

EVERSIDE CLIENT AGREEMENT

This Everside Client Agreement (“Agreement”) is entered into on _____, 2022, by and between Everside Health, LLC, a Delaware limited liability company (“Everside”) and West Lafayette Community School Corporation, an Indiana nonprofit corporation (the “Client”).

WHEREAS, Everside provides comprehensive primary care medical services to employees and dependents of employees via on-site and/or near-site health centers;

WHEREAS, Client wishes to offer to its retirees under 65 years of age, employees and their eligible dependents the comprehensive primary care medical services offered by Everside; and

WHEREAS, Client and Everside wish to memorialize their agreement as set forth below.

THEREFORE, for good and valuable consideration the sufficiency and receipt of which is hereby acknowledged by the parties, the parties agree to the following terms and conditions:

1. Everside Services

- a) Everside operates direct primary care health centers (the “Health Centers”).
- b) Everside shall provide comprehensive primary care medical services (the “Services”) as outlined in **Exhibit A** to this Agreement and incorporated herein.
- c) Client’s retirees under 65 years of age, employees and their eligible dependents, including spouses, partners, and their children 2 days old or older (collectively “Eligible Members”) may participate in the program. The Client and Everside both acknowledge and agree that Eligible Members shall not include any persons who have elected a state or federal healthcare program (e.g., Medicare, Medicaid, Tricare) as primary coverage, but may include Medicare Secondary Payor Beneficiaries.
- d) Services are available to all Eligible Members (also referred to as the “Patients”).
- e) Services are provided through physicians and non-physician practitioners duly licensed to practice medicine. Everside shall be responsible for the selecting and retaining of the physicians and non-physician practitioners.

2. Health Centers

Patients shall have access to Services at Health Centers listed in **Exhibit B**. Everside shall be responsible for the maintenance of the Health Centers.

3. Exclusivity

During the term of this Agreement, Client hereby retains Everside as the exclusive provider of on-site and near-site health center, primary care and wellness services.

4. Compensation

As consideration for Everside providing the Services, Client shall pay to Everside a fee of \$36 per month per each Eligible Member (the “Fee” or the “Fees”). The Fees shall be payable each month in advance and shall apply for the Initial Term of this Agreement, except that the Fees for the first month of the Initial Term shall be waived.

On or about January 1st of 2023 and each subsequent year during the Initial Term and any Renewal Term, the Fees will increase 3.5% over the applicable Fees for the immediately preceding Initial Term or Renewal Term. Everside shall provide sixty (60) days advance notice to Client of any alternate or additional change in the Fees following the initial contract term.

5. [Optional] Patients with a High Deductible Health Plan and a Health Savings Account Feature

- By checking this box, Client agrees that the Fee shall only cover preventive services for Patients contributing to a health savings account associated with a High Deductible Health Plan until the Patient’s deductible has been satisfied. Until the deductible is satisfied, Everside will charge Patients fair market value for non-preventive care. Client acknowledges and agrees that its selection of a fair market value rate is not based on any statement made by Everside.
 - \$0.00
 - \$10.00
 - \$20.00
 - \$25.00
 - \$30.00
 - \$ _____
- By checking this box, (and if allowable per applicable federal laws and regulations, including but not limited to ERISA) EVERSIDE will credit Client the amount of fair market value payments collected from Patients for non-preventive care services (the “FMV Credit”). The FMV Credit will be reflected in the monthly invoices, as set forth immediately below.

6. Invoices and Invoicing

- a) Invoices are issued based on the number of Eligible Members for the current calendar month. Client shall submit to Everside a current census of covered lives by the 7th calendar day of each month, listing those employees and dependents eligible for insurance as of the 1st calendar day of the same month, so that Everside can ensure accurate invoicing for Patients.
- b) Everside shall provide to Client an invoice between the 15th and the 21st of the month that sets forth the amount of the Fee, amounts owing pursuant to **Exhibits C & E**, *minus any FMV Credit*, as applicable, (the “Invoice Amount”) due and payable by Client as of the first of the same calendar month. Such invoice shall set forth the number of currently Eligible Members.
- c) Payment shall be made by ACH Direct Deposit. Payment terms are net thirty (30) days from the invoice date. If Client fails to pay an invoice within 40 days from the invoice date, then Client shall be deemed in breach and shall be charged interest at the monthly rate of 1 and ½% of the outstanding balance until said invoice is fully paid. The charging of interest shall not limit or restrict Everside from taking any other lawful actions or seeking other remedies for such breach.

7. Data and Communication

- a) Eligibility Mechanism:
 - i. Eligibility for Everside Health Patients shall be determined through the use of the eligibility census files for Client’s adult and child populations.
 - ii. Client will provide Everside Health eligibility files for the adult and minor populations of its employees and dependents within 30 days of this Agreement being entered into, and then on-going monthly eligibility files.
 - iii. Eligibility files must include Social Security Numbers in addition to other data.

- iv. Not providing timely and complete data, including Social Security Numbers, may result in reduced Patient engagement and impaired billing procedures.
- v. Client shall be responsible for ensuring that Eligible Members shall not include any children under 3 years of age, or any persons who have elected a state or federal healthcare program (e.g., Medicare, Medicaid, Tricare) as primary coverage.
- b) Data Access: Client shall, at its sole expense, provide the following data access:
 - i. Access to at least 3 years of prior (historic) medical and pharmacy claims experience data and corresponding eligibility data.
 - ii. Access to monthly data feeds of medical and pharmacy claims experience data and corresponding eligibility data throughout the term of the Agreement.
- c) Communications:
 - i. Client shall provide the home mailing address, email address, and phone numbers for all of Client’s adult Eligible Members. In the event that Client does not provide email addresses for at least 90% of Eligible Members ages 18 and older, then Client shall be responsible for additional direct mail marketing costs.
 - ii. Client shall implement Everside Health’s marketing campaign process, which delivers a time-based series of digital, print and other communications shown to maximize engagement of Eligible Members. The marketing campaign process allows for customization within a prescribed set of parameters. In the event that Client requires additional customization outside of those parameters, then Client shall be responsible for additional marketing costs.
 - iii. Client shall educate Eligible Members about the Everside Health benefit through the benefits enrollment process (new hire and annual renewal).
 - iv. To reduce disruption to the communication Client must adhere to the Technology Compatibility Requirements of Everside Health (attached at **Exhibit D**).
 - v. Patients can manage their communication preferences, including opting out of various communications, directly with Everside Health.

8. Term and Termination

- a) This Agreement will commence on March 28, 2022 (“Commencement Date”). The initial term shall be three (3) years from the Commencement Date or, in the event that the Health Center is not open on the Commencement Date, the date the Health Center opens (the “Initial Term”).
- b) The Initial Term shall be followed automatically by successive one (1) year renewal terms (“Renewal Terms”), unless either Party provides written notice not less than ninety (90) days prior to the end of the current term.
- c) Either party shall have the right to terminate this Agreement for cause, where “for cause” shall mean a material breach of any terms or conditions of this Agreement by the other party, provided such breach continues uncured for thirty (30) days after receipt by the breaching party of written notice of such breach from the non-breaching party.
- d) Either Party shall have the right to terminate this Agreement for convenience at any time by providing 60 days’ prior written notice to the other Party.
- e) Either party may terminate this Agreement immediately if the other party files for bankruptcy or reorganization, becomes insolvent, or makes a general assignment for the benefit of its creditors and such is not dismissed within sixty (60) days.
- f) A Patient’s membership will terminate upon such Patient’s termination of employment or COBRA being exhausted. As available, Everside may offer to such Patient an individual retail membership at any near-site Health Centers established by Everside.

9. Termination by Everside of a Patient’s Membership Agreement

On rare occasions, Everside may have to terminate a Patient’s membership with Everside due to that Patient’s highly disruptive, disrespectful, or criminal behavior. For the protection of our staff, physicians,

and other Patients, Everside retains the right to dismiss such Patients. Everside agrees to provide an accounting of the number of patients that have been dismissed, but Everside will not specifically identify the Patient by name. The termination of any Patient's membership with Everside shall not result in termination of this Agreement.

10. Neither Insurance Carrier Nor Fiduciary

Client acknowledges that Everside is not an insurance carrier and does not provide comprehensive health insurance coverage nor does it enter into a contract of insurance with Patients. Everside's arrangement with Patients is not a substitute for health insurance or other health plan coverage and is not intended to replace any existing or future health insurance plan coverage. Client is responsible for all decisions regarding health benefits it provides to its employees. In no circumstance shall Everside be considered an Employee Retirement Income Security Act of 1974 ("ERISA") fiduciary, co-fiduciary, trustee, or sponsor of any Client benefit plan. Everside affirmatively disclaims all responsibility for the ERISA compliance of Client benefit plans.

11. Clinicians Provide Clinical Services

Client understands and acknowledges that Everside utilizes a contracted provider group of physicians and licensed or certified practitioners, and it is those physicians and licensed or certified practitioners and not Everside Health, LLC, who will actually perform all diagnostic, treatment, and other clinical services involving the application of medical science to any medical condition.

12. Medical Records

Everside shall cause Everside physicians and providers to maintain medical records in accordance with professional standards and applicable state and federal laws, including the HIPAA Privacy and Security Rule. Everside shall have ownership and control of such medical records and under no circumstances shall Client have access to any medical record without the direct written authorization of the subject of such record. At all times, the use or disclosure of protected health information shall be subject to all applicable statutes and regulations relating to the privacy and security of confidentiality of patient records, including HIPAA and applicable state laws.

13. Indemnification

Everside agrees to be responsible for any negligent acts or negligent omissions by or through itself or its agents, employees and contracted servants. Each Party further agrees to defend itself and themselves, and pay any judgments and costs arising out of such negligent acts or negligent omissions, and nothing in this Agreement shall impute or transfer any such responsibility from one to the other.

14. Insurance

Everside, at Everside's sole cost and expense, shall maintain continuous coverage of policies of professional liability, general liability and worker's compensation insurance for the term of this Agreement. The professional liability policy will provide for minimum coverage limits of no less than One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) annual aggregate. The general liability insurance policy will provide for minimum coverage limits of no less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) annual aggregate. The worker's compensation insurance policy or policies shall provide for minimum coverage limits consistent with applicable laws.

15. Non-Recruitment and Non-Solicitation

Each party recognizes that the employees, contractors and third-party providers, as applicable, of the other party, and those persons' loyalty and service to that other party, constitute a valuable asset. Accordingly, each party agrees not to canvass, solicit directly or indirectly, contract, or hire any such person(s) of the other party during the term of this Agreement; and for twelve (12) months after any termination of this Agreement; and for twelve (12) months following termination of employment or the working relationship

of such person with the other party. (Such person(s) shall include but not be limited to employees of a party; 1099 contractors of a party; physicians, RNs, MAs, NPs, and other professional medical personnel that may provide Services through Everside via a physician or professional personnel network, etc.)

16. No Billing of Federal Healthcare Programs

Client and Everside both acknowledge and agree that neither party is to bill any federal healthcare program as it relates to the Services rendered hereunder.

17. Choice of Law, Dispute Resolution and Arbitration

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without consideration of the conflicts of laws provisions thereof. The Parties hereby consent and submit to the exclusive jurisdiction of the courts within the State of Indiana in any action or proceeding instituted under this Agreement.
- b) The Parties shall make a good faith effort to resolve any disputes that may arise in furtherance of this Agreement. If the parties are unable to resolve the dispute through informal discussions, either Party may submit a written complaint to the other Party describing and proposing a manner of resolving that dispute. The Party receiving that complaint shall respond by accepting, rejecting, or modifying that proposal, in writing, within twenty (20) days of the date that it receives the complaint. If a resolution is not reached upon such response being provided to the other Party, then either Party may move forward with arbitration as set forth below.
- c) Any dispute arising out of, under, in connection with, or relating to the execution, interpretation, performance, or non-performance of this Agreement (including the validity, scope and enforceability of this provision) shall be settled by binding arbitration. The Parties shall submit the dispute to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Initially the costs associated with the arbitration, including the arbitrator, shall be borne by the parties equally. One (1) arbitrator shall be utilized for the arbitration and mutually chosen by the Parties. If the Parties cannot agree on an arbitrator, then each Party shall select an arbitrator and those two arbitrators shall select a third. The third arbitrator shall alone hear the dispute and conduct the arbitration. The costs and fees associated with each party's chosen arbitrator selecting the third arbitrator shall be the sole responsibility of each respective party. Each of the Parties shall cooperate with the arbitrator and shall provide him or her with all information in their possession or under their control necessary or relevant to the matter being determined. The Parties shall use their best efforts to cause any arbitration hearing that may be held hereunder to be completed as quickly as practicable, and if possible, within one (1) day. The arbitrator shall be required to make his or her award as soon as possible and if at all practicable, within fourteen (14) days after the conclusion of the arbitration hearing. Disputes involving more than two (2) Parties shall be settled by one arbitration. The arbitrator may determine all questions of law and jurisdiction including questions as to whether the dispute is arbitrable. The arbitrator has the right to award interim damages, and shall have the discretion, but is not required, to enter an award of costs including reasonable attorney fees, interest and costs of the arbitration including the arbitrator's fees.
- d) Notwithstanding the provisions above, either Party shall be entitled to apply to a court for injunctive or other equitable relief in any case involving a breach or alleged breach by the other Party of any obligations set out in this Agreement relating to the use, protection or confidentiality of any proprietary or confidential information or a breach of the exclusivity clause. The Parties agree that the Party seeking such injunctive or other equitable relief or a breach of the exclusivity clause shall not be required to post a bond or other security.

18. Assignability

Neither party shall assign any rights or delegate any duties under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Everside may assign this Agreement to a subsidiary or to an affiliated entity under common control without Client's consent.

19. Notices

- a) Any and all notices, requests, payments, demands and other communications, required or permitted hereunder shall be given to the respective parties in writing, either by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, addressed to Everside or Client, as the case may be, as follows:

If to Everside: Everside Health, LLC
1400 Wewatta Street, Suite 350
Denver, CO 80202
Attn: CEO

With a copy to:
Everside Health, LLC
1400 Wewatta Street, Suite 350
Denver, CO 80202
Attn: General Counsel

If to Client: West Lafayette Community School Corporation
1130 N. Salisbury Street
West Lafayette, Indiana 47906
Attn.: _____

With a copy to: _____

Or at such other address(es), and to such other person(s) as either party may from time-to-time designate by notice given as herein provided.

- b) Notices shall be deemed effective immediately if personally delivered, or seventy-two (72) hours after deposit in the United States mail if sent by certified or registered mail.

20. Amendments

No modification, amendment or addition to this Agreement, nor waiver of any of its provisions shall be valid or enforceable unless in writing and signed by both parties.

21. Confidentiality

[Intentionally omitted.]

22. Entire Agreement

This Agreement and the documents referred to herein contain all of the terms and conditions agreed upon by the parties with respect to the subject matter hereof. No other understanding, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind either party.

23. Severability

In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement which shall remain in full force and effect.

24. Binding Effect

This Agreement shall be binding on the parties, their parent companies if applicable, their legal representatives, successors and permitted assignees.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first written above.

EVERSIDE
Everside Health, LLC

CLIENT
West Lafayette Community School Corporation

By: _____
Name: Chris Miller
Title: CEO

By: _____
Name: _____
Title: _____

EXHIBIT A
PRIMARY CARE SERVICES

The following office-based care is a representative menu of services. Available services vary by location.

Offering	What is it?
Comprehensive personal evaluation for children and adults	Whole person evaluation and action plan development. Comprehensive evaluation of health history and risks, conditions, family history, medications, fitness, nutrition, and emotional health
Women’s care	Comprehensive evaluation of a woman’s health, including gynecologic screening and treatment
Children’s care	Routine well visits as well as sick visits. Routine health screenings. Sports, school and camp physicals
Emotional health	Screening at every visit for mood disorders, evaluation and treatment with follow up
Illness visits	Sick visits available same day or next day (weekdays). If needed, onsite testing is available as well as antibiotic dispensing if clinically needed
Screening	Comprehensive evaluation of each person’s health screening needs including but not limited to women’s health, men’s health, depression, anxiety, TB, immunizations, colon cancer screening, heart health screenings
Injury treatment	Treatment of minor injuries including but not limited to splinting, laceration repair, joint evaluation, minor head injury treatment, fall treatment
In-office procedures	All offices offer: Immunizations, joint care including drainage and injections, skin treatment (see dermatology), splinting, Pap smear, hemorrhoid treatment, ingrown toenail treatment, blood draws. The costs of medical devices, DME, or injectables involved in the procedure are not covered by Everside. Additional procedures or services may be offered at certain doctor’s offices.
Dermatology	Rash evaluations, skin biopsies, wart treatment, skin tag treatment, cryotherapy, acne treatment, cyst removal
Orthopedic care	Evaluation of joint injuries, injection of joints, trigger finger treatment, splint placement, carpal tunnel treatment, arthritis treatment, exercise prescriptions
Chronic condition care	Screening for chronic conditions, comprehensive treatment of chronic conditions such as diabetes, high blood pressure, cholesterol, heart disease, thyroid disorders, depression, anxiety, arthritis, obesity

Urgent/acute care	Same day and next day appointments (weekdays), onsite antibiotics and other acute medications, Care team’s phone number for after-hours urgent needs
Emergency Department and hospital follow up	Follow up visit and treatment plan for post-hospital care
Nutrition	Evaluation of nutrition needs and weight management
Immunizations	Evaluation of immunization needs, administer adult immunizations. The cost of the actual immunization is not covered by Everside, only the professional services.
Referral management	Coordinate referrals to high quality median cost specialists when clinically needed
On-site diagnostics	Strep test, pregnancy testing, urinary tract infection testing, flu test, peak flow measurement, EKG, rhythm strip, routine vision screening
Blood draws	Phlebotomy for labs as indicated for clinical care, including screening, health maintenance and sick care
Biometric screening	Screening for high blood pressure, obesity, high cholesterol, diabetes, heart disease risk, metabolic syndrome
Medication management	Medications on-site that can be dispensed in the office, including medications for illnesses such as antibiotics, as well as chronic disease medications for conditions such as diabetes, asthma, high blood pressure, depression, high cholesterol, and more (please note we carry no controlled substances such as narcotics)
Covered Labs	The following labs are performed on-site and included at no additional cost: Lipid panel, Fasting glucose, Cholesterol, HDL/LDL, H1C, Triglycerides. Additional labs may be performed onsite, but will be billed according to the Agreement.

Virtual Care

Offering	What is it?
Secure messaging to your doctor	Web based portal allows for secure message to your doctor or care team.
Phone access to your doctor	Following initial personal evaluation, patients will receive a phone number to access their care team
Telephone visits	We offer scheduled phone visits as an alternative to in-person visits. This can be for a new problem, follow up, results discussion, coordination with specialists, as well as other needs
Coordination of care	Our care teams strive to make sure that care is coordinated across emergency care, specialty care, hospital care, medication interactions, referral follow up, and more

Online health tools	We use an app that provides secure health tools to get health information, access on-line modules to help manage conditions and medications, and engage in virtual visits

Population health

Offering	What is it?
Referral management	For important referrals to specialists, we help with scheduling appointments, follow up with specialists/tests, coordinate medications for potential interactions or duplications as well as help to find the right specialist
High risk management	We use tools to identify people who have risk factors they may not know about, and proactively contact them to help them become aware of their risks and how to mitigate them
Care planning	For people with complex health care needs, we make sure a comprehensive care plan is in the medical record so that the person receives the right care at the right time
Cancer screening	We make sure people have the knowledge they need to make the right decisions about cancer screenings, and remind them when they are due or overdue for screening
Chronic condition care	When people are due for ongoing care, we empower the patient through counseling and education on what can be done to improve their condition. This includes reminding patients to get the care they need, such as due for a blood pressure check or follow up labs
Care needs reminders	We use analytic tools that help us at every visit in person or telephonic visit to remind people of care they may be due for
Medication management	Review of medications for appropriateness, safety, effectiveness, interactions, new medication starts, refills, e-prescribing
E-Consults	Provide physicians with access to a wide network of specialists for virtual consults on a patient’s condition

Exhibit B: Health Center Locations

Everside Health Health and Wellness Center, 2701-B Kent Avenue Door #8, West Lafayette, IN 47906

While the above site will serve as the primary site, Eligible Members also have access to other Everside clinics across the United States should they need care while traveling and a local facility is available.

Exhibit C: Laboratory and Pharmaceutical Expenses

1. **Labs.** Lab tests may be recommended to Patients based on their individual needs. Everside shall bill, and Client shall pay for the lab testing costs Everside incurs on behalf of Client from its contracted lab vendor. Such costs will be reflected on regular invoicing Client receives in accordance with the Agreement. Client may request de-identified information related to actual lab services ordered if desired.

Everside will also include lab testing costs and Medical Review Officer costs on regular invoicing to Client when Everside incurs these costs from the relevant lab vendor and MRO as part of drug testing services.

2. **On-site Pharmaceutical Supplies.** The Everside Health Centers stock a formulary of commonly prescribed generic medications, which providers may dispense to Patients onsite. Everside will bill, and Client shall pay, the costs for medications as dispensed. Such costs will be reflected on regular invoicing Client receives in accordance with the Agreement. Client may request de-identified information related to the actual medications dispensed.
3. Everside reserves the right to make any reasonable changes associated with any equipment or supplies related to the laboratory tests and pharmaceuticals regarded in this **Exhibit C** based on the input and guidance of the providers.

Exhibit D: Client Technology Requirements to be compatible with Everside Health's IT systems

I. Member Portal / Digital Experience

A. URLs:

1. <https://my.Eversidehealth.com/>
2. <https://members.Eversidehealth.com/>

Please make sure these web sites are not blocked and there are no content restrictions that may cause the portal to not function as expected.

B. Browsers that have been confirmed to be compatible with the member portal

1. Chrome
2. Firefox

Most versions of each browser will be compatible, but we highly recommend that the user download the latest version.

II. Emails

A. Please make sure that emails sent from the following go unblocked:

1. 13.111.113.184 (IP address)
2. em.Eversidehealth.com
3. Eversidehealth.com
4. eclinicalmail.com

III. Other URL's to whitelist:

1. Eversidehealth.com
2. click.em.Eversidehealth.com
3. image.em.Eversidehealth.com

IV. Whitelisting IP Addresses/Domains and Creating Safe Sender Lists for Email

A. Office 365 / Exchange Online Protection (EOP)

1. <https://docs.microsoft.com/en-us/office365/securitycompliance/create-safe-sender-lists-in-office-365>

B. Exchange 2010

1. [https://docs.microsoft.com/en-us/previous-versions/office/exchange-server-2010/bb125225\(v=exchg.141\)](https://docs.microsoft.com/en-us/previous-versions/office/exchange-server-2010/bb125225(v=exchg.141))

C. G Suite

1. <https://support.google.com/a/answer/60751?hl=en>

Exhibit E: Optional Additional Services

At the request of Client, Everside may provide additional services at additional cost to Client. Examples of additional services include, but are not limited to:

- a. Adult vaccinations (including flu shots)
- b. Occupational health services
 - i. DOT exams
 - ii. Vision exams (limited)
 - iii. Drug/alcohol screening
 - iv. Pre-employment physical exams
 - v. Pre-employment drug screenings
- c. Workers Compensation (workers comp initial injuries only)
- d. Covid-19 Rapid (Antigen) Testing at the price of \$47.50 per test

Everside reserves the right to change the price per test any time; provided, however that in the event of a price increase, Everside shall provide Client with fourteen (14) days prior notice. Client acknowledges that such notice shall not require Client's approval. Upon Client's written request, Everside shall stop providing Covid-19 antigen tests to the Client's Members; provided, however, that any Covid-19 antigen tests performed before Everside receives such request shall be paid for by the Client.

Neither Everside nor any of its partners, principals, directors, officers, employees, contractors, subcontractors, affiliates, subsidiaries, agents or representatives makes any representation or warranties, either express, implied, or otherwise, regarding Covid-19 testing services. Client expressly acknowledges and agrees that its use of Covid-19 testing services is at Client's sole risk and that Covid-19 may be transmitted within Client's employee/member population as a result of unintentional exposure at a Health Center or transmission within the workplace. In no event will Client or Everside (or their respective partners, principals, directors, officers, employees, affiliates, subsidiaries, contractors, subcontractors, agents, representatives, successors and assigns) be liable for the interruption or loss of business, or any lost profits, savings, revenue, goodwill (regardless of whether such losses are deemed direct damages), or incidental, indirect, consequential, punitive, special, exemplary or similar such damages relating to Covid-19 testing, even if such party has been advised of the possibility of such damages. Client will hold Everside harmless for any inaccuracies in results received from tests and analyzers; any lack of functionality of any test kits, individual tests, and analyzers; Everside's reliance on the results from any test kits, individual tests, and analyzers; and any delays in order processing, shipment, or arrival of test kits and analyzers. The limitation of liability contained in this Exhibit E shall not apply to claims for medical malpractice brought directly by patients against Everside; such claims will be covered pursuant to Everside's professional liability coverage.

Additional services may not be available at all health center locations.

Exhibit F: Business Associate Agreement

This Business Associate Agreement (hereinafter “BAA”) effective this _____, 20____, is by and between the Everside Single Affiliated Covered Entity (“Everside” or “Business Associate”) and _____ [Client’s Health Plan Name] (“Client” or “Covered Entity”).

RECITALS

WHEREAS, the Client and Business Associate are obliged to comply with certain requirements set forth in the Standards for Privacy of Individually Identifiable Health Information under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations including the 2013 HIPAA Omnibus Rule: Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules under the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and the Genetic Information Nondiscrimination Act (“GINA”); (collectively referred to as “HIPAA”); and

WHEREAS, Business Associate and Client have entered into, or intend to enter into, an Everside Client Agreement (“Agreement”) pursuant to which Business Associate establishes and manages an employer based health and welfare clinic (the “Clinic”) for the benefit of Client’s employees and/or other members or beneficiaries; and

WHEREAS, Business Associate contracts with health care providers to provide services at the Clinic and has business associate agreements with such providers; and

WHEREAS, in the course of managing the Clinic, Business Associate may receive, host, use and transmit Protected Health Information (“PHI”); and

WHEREAS, the Client anticipates that it may disclose PHI to Business Associate; and

WHEREAS, this BAA sets forth the terms and conditions pursuant to which PHI will be handled between the Business Associate and the Client and with third parties during the term of this BAA and thereafter.

NOW, THEREFORE, in consideration of the mutual promises below, and the exchange of PHI contemplated by this BAA, Business Associate and Client agree as follows:

1. Definitions
 - a. Breach shall have the meaning given to such term in 45 CFR §164.402.
 - b. Business Associate shall have the meaning given to such term in 45 C.F.R. §160.103.
 - c. Covered Entity shall have the meaning given to such term in 45 C.F.R. § 160.103.
 - d. Designated Record Set shall have the meaning given to such term under the Privacy and Security Rule, including, but not limited to, 45 C.F.R. § 164.581.
 - e. Disclose or Disclosure shall have the meaning given those terms in 45 C.F.R. §160.103.
 - f. Electronic Health Record shall have the same meaning as the term “electronic protected health information” in the American Recovery and Reinvestment Act of 2009, §13400(5).
 - g. Electronic Protected Health Information shall have the meaning given such term in 45 CFR §160.103.
 - h. Genetic Information shall have the meaning given to such term in 45 CFR §160.103.
 - i. Health Care Operations shall have the meaning given to such term under the Privacy and Security Rule, including 45 C.F.R. § 164.581.

- j. Health Care Provider shall have the meaning given such term in 45 C.F.R. §160.103.
- k. HIPAA means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-91, as amended, and related HIPAA regulations at 45 C.F.R. §§ 160-164.
- l. Individual shall have the meaning given to the term under the Privacy and Security Rule, including, but not limited to, 45 C.F.R. § 160.103. It shall also include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.582(g).
- m. Payment shall have the meaning given such term in 45 C.F.R. § 164.581.
- n. Privacy and Security Rule shall mean the Standards for Privacy of Individually Identifiable Health Information and Security Standards for the Protection of Electronic Protected Health Information that are codified at 45 C.F.R. parts 160 and 164, subparts A, C, and E.
- o. Protected Health Information or PHI shall have the meaning given such term under the Privacy and Security Rule in 45 C.F.R. §160.103. It shall include any information created or received by Business Associate from or on behalf of Client.
- p. Required By Law shall have the meaning given to the term under the Privacy or Security Rule.
- q. Security Incident shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system as provided in 45 C.F.R. § 164.304.
- r. Subcontractor shall have the meaning given to the term under 45 CFR §160.103.
- s. Unsecured PHI shall have the meaning given to such term under the Privacy and Security Regulations at 45 C.F.R. §164.402. Specifically, unsecured PHI shall mean PHI that is not secured by a technology standard approved by the Secretary of HHS that renders PHI unusable, unreadable, or indecipherable to unauthorized individuals.

2. Obligations of Business Associate

- a. Permitted Uses. Business Associate shall not use or disclose PHI except for the purpose of performing Business Associate's obligations under the Agreement or as Required by Law or authorized by the Individual who is the subject of the PHI.
- b. Permitted Disclosures. Business Associate may disclose PHI for the purpose of performing Business Associate's obligations under the Agreement and BAA. So long as such use or disclosure does not violate the Privacy and Security Rule, the Agreement, or this BAA, Business Associate may use PHI (a) as is necessary for the proper management and administration of Business Associate's organization, or (b) to carry out the legal responsibilities of Everside, and (c) to fulfill its responsibilities under the Agreement. If Business Associate discloses PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such PHI will be held confidential as provided pursuant to this BAA and only disclosed as Required by Law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify Everside of any breaches of confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- c. Prohibited Uses and Disclosures. Business Associate shall not use or disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. Everside shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent or authorization of the Individual; however, this prohibition shall not affect payment by Client

- to Everside for services pursuant to the Agreement. Business Associate shall not use or disclose Genetic Information for underwriting purposes in violation of HIPAA.
- d. **Appropriate Safeguards.** Business Associate shall develop, implement, maintain, and use appropriate safeguards as are necessary to prevent the use or disclosure of the PHI other than as permitted by the Agreement or this BAA, and to implement administrative, physical and technical safeguards as required by the Privacy and Security Rule in order to protect the confidentiality, integrity, and availability of PHI that Everside creates, receives, maintains, or transmits, to the same extent as if Everside were a client.
 - e. **Business Associate's Agents.** Business Associate shall ensure that any agents, including subcontractors, to whom it provides PHI, agree, in writing, to the same restrictions and conditions that apply to Business Associate with respect to such PHI. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.
 - f. **Designated Record Set.** If Business Associate maintains a designated record set on behalf of Client, Everside shall make such information available to Client for inspection and copying within thirty (30) days of a request by Client to enable Client to fulfill its obligations under the Privacy and Security Rule. If Business Associate maintains an Electronic Health Record on behalf of Client, Business Associate shall provide such information in electronic format to enable Client to fulfill its obligations under HIPAA. Likewise, within thirty (30) days of receipt of a request from Client for an amendment of PHI or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such PHI available to Client for amendment. If any individual requests an amendment of PHI directly from Business Associate or its agents or subcontractors, and the PHI is originally received from Client, Business Associate will notify Client in writing within thirty (30) days of the request. Any approval or denial of amendment of PHI maintained by Business Associate or its agents or subcontractors shall be the responsibility of Client. Upon approval of Client, Business Associate shall appropriately amend the PHI maintained by it, or any of its agents or subcontractors.
 - g. **Accounting Rights.** Within thirty (30) days of notice by Client of a request for an accounting of disclosures of PHI from an Individual under 45 CFR §164.528, Business Associate and its agents or subcontractors shall make available to Client the information required for Client to provide an accounting of disclosures in order to enable Client to fulfill its obligations under the Privacy and Security Rule. Business Associate will not be obligated to record or otherwise account for disclosures of Client's PHI if Client need not account for such disclosures. Business Associate shall maintain the disclosure information for at least 6 years following the date of the accountable disclosure under this Section of the BAA. In the case of a direct request for an accounting from an Individual, Business Associate shall notify Client of the request and shall provide such accounting of disclosures to the Individual. Business Associate shall not disclose any PHI unless such disclosure is required by law or is in accordance with this BAA and shall document such disclosures.
 - h. **Governmental Access to Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Health Information available to Client and to the Secretary of Health and Humans Services (HHS) for purposes of determining Client's compliance with the Privacy and Security Rule.
 - i. **Minimum Necessary.** Business Associate and its agents or subcontractors shall request, use, and disclose only the minimum amount of PHI necessary to accomplish the purpose of the request, use, or disclosure.

- j. Notification to Client of Breach or Unauthorized Disclosure. Everside shall notify Client within twenty (20) business days of any suspected or actual breach of security, intrusion or unauthorized access, use or disclosure of PHI not permitted by the Agreement and this BAA of which Business Associate becomes aware, and/or any actual or suspected Breach of unsecured PHI of which Business Associate becomes aware. A breach shall be treated as discovered in accordance with 45 CFR §164.410. The notification shall include the identification of each individual whose PHI or unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach, a brief description of what happened including the date of the breach, the date of discovery of the breach and a description of the types of PHI or unsecured PHI that were involved in the Breach. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI or unsecured PHI by Business Associate in violation of the requirements of this BAA.
- k. Breach Pattern or Practice by Client. If Business Associate knows of a pattern of activity or practice of the Client that constitutes a material breach or violation of the Client's obligations under the Agreement, this BAA, or the Privacy and Security Rule, Business Associate must take reasonable steps to cure the breach or end the violation.
- l. Audits, Inspection and Enforcement. Within twenty (20) days of a written request by Client, Business Associate and its agents or subcontractors shall allow Client to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures of Business Associate relating to the use or disclosure of PHI pursuant to this BAA.

3. Termination

- a. Term. The term of this BAA shall be effective as of the date of execution and shall remain in effect until the later of one (1) year from the effective date or the expiration or termination of the underlying Agreement. Any provision related to the use, disclosure, access, or protection of PHI shall survive termination of the BAA and Agreement.
- b. Material Breach. A breach by Business Associate, or its agents or subcontractors, of any provision of this BAA or of the data provisions of the Agreement, as determined by Client, shall constitute a material breach of the Agreement and shall be grounds for immediate termination of this BAA. Client may terminate this BAA effective immediately, if (i) Business Associate is a defendant in a criminal proceeding for a violation of HIPAA, HITECH, the Privacy and Security Rule, or other security or privacy laws or (ii) there is a finding or stipulation that Business Associate has violated any standard or requirement of HIPAA, HITECH, the Privacy and Security Rule, or other security or privacy laws in any administrative or civil proceeding regarding the Agreement or services thereunder.
- c. Effect of Termination. Upon termination of the Agreement for any reason, Business Associate shall, return to the appropriate covered entity or destroy as appropriate all PHI that Everside or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI except as necessary to fulfill its obligations under the Agreement, to continue its proper management and operations, or to comply with applicable law. If return or destruction is not feasible, Business Associate's obligation to protect the privacy and safeguard the security of Client's PHI as specified in this Agreement will be continuous and survive the termination or other conclusion of this BAA. Business Associate shall limit its further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. If Client elects destruction of the PHI, Business Associate shall certify in writing to Client that such

PHI has been destroyed as promptly as possible, but no later than 30 calendar days following the termination or other conclusion of this BAA.

4. Amendment

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the Privacy and Security Rule, and other applicable laws relating to the security or confidentiality of PHI.

5. No Third Party Beneficiaries

Nothing express or implied in the Agreement or BAA is intended to confer, nor shall anything herein confer, upon any person other than Client, Business Associate, and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

6. Effect on Agreement

Except as specifically required to implement the purposes of this BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in full force and effect.

7. Indemnification

Business Associate shall indemnify, hold harmless and defend Client from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, any third party claim arising from an alleged breach by Business Associate or in connection with the representations, duties and obligations of Business Associate under this Agreement.

Client shall indemnify, hold harmless and defend Business Associate from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, any third party claim arising from an alleged breach by Client or in connection with the representations, duties and obligations of Client under this Agreement.

If the indemnifying party assumes the defense of a claim, the indemnified party shall have the right, at its expense, to participate in the defense of such claim, and the indemnifying party shall not take any final action with respect to such claim without the prior written consent of the indemnified party. The parties' respective rights and obligations under this Section 7 shall survive termination of the Agreement.

8. Interpretation

The provisions of this BAA shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this BAA, including any prior Business Associate Agreements entered into between the parties. This BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the Privacy and Security Rule. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA, and the Privacy and Security Rule. The parties stipulate and agree that Business Associate may unilaterally amend this BAA to comply with any changes to the Privacy and Security Rule or any other applicable law.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date first written above.

EVERSIDE
Everside Health, LLC

CLIENT

[Client's Health Plan Name]

By: _____
Name: Chris Miller
Title: CEO

By: _____
Name: _____
Title: _____