

EMPLOYEE ASSISTANCE PROGRAM AGREEMENT

THIS EMPLOYEE ASSISTANCE PROGRAM AGREEMENT ("Agreement") is made effective the 1st day of January 2025 (the "Effective Date"), by and between Memorial Professional Services, a Michigan domestic nonprofit corporation, which operates the ProMedica Employee Assistance Program ("ProMedica EAP") and the City of Lima ("Company").

WITNESSETH

WHEREAS, ProMedica EAP designs and implements employee assistance programs for employers throughout its service community (a "Program" or the "Program");

WHEREAS, Company desires to contract with ProMedica EAP to perform such services on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained herein, the parties agree as follows:

1. **Program Services.** ProMedica EAP agrees to design and implement a Program for Company by providing the services ("Services") listed in Exhibit A, attached hereto and incorporated herein.
2. **Compensation.** Company shall pay ProMedica EAP at the rates listed in Exhibit A for the Services rendered pursuant to this Agreement. Such amounts shall be payable within 30 days of receipt of ProMedica EAP's invoice. Company and its employees and family are solely responsible for fees, charges, or expenses of third-party providers to whom they have been referred by ProMedica EAP as a result of their participation in the Program. ProMedica EAP has no liability for any such fees, charges, or expenses.
3. **Term and Termination.**
 - 3.1 The term of this Agreement shall commence on the date first written above and shall continue for 1 year, unless sooner terminated as provided herein.
 - 3.2 If either party breaches any of the material provisions of this Agreement (the "Breaching Party"), the non-breaching party may terminate this Agreement upon written notice to the Breaching Party, if the Breaching Party has been given a reasonable opportunity to cure its breach (which reasonable opportunity must be granted during the 30-day period preceding termination of this Agreement, if the breach is curable).
4. **Confidentiality.** All documents, books and records relating to a party and its employees (including client records, medical records, x-rays and historical data) generated by either party in performance of the duties or obligations under this Agreement shall belong to and remain the property of the subject party. Each party shall provide access to such records as may be necessary for the other party to perform the Services contemplated herein. Each party agrees to maintain the confidentiality of the other party, the Program, or ProMedica Health System, Inc. ("ProMedica") and the information acquired during the course of this Agreement, including, but not limited to any strategic, financial, patient, and business

information relating to the other party, the Program, ProMedica or any of their respective affiliates. Each party agrees to maintain the confidentiality of employees participating in the Program. Upon written consent of such employees, confidential information may be provided to such requesting persons and entities pursuant to the rules and regulations of the Program.

Further, the parties shall comply with such provisions of the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder on privacy and confidentiality (45 C.F.R., Parts 160 and 164) concerning patient privacy and confidentiality, as may be applicable.

5. **Independent Contractor.** In the performance of the Services, work, duties and obligations contemplated herein, it is mutually understood and agreed that ProMedica EAP and its workforce are at all times acting and performing as independent contractors and not as partners, agents, employees or joint venturers of Company. As such, ProMedica EAP is responsible only for its own acts or omissions.

6. **Insurance.**

6.1 *Minimum Coverage.* ProMedica EAP shall maintain professional liability insurance, or ensure that clinical affiliates maintain professional liability insurance, with limits no less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate annually. Upon request, ProMedica EAP shall furnish evidence of said professional liability insurance coverage to Company and provide notice to Company at least 14 days' written notice prior to the cancellation, termination or reduction in such coverage.

6.2 *Notice.* ProMedica EAP shall immediately advise Company, in writing, of any claim, investigation, cause of action or threatened cause of action allegedly arising from any act or omission relating to the Services contemplated herein.

7. **Mutual Indemnification.** Company shall indemnify and hold ProMedica EAP, its trustees, officers and employees, harmless from all claims, damages, and costs (including reasonable attorneys' fees) arising from any alleged act or omission of Company. ProMedica EAP shall indemnify and hold Company harmless from all claims, damages and costs (including reasonable attorneys' fees) arising from any alleged act or omission of ProMedica EAP its trustees, officers or employees.

8. **Miscellaneous.**

8.1 *Entire Agreement.* There are no other agreements or understandings, either oral or written, between the parties affecting this Agreement, except as otherwise specifically provided for or referred to herein. Only a written instrument executed by the parties may modify this Agreement. This Agreement cancels and supersedes all previous agreements between the parties relating to the subject matter covered by this Agreement.

8.2 *Counterparts.* This Agreement may be executed in any number of counterparts (including by means of facsimile), each of which shall for all purposes be deemed to be an original and all which together shall constitute one in the same agreement of the parties.

8.3 *Captions.* The captions of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

8.4 *Notices.* All notices, requests, demands and other communications required or permitted to be given hereunder shall be by hand delivery, certified or registered mail (return receipt requested), fax, or overnight courier to the parties set forth below. Such notices shall be deemed given: at the time delivered by hand, if personally delivered; at the time received, if sent by certified or registered mail; when receipt acknowledged, if faxed; and the first business day after timely delivery to the overnight courier.

If to ProMedica EAP:

Memorial Professional Services,
which operates the ProMedica Employee
Assistance Program
MSC – S38805
100 Madison Avenue
Toledo, Ohio 43604
Attn: Vice President, Operations

If to Company:

City of Lima
50 Town Square
Lima, Ohio 45801
Attn: Della Bradford
HR Director

Either party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other party notice in the manner herein set forth.

8.5 *Choice of Law.* This Agreement will be governed by and construed in accordance with the laws of the State of Ohio, excluding its choice of law provisions, in the state and federal courts located in Lucas County, Ohio. The parties' consent to the jurisdiction of the state and federal courts located in Lucas County, Ohio.

8.6 *Binding Effect.* This Agreement shall be binding upon the parties hereto, and their successors, heirs, devisees, distributees, assigns, legal representatives, executors, and administrators.

8.7 *Non-Waiver.* No part of this Agreement may be waived except by the written agreement of the parties. Forbearance in any form from demanding performance is not a waiver of performance. Until complete performance under this Agreement, the party owed performance may invoke any remedy under this Agreement or under law, despite its past forbearance.

8.8 *Severability of Provisions.* If any term or provision of this Agreement shall be found to be illegal or otherwise unenforceable, such finding shall not invalidate the whole Agreement. Such term or provision shall be deemed modified only to the extent necessary by the adjudication to render such term or provision enforceable.

8.9 *Assignment.* Company may not assign or subcontract any part of its duties, obligations, or rights under this Agreement without the prior written consent of ProMedica EAP. However, ProMedica EAP may assign its rights and obligations under this Agreement to any of its affiliated entities without written consent of Company.

8.10 *Authority to Sign.* Each party's representative signing any agreement or other document has the authority to sign and bind such party.

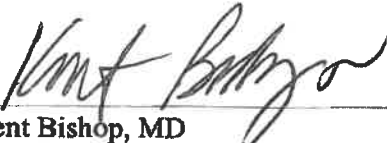
8.11 *Nondisclosure.* Each party agrees to maintain and keep confidential any and all information derived from its relationship with the other party, and the information will not, without the prior written consent of the disclosing party, be disclosed by the receiving party, its officers, directors, partners, employees, affiliates, agents or representatives, in any manner whatsoever. This provision survives the expiration or sooner termination of any agreement.

8.12 *Medicare Access to Books and Records.* If the Secretary of Health and Human Services or the Comptroller General of the United States or their representatives determines this Agreement is a contract described in Section 1861(v)(1) of the Social Security Act, 42, U.S.C. Section 1395x(v)(1)(I) as amended from time to time, until the expiration of four years after the furnishing of services under this Agreement, upon the request of the Secretary or Comptroller General or their duly authorized representatives, The parties will make available to the organization requesting the materials and to each other such books, documents, and records as are necessary to certify the nature and extent of compensation paid to Company pursuant to this Agreement. Company will notify ProMedica EAP of such request within 10 business days and will promptly provide to ProMedica EAP copies of all documents provided to the requestor.

[Signature page to follow]


IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the date first aforesaid.

**MEMORIAL PROFESSIONAL
SERVICES, which operates the
PROMEDICA EMPLOYEE
ASSISTANCE PROGRAM**



Kent Bishop, MD
President/Chief Medical Officer


CITY OF LIMA

By: 

Its: mayor

By: 

Its: Law Director

By: 

Its: HR Director

EXHIBIT A

ProMedica EAP Services

ProMedica EAP will assist Company in establishing and administering a Program, as provided in this Agreement, for the benefit of Company's employees, and such Services shall include:

1. In concert with designated employees of Company, develop a program policies and procedures statement (the "Program Policies and Procedures Statement") to define the Program's activities and to direct Company's interactions with troubled employees. The Policies and Procedure Statement shall, among other things, identify and discuss the following areas:
 - (a) the problem areas to be covered (e.g., stress, depression, marital problems, emotional problems, financial problems, alcoholism, drug abuse, legal problems and others);
 - (b) the manner in which Company's employees and family members may obtain help;
 - (c) confidentiality;
 - (d) training and orientation of Company's supervisors and managers;
 - (e) the development and distribution of educational materials;
 - (f) outcome and utilization reporting;
 - (g) Company's employee evaluation and follow-up; and
 - (h) ProMedica EAP will ensure that the Program provides critical incident stress management services.
2. Conduct orientation and training seminars for Company's supervisors, managers, and employees by providing information on identification and evaluation of job performance problems, handling job performance problems, and effectively utilizing the Services of the Program. ProMedica EAP will provide training to Company. Such training for Company's supervisor, managers, and employees will include:
 - (a) initial consultation with Company's supervisors and managers to determine needs, current practices and critical problems;
 - (b) development and refinement of the Policies and Procedures Statement;
 - (c) basic introduction to issues of mental health, family dynamics, stress, depression, chemical dependency and drug free safety programs;
 - (d) principles of observation and documentation in identification of troubled employees;
 - (e) interaction with troubled employees and the mechanics of referrals;
 - (f) presentations to Company's employees and family members regarding the services offered by the Program and how to access the Program's services; and
 - (g) speakers to educate Company's employees on wellness, life, and work skill topics based upon a list of available seminars ProMedica EAP offers that are updated on an ongoing basis.

3. The Program will provide the following:
- (a) counselors to staff a toll-free telephone number 24-hours per day that is accessible to Company's employees and family members to respond to crisis situations, and, if necessary, arrange for emergency services and other referrals;
 - (b) adopt safeguards to assure that the Program's counseling services are conducted in a manner designed to preserve the privacy of Company's employees and family members;
 - (c) familiarize itself with Company's benefits program to adequately inform Company's employees regarding possible insurance coverage for referral services and as to eligible providers for such services;
 - (d) follow-up, as necessary, to monitor Company's employees' progress through the Program;
 - (e) prepare quarterly reports on the Services utilized, which may include quantitative information, participation, referrals, demographics, disposition of cases, and status of current cases and will ensure that Company's employees and family members are not identified in such reports;
and
 - (f) provide assistance and information when responding to calls of Company's employees and their family members who have been referred to or independently requested the Program's services. A counselor from the Program will provide the caller the required information and, when necessary, schedule short-term counseling sessions with a counselor of the Program or with other professional providers or, if appropriate, refer Company's employees or family members to appropriate medical, legal or financial professionals. Company's employees or family members can receive up to 8 visits per year per problem with a counselor of the Program without charge.
4. ProMedica EAP will ensure that Program provides Company with quarterly employee utilization reports and a quarterly newsletter regarding the Program for Company to distribute to its employees.

Company shall pay ProMedica EAP \$2.60 per employee per month for the per capita charge as payment for the 8 counseling sessions offered to Company's employees or family members which shall be paid as stated in this Agreement. Excessive no-show appointments may be counted by ProMedica EAP toward the 8 sessions. Company will receive four (4) free training hours annually, with additional requests for training provided at the rate of \$250 per hour. ProMedica EAP orientation sessions are provided at no cost to Company.