- 9.1 All notices, demands, and other communications under this Agreement shall be in writing to the address below, with a copy to the emails provided and shall be deemed received on the date confirmed on: (i) the return receipt for certified mail sent return receipt requested, via the USPS; or (ii) the receipt for notices sent by a reliable overnight courier.

If to Evernorth:

Jeffrey Perry, DBA, PhD
Chief Operating Officer, Vice President
Evernorth Direct Health, LLC
8888 E. Raintree Drive, Suite 300
Scottsdale, Arizona 85260

With an Email Copy to Cigna Legal:

Molly.Phillips@Cigna.com

With an Email Copy to Evernorth:

Jeffrey.Perry@evernorth.com

If to Client:

Billie Kirkpatrick
City of Clearwater
Human Resources Director
100 South Myrtle Avenue
Clearwater, Florida 33756-5320

- 9.2 Either Party may change the address for notification purposes upon prior and reasonable written notice thereof to the other.
- 9.3 Invoices shall be sent to the Client at the address indicated above. Payments shall be made in accordance with Section 7.2.

10 OWNERSHIP

- 10.1 **Client-Owned Property.** Except as noted in Section 10.2, Client is and shall be the sole and exclusive owner of all right, title and interest in and all materials furnished by Client, and all furniture, supplies, equipment and other contents of the Health Center ("Health Center Contents") that Evernorth or its Affiliate has purchased or may during the term of

the Agreement purchase on behalf of Client, and Health Center marketing materials created, developed or otherwise submitted by Evernorth and parties engaged by Evernorth, whether directly or indirectly, in connection with rendering Services under this Agreement. Deliverables created specifically for Client pursuant to this Agreement become the property of Client. Deliverables shall not include Evernorth Equipment or Evernorth Materials, as hereinafter defined. Notwithstanding this, Client agrees that it will not take ownership of any medication upon termination; Evernorth shall take any required actions to dispose of medications. If Evernorth is able to return any medication to the manufacturer or distributor for a full or partial refund, Evernorth shall attempt to do so and obtain a credit for Client. Client also acknowledges that some of the Health Center Contents may constitute medical or other devices that, if used inappropriately or by an untrained or unlicensed person, could cause harm or injury. Client agrees to take the appropriate measures to ensure that such Health Center Contents are either properly disposed of, or only used by the appropriate medical professionals.

10.2 Evernorth Equipment. Client acknowledges that Evernorth has purchased and shall be the owner of the following equipment ("Evernorth Equipment"), and Evernorth shall be entitled to retain ownership and possession of all such Evernorth Equipment after expiration or termination of this Agreement for whatever reason:

- i. Computer CPUs
- ii. Monitors
- iii. Keyboards
- iv. Computer Mice
- v. Laptops
- vi. VPN Token Keys
- vii. Air Cards
- viii. Scanners
- ix. Multi-Functional Printers
- x. Access Boxes (Label Printer/Network Connectors)
- xi. Routers
- xii. Credit Card Machines
- xiii. iPads

10.3 Evernorth Materials.

10.3.1 Program Materials. All Evernorth program materials, including handouts, presentations, and workbooks (collectively, “Evernorth Program Materials”), are the sole and exclusive property of Evernorth. Any Evernorth Program Materials distributed to program Participants may be used solely for the purpose of participating in the applicable Evernorth program. Client shall not alter, republish, redistribute, record or rebroadcast Evernorth Program Materials, including posting on the internet, without Evernorth's prior written consent.

10.3.2 Proprietary Materials. Client acknowledges that in providing the services hereunder, Evernorth may utilize proprietary materials, reports, models, software, documentation, know-how and processes owned by Evernorth that were or are not created specifically by Evernorth for Client (“Evernorth Materials”). Client acknowledges that ownership of and title to such Evernorth Materials remains with Evernorth and is not transferred to Client.

10.4 Use of Name and Trademarks, Publicity

10.4.1 Client’s Marks. Except as expressly provided in the Agreement, no property, license, permission or interest of any kind in or use of any trademark, copyright, patent, trade secret, logo, trade name, color combination, insignia or device owned or used by Client is or is intended to be given or transferred or acquired by Evernorth or any other party by the execution, performance or non-performance of this Agreement or any part thereof. Evernorth agrees that it shall not use (directly or indirectly) or register any of Client’s trademarks, service marks or trade names in connection with any products, services, promotions or publications without Client’s prior written approval. Evernorth shall not remove or alter any trademark, service mark, trade name, copyright or other proprietary notices, legends, symbols or labels appearing on or in materials delivered to Evernorth by Client without Client’s prior written approval.

10.4.2 Evernorth’s Mark. Except as expressly provided in the Agreement, no property, license, permission or interest of any kind in or use of any trademark, copyright, patent, trade secret, logo, trade name, color combination, insignia or device owned or used by Evernorth is or is intended to be given or transferred or acquired by Client or any other party by the execution, performance or non-performance of this Agreement or any part thereof. Client agrees that it shall not use (directly or indirectly) or register any of Evernorth’s trademarks, service marks or trade names in connection with any products, services, promotions or publications without Evernorth’s prior written approval. Client shall not remove or alter any trademark,

service mark, trade name, copyright or other proprietary notices, legends, symbols or labels appearing on or in materials delivered to Client by Evernorth without Evernorth's prior written approval.

11 EVERNORTH GENERAL WARRANTIES

11.1 General Warranties. Evernorth hereby represents and warrants to Client, with the intention that Client rely thereon in entering into this Agreement, that:

- 11.1.1 Evernorth has the full right and authority to enter into and perform this Agreement and vest in Client all the rights set forth in this Agreement;
- 11.1.2 Evernorth Personnel have all the necessary professional licenses to perform the Services in connection with this Agreement;
- 11.1.3 Evernorth agrees that it and Evernorth Personnel will perform the Health Center Management and Clinical Services in a good, professional, and workmanlike manner, using that degree of skill and care as would a prudent supplier performing similar services under similar circumstances and in compliance with all applicable laws and regulations;
- 11.1.4 Evernorth shall comply fully, and shall require its Personnel to comply fully, with all federal, state and local laws, regulations, ordinances, codes and other legal provisions applicable to it and its Personnel in the performance of its obligations hereunder, including but not limited to those relating to HIPAA, workers compensation, Social Security, unemployment insurance, hours of labor, wages, working conditions and other employer-employee matters with respect to Evernorth Personnel; and
- 11.1.5 Evernorth Personnel will exercise their own independent medical and professional judgment in the performance of Clinical Services, and Client will have no responsibility to direct or control Personnel's independent medical acts, decisions or judgment in the care of any Participant.

12 CLIENT GENERAL WARRANTIES

12.1 General Warranties. Client hereby represents and warrants to Evernorth, with the intention that Evernorth rely thereon in entering into this Agreement, that:

- 12.1.1 Client has the full right and authority to enter into and perform this Agreement and vest in Evernorth all the rights set forth in this Agreement;

- 12.1.2 the execution and performance by Client of this Agreement (including, without limitation, the Services) does not and will not violate or conflict with, or result in a breach of (i) any terms, conditions, duties or obligation to which Client is bound to any third party or (ii) any rights of any third party;
- 12.1.3 any materials and elements delivered or provided to Evernorth in connection with this Agreement and their use by Evernorth, will not defame any person or violate or infringe the copyright, trademark, patent, trade secret, privacy, reputation, creative or other rights of any person or entity;
- 12.1.4 the execution, delivery or performance of this Agreement will not require any license to use the intellectual property of a third party, other than any licenses currently held by a Party with the good faith belief that the licenses will endure or are renewable; and
- 12.1.5 Client shall comply fully with all federal, state and local laws, regulations, ordinances, codes and other legal provisions that may be applicable to its obligations hereunder.

13 CONFIDENTIAL INFORMATION

- 13.1 Protection of Confidential Information.** During the Term of the Agreement, one Party ("Receiving Party") may receive access from the other Party ("Disclosing Party") to certain proprietary procedures, proprietary data, proprietary information, documents, and other material belonging to, prepared by or for, or concerning the Disclosing Party and its affiliates which shall, together with the terms and conditions hereof, be deemed to be "Confidential Information." For purposes of this Agreement, "Confidential Information" shall mean (i) information, whether provided directly or indirectly from the other Party in writing, verbally, by electronic or other data transmission or in any other form or media or obtain through on-site visits at Client or Evernorth facilities and whether furnished or made available before or after the Effective Date of this Agreement, that is confidential, proprietary or otherwise not generally available to the public; and (ii) any and all technical and business information that the Disclosing Party discloses or reveals to the Receiving Party, including but not limited to services, plans, products, policies, financial information; operation information including computer software programs, and shall include all summaries, extracts, copies, compilations, analyses, interpretations, presentations, and other materials derived therefrom. The term "Confidential Information" shall not include information which (i) at the time of disclosure to the Receiving Party was publicly available or thereafter becomes publicly available through no fault of the Receiving Party; (ii) is disclosed by the Disclosing Party to a third party without a nondisclosure obligation; (iii)

is already rightfully in the Receiving Party's possession or is rightfully received by the Receiving Party as evidenced by independent documentation; (iv) is required to be disclosed pursuant to Florida public records law. Neither Party shall attempt to access information not necessary for its performance hereunder.

13.2 Permitted Disclosure. The Receiving Party may disclose the Confidential Information of the Disclosing Party to the Receiving Party's Personnel if they have a need to know and obligation to protect the Confidential Information that is at least as restrictive as this Agreement. The Receiving Party will use the Confidential Information of the Disclosing Party only to the extent as is necessary in and during the performance of this Agreement, and as expressly allowed hereunder, and will be responsible for any improper use or disclosure of any Confidential Information by its officers, partners, principals, Personnel or independent contractors (including individuals who become former partners, principals, employees, agents or independent contractors).

13.3 Required Disclosure. If at any time the Receiving Party is requested or required as a result of a judicial or regulatory proceeding disclose any Confidential Information, the Receiving Party agrees to provide the Disclosing Party with prompt notice thereof so that the Disclosing Party may seek an appropriate protective order. If the Receiving Party is compelled by a judiciary or regulatory authority to disclose Confidential Information or else stand liable for contempt or suffer other censure, sanction or penalty, the Receiving Party may disclose such information to the extent required without liability hereunder.

13.4 Receiving Party Obligations. The Receiving Party agrees that until such time as any such Confidential Information becomes a part of the public domain without breach of this Agreement by the Receiving Party or an agent or employee of the Receiving Party the Receiving Party shall:

13.4.1 treat, and obligate the Receiving Party's employees, agents and representatives to treat as secret and confidential all such Confidential Information whether or not it be identified by the Disclosing Party as confidential;

13.4.2 not disclose any such Confidential Information to any person, firm, or corporation or use it in any manner whatsoever without first obtaining the Disclosing Party's written approval;

13.4.3 to reveal the Confidential Information only to those employees, agents and representatives of the Receiving Party who require access to such Confidential Information in order to perform the Receiving Party's obligations under this Agreement; and

13.4.4 not to employ the Confidential Information to Receiving Party's advantage, other than as herein provided.

- 13.5 Third Party Information.** Neither Party shall disclose to the other any proprietary information obtained on a confidential basis from any third party unless (i) the Party receiving such information shall have first received written permission from such third party to disclose such information or (ii) such information is in the public domain at the time of disclosure.
- 13.6 Injunction.** The Parties acknowledge that the unauthorized disclosure of Confidential Information to any third party would immediately and irreparably injure the Disclosing Party and entitle the Disclosing Party to an immediate injunction or other equitable relief against the Receiving Party.
- 13.7 Return of Confidential Information.** Unless a Receiving Party is expressly authorized by this Agreement to retain the Confidential Information of a Disclosing Party, the Receiving Party will promptly return or destroy, at the Disclosing Party's option, their Confidential Information, and all copies thereof, within five (5) Business Days after the Disclosing Party's written request, and will certify to the Disclosing Party that it no longer has in its possession or under its control any Confidential Information in any form, or any copy thereof. Notwithstanding the foregoing, subject to the terms and confidentiality obligations of this Agreement the Receiving Party and its Representatives (i) may to the extent required by applicable law, governmental authority or legal process maintain one confidential copy of the Confidential Information and (ii) shall not be required to erase, destroy or return any automatically created archival or backup copies residing on computer systems or other electronic forms of information retention processes, materials or equipment and accessible only to authorized IT administrative personnel.

14 PERSONNEL

- 14.1 Evernorth Staffing.** Evernorth shall recruit, interview, engage, hire, supervise and discharge all Evernorth Personnel needed to provide the Clinical Services. All employment related decisions, including but not limited to hiring, firing, and performance management, shall be at the sole discretion of Evernorth and not Client. Such Evernorth Personnel shall in all events, and for all purposes, be employees or subcontractors of Evernorth and not Client. Evernorth shall comply with all federal, state and local laws regulations and requirements relating to such employees and subcontractors. Evernorth, and not Client, shall be fully responsible for the payment of all salaries, wages, payroll and other compensation, taxes, fees, workers compensation insurance and other charges or insurance levied or required by any federal, state, or local law, regulation or ordinance relating to the employment of the Evernorth Personnel, and all supervision and decisions with respect to all employment-related issues, including but not limited to management of meal periods, breaks, overtime, and other related issues to comply with applicable

laws. Evernorth, and not Client, shall be solely responsible for determining salaries, bonuses, and other compensation of Evernorth employees and subcontractors.

- 14.2 Background Checks.** The Parties acknowledge and agree that the policies and procedures of Evernorth as to pre-employment testing, criminal background checks, Social Security Number and I-9 verification, performance management, disciplinary action and termination shall govern all Evernorth Personnel, including any confidentiality requirements contained therein.
- 14.3 Training.** Evernorth will ensure that Evernorth Personnel receive all necessary and requisite statutorily mandated in-service, annual and proficiency training, and other such professional or paraprofessional education and training programs needed to ensure current proficiency in the Evernorth Personnel's particular health care discipline or specialty.
- 14.4 Use of Subcontractors.** Evernorth may use third party vendors contracted with Evernorth, its Affiliates, for supplies and equipment without Client's prior written consent, e.g. pharmacy providers, temporary labor, and laboratory service providers.
- 14.5 Evernorth Personnel Performance.** In the event that Client is dissatisfied with the performance of any Evernorth Personnel providing Clinical Services hereunder, or asserts that any Evernorth Personnel has engaged in misconduct as defined by Client or has materially failed to perform the Services in accordance with the Agreement, Client shall so advise Evernorth immediately and provide in writing the facts necessary to validate the concern or complaint. Evernorth shall promptly consult with Client as to the nature of the conduct complained of and the severity of Client's dissatisfaction, and shall endeavor to resolve such issues to the satisfaction of Client provided such resolution is non-discriminatory and otherwise legal. Client acknowledges and agrees that the policies and procedures of Evernorth or its Affiliates as to the performance shall govern, including any confidentiality requirements contained therein. Client agrees, where necessary, to cooperate with Evernorth in conducting any investigation or inquiry, and in providing documentation and testimonial support in event of litigation concerning Evernorth Personnel misconduct or failure to perform.
- 14.6 Independent Contractors.** The Parties are independent contractors, and no Party is or shall represent itself as having, and nothing in this Agreement shall be construed as creating between the Parties, a relationship as employer-employee, partners, principal-agent, joint ventures, or any relationship other than that of independent parties.
- 14.7 Provision of Services at Health Center.** Clinical Services may only be provided by Evernorth Personnel or any other professional provided by or arranged for through Evernorth. Client employees and contractors shall not be allowed to provide Clinical

Services or any other health care services at the Health Center even if they are licensed to do so.

14.8 No Co-Employment. All Evernorth Personnel performing Services hereunder shall work under Evernorth's supervision, provided, however, that the Clinical Personnel shall exercise independent professional judgment within the scope of his or her profession, and in addition a nurse practitioner or a physician assistant shall be subject to oversight by an independently contracted physician for clinical consultation and oversight as required by law based upon protocol determined between such nurse practitioner or physician assistant and physician.

14.9 No Fringe Benefits. As an independent contractor, neither Evernorth nor Evernorth Personnel shall be entitled to any of the customary employee fringe benefits provided by Client to its employees, including, but not limited to, pension or group insurance plans, by virtue of the Services provided to Client under this Agreement.

15 HEALTH CENTER STAFFING

15.1 Staffing.

15.1.1 Evernorth shall provide or arrange for the provision of the following clinical and administrative staff ("Evernorth Personnel") to provide Health Center Services at the Health Center:

- a. One (1) Full-Time Physician ("Clinical Personnel")
- b. One (1) Full-Time Nurse Practitioner or Physician Assistant ("Clinical Personnel")
- c. Three (3) Full-Time Medical Assistants (with one being front office staff)
- d. One (1) Full-Time Nurse Manager

15.1.2 Full-Time is defined as regularly working a forty (40) hour week.

15.1.3 Client acknowledges and agrees that, in addition to Evernorth Holidays, as defined in Section 3.2, Evernorth Personnel shall be entitled to paid time off ("PTO") and other leave ("Leave") in accordance with applicable law and policies of Evernorth or its Affiliates, or applicable contract between Evernorth Personnel and Evernorth. PTO and Leave shall include:

- i. vacation days (including purchased days off)
- ii. personal days
- iii. sick days

- iv. military leave
 - v. family medical leave (FMLA)
 - vi. caregiver leave
 - vii. disability leave; and
 - viii. other leave in accordance with applicable law or Evernorth policy.
- 15.1.4 Nurse Practitioners and Physician Assistants may be entitled to up to five (5) days per year to complete continuing education requirements.
- 15.1.5 For Evernorth Personnel employed by Evernorth, the number of days of PTO is the same applicable to all employees of Evernorth and its Affiliates but may vary based on the job level and number of years of employment with Evernorth, and will be prorated for part-time work status.
- 15.1.6 For Evernorth Personnel not employed by Evernorth, i.e., independent contractors, the number of days of PTO shall be defined in the contract between Evernorth and applicable agency or individual.
- 15.1.7 When the Nurse Practitioner or Physician Assistant takes PTO, the Health Center shall be closed for treatment purposes (and only open for administrative purposes to the extent a Medical Assistant is available to work). Evernorth shall, however, request that the Nurse Practitioner or Physician Assistant give Evernorth five days' advance notice of any planned PTO where possible, so that Evernorth can share with Client in advance of any expected suspension of treatment services due to planned PTO by the Nurse Practitioner or Physician Assistant.
- 15.1.8 In the event that Evernorth Personnel will be absent for an extended period due to military leave, FMLA, or long term disability leave, Evernorth shall use its best efforts to recruit and engage a qualified temporary substitute. In the event that Evernorth is unable to provide such qualified substitute, Evernorth shall provide a pro-rated adjustment to the Fees.
- 15.1.9 Evernorth shall not reduce the Compensation/Fees set forth in Appendix 1: Operating Budget for any absence of Evernorth Personnel due to the following:
- i. PTO;
 - ii. sick time not considered as short term disability under the then current Evernorth policies;
 - iii. closure of the Client's work site(s) within which the Evernorth Personnel provides services under this Agreement, due to Client or other reasons beyond Evernorth's control, such as inclement weather, acts of nature, pandemic, or acts of the public enemy; and

- iv. Short term disability or caregiver leave for which the Evernorth Personnel is paid.

16 NON-SOLICITATION

16.1 During the term of this Agreement, and for a period of one (1) year after expiration or termination of this Agreement for any reason, Client shall not directly or indirectly, alone or in concert with others, solicit or entice an employee or independent contractor engaged by Evernorth to provide services under this Agreement, to leave the employment or engagement of Evernorth in order to provide substantially similar services as those provided in this Agreement, to or on behalf of Client, or to otherwise work in competition with Evernorth. Should there be a termination of this Agreement and Client desires to have an Evernorth Personnel work for Client or another health center vendor or otherwise serve in a similar capacity to benefit Client within one (1) year following termination of this Agreement, Client agrees that it shall reimburse Evernorth all severance costs Evernorth has paid to any and all Evernorth Personnel resulting from a termination of this Agreement.

17 INDEMNIFICATION

17.1 Evernorth Indemnification. Evernorth, its successors and assigns, assumes liability for, and shall indemnify, defend, protect, and hold Client and its officers, directors, employees, and agents and Affiliates (each, a "Client Indemnitee") harmless from and against any and all claims, actions, suits, proceedings, costs, liabilities, judgments, obligations, losses, penalties, damages and expenses, including reasonable legal fees and expenses, of whatsoever kind or nature: (i) to the extent caused in whole or in part by Evernorth's own negligent acts or omissions in connection with its performance under this Agreement; (ii) arising out of Evernorth's intentional misconduct in connection with its performance under this Agreement; or (iii) arising out of any violation by Evernorth of any law pertaining to the Services.

17.2 Client Indemnification. Client, its successors and assigns, assumes liability for, and shall indemnify and hold Evernorth and its officers, directors, employees, agents and Affiliates (each, a "Evernorth Indemnitee") harmless from and against any and all claims, actions, suits, proceedings, costs, liabilities, judgments, obligations, losses, penalties, damages and expenses, including reasonable legal fees and expenses, of whatsoever kind or nature to the extent caused in whole or in part by Client's own negligent acts or omissions, directly or indirectly arising out of or in connection with this Agreement. Nothing contained herein shall be construed to be a waiver of any immunity or limitation of

liability Client may be entitled under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

17.3 Notice of Claims. Each Party will give notice as promptly as practicable to the other Party of any third-party claims for which it is obligated to provide indemnification. Each Party shall cooperate in all reasonable respects with the other Party and its attorneys in the investigation, trial and defense of such claim and any appeal arising therefrom.

17.4 Limitation of Liability. Notwithstanding any other provision in the Agreement, in no event will either Party be liable to the other Party hereto, in contract, tort or otherwise be liable for, nor will the measure of damages include: (i) any indirect, incidental, special or consequential damages (including lost revenue, profits or savings) arising out of or relating to its performance under this Agreement; or (ii) punitive damages.

18 INSURANCE

18.1 Evernorth will maintain at its own cost all necessary insurance (which shall include as a minimum, the requirements set forth below), for damages caused or contributed to, by Evernorth and insuring Evernorth against third party claims arising out of or resulting from activities or services performed by Evernorth during the Term of this Agreement:

18.1.1 Statutory worker's compensation for Evernorth Personnel in accordance with applicable laws.

18.1.2 Employer's Liability insurance in an amount of not less than Five Hundred Thousand Dollars (\$500,000.00) each accident, each employee, and policy limit.

18.1.3 Commercial General Liability insurance insuring against claims for bodily injury, property damage, completed operations and contractual liability with a limit of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the annual aggregate.

18.1.4 Automobile liability insurance covering all vehicles owned, non-owned, hired and leased only when utilized in the performance of Services under this Agreement, with a combined single limit for bodily injury and property damage of not less than One Million Dollars (\$1,000,000.00).

18.1.5 Managed Care Errors and Omissions insurance in an amount of not less than One Million Dollars (\$1,000,000) in the aggregate.

18.1.6 Medical Professional Liability insurance in the amount of One Million Dollars (\$1,000,000) per claim, Three Million Dollars (\$3,000,000) in the aggregate.

18.2 Client's Property and Liability Insurance. Client agrees and acknowledges Client is the owner or lessee of the Facility and owner all of Health Center Contents other than

Evernorth Equipment (as defined in Section 10). During the Term of this Agreement, Client shall be solely responsible for maintaining property and casualty insurance coverage insuring against the loss or damage of the Facility and the Health Center Contents. Cover for the Health Center Contents shall be in an amount not less than full replacement cost of such Health Center Contents. In addition, such property and casualty insurance shall cover Evernorth Equipment to the extent that any loss or damage to such Evernorth Equipment is not due to the negligent acts or omissions or intentional misconduct of Evernorth or Evernorth Personnel, and shall be in an amount not less than the full replacement cost of the Evernorth Equipment. Further, Client may, at its option, purchase and maintain its own liability insurance and, at its option, may purchase and maintain such insurance as will protect itself against claims which may arise from operations under the Agreement.

19 GOVERNING LAW; DISPUTE RESOLUTION

- 19.1** The terms of this Agreement, including attachments and exhibits, and all matters relating to these services, shall be governed by, and construed in accordance with, the substantive laws of the state of Florida and federal law, as applicable.
- 19.2** Parties agree that they shall meet and confer in good faith to resolve any problems or disputes that may arise under this Agreement. Such negotiation shall be a condition precedent to the filing of any arbitration demand by either Party. Any controversy, dispute or claim arising out of or relating to this Agreement, including its performance or breach, and including any question regarding its interpretation, existence, validity or termination, that cannot be resolved informally, shall be resolved by way of binding arbitration.
- 19.3** The arbitration shall be administered by the American Arbitration Association (“AAA”) and conducted in Clearwater, Florida or such other location as may be agreed to by the Parties, in accordance with the Commercial AAA rules, as they are in effect when the arbitration is filed. The binding arbitration shall be conducted by a single, neutral arbitrator knowledgeable in the health care or insurance industries or a retired judicial officer. If the Parties are unable to agree on the choice of the arbitrator, an arbitrator shall be appointed in accordance with the AAA rules. Any such dispute will not be resolved by a lawsuit or resort to court process, except as the Federal Arbitration Act provides for judicial review of arbitration proceedings. Arbitration under this provision will take place on an individual basis; class arbitrations and class actions are not permitted. The Federal Arbitration Act, 9 U.S.C. Sections 1-16, shall also apply to the arbitration. Civil discovery may be taken in such arbitration as provided by Florida law and civil procedure. The arbitrator shall have the power to control the timing, scope, and

manner of the taking of discovery and shall have the power to enforce the Parties' respective duties concerning discovery. The arbitrator shall have the power to grant all legal remedies and award damages as provided by state and/or applicable federal law except that punitive damages shall not be awarded.

19.4 The Parties agree to be bound by the decision of the arbitrator. The Parties further agree that each Party shall share in the costs and fees of the arbitrator and arbitration administration fees charged by AAA, but each Party shall be responsible for their own attorneys' fees, costs and expenses.

19.5 The arbitrator shall prepare in writing an award that indicates the prevailing Party or Parties, the amount and other relevant terms of the award, and that includes the legal and factual reasons for the decision. The requirement of binding arbitration shall not preclude either Party from seeking a temporary restraining order or preliminary injunction or other provisional remedies from a court of competent jurisdiction in Arizona; however, any and all other claims or causes of action, including, but not limited to, those seeking damages, shall be subject to binding arbitration as provided herein.

20 ASSIGNMENT AND DELEGATION OF DUTIES

Neither Party may assign their duties, rights, or interests under this Agreement unless the other Party shall so approve by written consent, provided however, that Evernorth may at its sole discretion assign its duties, rights and interest under this Agreement in whole or in part to a subsidiary or Affiliate or may delegate any and all of its duties in the ordinary course of business to a subsidiary or Affiliate.

21 BINDING EFFECT

This Agreement shall inure to the benefit of and bind the respective successors and assigns of the Parties hereto.

22 TAXES

22.1 Evernorth will be responsible for any applicable sales, use, or other like taxes (hereinafter, "tax" or "taxes") attributable to periods on or after the agreement date based upon or measured by Evernorth's fees for performing or furnishing the services. To the extent Evernorth is required to collect such taxes under applicable law, Evernorth will separately state the amount of tax due on its invoices to Client.

23 FORCE MAJEURE

- 23.1 Default.** Neither Party will be in default or otherwise liable for any delay or failure of its performance under this Agreement to the extent such delay or failure is due to causes beyond the reasonable control of said Party such as, but not limited to, acts of God, acts of public enemy, the elements, adverse weather conditions, fire, floods, riots, strikes, accidents, disease, pandemic, war, governmental requirement, order or shutdown, act of civil or military authority, manufacturer delays, labor or transportation difficulties, acts or omissions of transportation common carriers, or other cause beyond the reasonable control and without the fault or negligence of the affected Party ("Force Majeure Event"). Additionally, Client understands that in the event of a Force Majeure Event, Evernorth's ability to perform in part or in total may be limited to the extent required by Evernorth HR minimal standards policies for the protection of Evernorth employees.
- 23.2 Contingency Planning.** If Client requests that Evernorth implement contingency plans or actions to prevent, circumvent or cure the adverse effect of a Force Majeure Event, Client shall be responsible for reimbursing Evernorth for the cost of their implementation during a Force Majeure Event.

24 SURVIVAL

The terms of Sections 6, Term and Termination; 7 Operating Expenses, Compensation, Reporting, and Payments; 9, Notices; 10, Ownership; 11, Evernorth General Warranties; 12, Client General Warranties; 13, Confidential Information; 16, Non-Solicitation; 17, Indemnification; 18, Insurance; 19, Governing Law; Dispute Resolution; 21, Binding Effect; 22, Taxes; 24, Survival; and 25.7, Third Party Beneficiaries shall survive termination or expiration of this Agreement.

25 MISCELLANEOUS


- 25.1 Contract Interpretation, Captions, Section Numbers.** Article, section and paragraph numbers and captions are provided for convenience of reference and do not constitute a part of this Agreement. Any reference to a particular Section of the Agreement will be deemed to include reference to any and all subsections thereof.
- 25.2 Exhibits.** All exhibits and schedules referred to or attached to this Agreement and all appendices thereto are integral parts of the Agreement as if fully set forth herein. All capitalized terms used in such exhibits and schedules and all appendices thereto shall be as defined in this Agreement, unless otherwise indicated in the exhibit schedule or appendix.

- 25.3 Neither Party Deemed Drafter.** Despite the possibility that one Party or its representatives may have prepared the initial draft of this Agreement or any provision or played a greater role in the preparation of subsequent drafts, the Parties agree that neither of them will be deemed the drafter of this Agreement and that, in construing this Agreement, no provision hereof will be construed in favor of one Party on the ground that such provision was drafted by the other.
- 25.4 Counterparts.** This Agreement may be executed in multiple counterparts, each of which will be deemed an original and all of which together will be deemed the same agreement.
- 25.5 Entire Agreement; Order of Precedence.** This Agreement, the Exhibits, Schedules, Attachments, and all documents expressly referred to in this Agreement, contains the entire understanding between the Parties with respect to the subject matter of this Agreement, and all prior or contemporaneous promises, representations, agreements or understandings are expressly merged herein and superseded hereby. The persons signing this Agreement personally warrant that they are authorized to sign the Agreement on behalf of, and to bind, the Party whom they represent in so signing.
- 25.6 Severability.** If any provision of this Agreement or its applications to particular circumstances is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision (or its application to those circumstances) will be deemed stricken and the remainder of this Agreement (and the application of that provision to other circumstances) will continue in full force and effect insofar as it remains a workable instrument to accomplish the intent and purposes of the Parties; the Parties will replace the severed provision with the provision that will come closest to reflecting the intention of the Parties underlying the severed provision but that will be valid, legal, and enforceable.

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25.7 No Third Party Beneficiaries. The Parties specifically disavow any desire or intention to create a third party beneficiary contract, and specifically declare that no person, except for the Parties and their permitted assigns, if any, shall have any rights hereunder nor any right of enforcement.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed and signed by their respective officers duly authorized to do so, on the dates indicated below. Electronic signatures are acceptable and have the same binding effects as original signatures.

EVERNORTH DIRECT HEALTH, LLC	
Signature:	
Print Name:	Jeffrey T. Perry, DBA
Title:	Chief Operating Officer, VP
Date:	7/28/2023

Countersigned:

CITY OF CLEARWATER, FLORIDA

 Brian Aungst, Sr.
 Mayor

 Jennifer Poirrier
 City Manager

Approved as to form:

Attest:

 Owen Kohler
 Lead Assistant City Attorney

 Rosemarie Call
 City Clerk

EXHIBIT A DEFINITIONS

“Affiliate” means, with respect to a Party, any entity that controls, is controlled by, common control with, such Party.

“Business Day” means any week day other than a day designated as a holiday by the United States Postal Service as revised from time to time provided such Business Day does not conflict with a Evernorth or Client recognized holiday.

“Evernorth Personnel” means the Clinical Personnel hired by Evernorth.

“Clinical Personnel” means the Evernorth Personnel health care professionals hired by Evernorth as employees to perform services for Client under this Agreement. Evernorth Personnel does not include third party subcontractors performing services under this Agreement. Evernorth Personnel does not include anyone hired by Client or contracted with Client directly to provide any services related to this Agreement.

“FTE” means full-time equivalent. One FTE is equivalent to one employee working full-time. Full-time is defined as regularly working a forty hour week.

“Implementation Costs” means those costs associated with project management and Evernorth Personnel services prior to Health Center opening, including onsite consultations by Evernorth Operations and Clinical teams; quality assurance reviews; and initial training for Evernorth Personnel.

“Infrastructure/Management Fee” means those costs associated with centralized administrative functions, such as procurement of supplies and liability insurance, support services (regulatory, compliance, and finance), and reporting and data integration.

“Provider” means a duly licensed physician, advance practice registered nurse or physician assistant.

“Other Direct Expenses” means expenses related to the day-to-day operation of the Health Center, including, but not necessarily limited to: continuing medical education; postage and printing; marketing; ongoing training and education; overhead expenses, supplies, and ongoing travel (Evernorth Direct Health management coming to site).

“Personnel” of a Party means the direct and indirect employees, subcontractors, and agents of such Party.

“Salaries and Benefits” means the cost of wages paid to Evernorth Personnel, including local physician oversight/medical director or temporary staff, providing Services at the Health Center, plus payroll, related taxes and benefits (including paid time off where applicable.)

“Supplies” means consumables related to the operation of the Health Center, i.e., office supplies, non-medical supplies, and medical supplies necessary for the proper delivery of Services to Participants, and pharmaceutical/flu serum supplies necessary to meet the pharmaceutical and immunization needs of Participants served at the Health Center.

“Systems Expenses” means expenses associated with Employee Health Record (EHR) licenses; system costs of data circuits, routers, printers, etc.; systems support; and equipment fee for use of computers maintained and periodically replaced by Evernorth and support.

Evernorth Direct Health LLC
Cost Projection Estimates Prepared for:
City of Clearwater



Description	10/1/23 - 9/30/24	10/1/24 - 9/30/25	10/1/25 - 9/30/26
FTE's			
Physician	1.00	1.00	1.00
Nurse Practitioner	1.00	1.00	1.00
Medical Assistant	2.00	2.00	2.00
Front Office	1.00	1.00	1.00
Nurse Manager / LPN / RN	1.00	1.00	1.00
Total FTE's	6.00	6.00	6.00
Salaries & Benefits	837,000	861,000	884,000
Temp Labor	60,000	60,000	60,000
Other Direct Expenses	78,000	79,000	81,000
Supplies	166,000	169,000	171,000
System Expenses	79,000	82,000	84,000
Admin Fee	21,000	21,000	21,000
Infrastructure & Management Fees	404,000	414,000	425,000
Total Onsite Health Center Estimate	1,645,000	1,686,000	1,726,000
CHC - Operating Funding Incentive	161,777	161,777	161,777
Total Cost Estimate after Cigna Contribution	1,483,223	1,524,223	1,564,223

Assumptions

- 1) The facility is staffed as indicated in the FTE section above
- 2) Full-time is considered to be 40 hours per week and represented by 1.00 FTE
- 3) Marketing for communications to those eligible for access to the site is planned at \$5000 in year one and \$5000 the following years
- 4) Recruitment cost for staff is projected at \$5000 per year (Marketing & Recruitment are pass thru expenses, only charged if incurred)
- 5) External lab vendor will submit a claim.
- 6) Includes estimated cost of prepackaged medication
- 7) Temp labor is billed if incurred, the amount provided is an estimate
- 8) This cost projection may need to be updated if the scope of operations changes