



## STANDARD TERMS & CONDITIONS (USA)

In this Agreement the LifeWorks by Morneau Shepell entity identified on the Order Form is referred to as “**LWbyMSL**” and the Sponsoring Organization identified on the Order Form is referred to as “**Sponsoring Organization**.” Each party may also be referred to as a “**Party**” or collectively as the “**Parties**”.

### Section 1. Defined Terms.

Defined Term	Definition
<b>Administrator</b>	Any individuals that the Sponsoring Organization elects, in its sole discretion, to grant access to its Administrator Account
<b>Affiliate</b>	With respect to any person, an Affiliate means any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, that person
<b>Agreement</b>	The Order Form, these Standard Terms & Conditions, and any other schedules, addendums, or exhibits
<b>Ancillary Services</b>	Those Services agreed between the parties which are not included in the Recurring Fees on the Order Form; these services may be offered on a fee for service (“FFS”) basis where available
<b>App</b>	The LWbyMSL mobile application available for download from third party mobile application stores or from the LWbyMSL Website
<b>Budgeted Utilization Rate (BUR)</b>	The estimated annual Utilization Rate reflected on the Order Form which is based on the Sponsoring Organization’s historical Utilization Rate or, if Sponsoring Organization is a new client, the Utilization Rate of a comparable client
<b>Business Day</b>	A day other than a Saturday, Sunday or federal holiday in the United States when banks in Chicago, Illinois, are open for business
<b>Case</b>	The use of EAP Services by Eligible Users for a presenting issue related to a topic identified on the <b>Services Schedule</b>
<b>Direct Eligible User</b>	An employee or other sponsored member of Sponsoring Organization who has the primary direct relationship with Sponsoring Organization. Sponsoring Organization is ultimately responsible for determining who is a Direct Eligible User and, if required in this Agreement, for disclosing that information to LWbyMSL
<b>EAP Services</b>	The counseling services categorized as such on the <b>Services Schedule</b>
<b>Effective Date</b>	The effective date set out on the Order Form
<b>Eligible User Documentation</b>	The Privacy Policy, Privacy Policy for the European Union and United Kingdom, Mobile Applications Privacy Policy, Cookie Policy, and User Terms, each as amended from time to time, available on the Website or through the App
<b>Eligible Users</b>	Collectively, Direct Eligible Users and Indirect Eligible Users
<b>Force Majeure Event</b>	Any (i) act of God, fire, casualty, flood, hurricanes, earthquakes or other natural disasters, (ii) war, riots, terrorism, insurrection, hostilities (whether declared or not) or acts of foreign enemies, (iii) failure of public utilities, loss of electrical or other power or telecommunications equipment not attributable to a Party’s negligence, or destruction of production facilities (iv) pandemic, epidemic or other public health emergency, (v) act, exercise, assertion or requirement of any Governmental and Regulatory Authority, or (vi) any other similar cause as those listed herein that are beyond the reasonable control of a Party

<b>Indirect Eligible User</b>	If indicated on the Order Form, the spouses, domestic partners, lineal decedents or antecedents, or household dependents, whose relationship with Sponsoring Organization is solely through one of Sponsoring Organization’s Direct Eligible Users
<b>Initial Term</b>	The initial term set out on Order Form
<b>Intellectual Property</b>	All patent rights, moral rights, copyrights, software code, source code, applications, tools, digital content, service marks, trademarks, registered and unregistered designs, rights in databases, trade secrets and other intellectual property
<b>Life Content Library</b>	A library of digital wellbeing content that provides Eligible Users with access to LWbyMSL’s standard array of fitness support and other activity resources such as virtual workouts
<b>Minimum Quantity</b>	The number of Direct Eligible Users set out on the Order Form
<b>Personal Information</b>	Information about an identifiable individual which is protected by any applicable privacy or data protection law, statute, or regulation applicable to such individual in the Territory
<b>Services</b>	Collectively, EAP Services, Wellness Services, and Wellbeing Platform Services, as applicable
<b>Territory</b>	The territory where Services are based, set out on the Order Form
<b>Unit Price</b>	The unit price for Services set out on the Order Form
<b>User List</b>	File provided by Sponsoring Organization to LWbyMSL that includes information required by LWbyMSL to provide the Services (e.g., employee name, ID number, email address, country code and grouping information (where applicable)) in a format acceptable to LWbyMSL
<b>Utilization Rate</b>	A percentage rate measured over a defined time period, calculated as the number of Cases delivered during such time period divided by the Sponsoring Organization’s average monthly population of Direct Eligible Users during such time period
<b>Website</b>	The website listed on the Order Form and all subdomains thereof as well as any other future domains through which LWbyMSL makes the Services available
<b>Wellbeing Platform</b>	The digital environment on which the Wellbeing Platform Services are provided
<b>Wellbeing Platform Services</b>	The Services available through the Website and App that are categorized as such on the <b>Services Schedule</b>
<b>Wellness Services</b>	The wellness services categorized as such on the <b>Services Schedule</b>

### Section 2. Services.

**2.1. Performance of Services.** LWbyMSL shall be responsible for providing the Services specified on the Order Form and in any applicable Schedule to Sponsoring Organization’s Eligible Users. LWbyMSL may, in LWbyMSL’s sole discretion, subcontract any of the EAP Services to LWbyMSL’s Affiliates or to LWbyMSL’s network of local affiliate counselors (as independent contractors). LWbyMSL relies on a variety of third-party digital content providers and LWbyMSL’s global business partners where applicable to provide the Wellbeing Platform Services. Notwithstanding the foregoing, as between LWbyMSL and Sponsoring Organization, LWbyMSL shall be responsible for the



Services performed by any such third parties as if LWbyMSL performed those Services subject to the terms and conditions set out in this Agreement.

## 2.2. Location of Eligible Users.

(a) **Territorial Eligible Users.** LWbyMSL's Services are based in the Territory, which is a jurisdiction or geographic location where LWbyMSL agrees that LWbyMSL is in compliance with applicable data storage laws for individual persons within that Territory. This Agreement assumes that Eligible Users are residents of the Territory and are using the Services from within the Territory ("**Territorial Eligible Users**"). Notwithstanding the foregoing, LWbyMSL accepts that LWbyMSL's Services may be accessed from outside the Territory by Eligible Users who are travelling or who are temporarily (less than 6 months in any 12-month period) based outside the Territory. In those cases, LWbyMSL expects Sponsoring Organization's Eligible Users to access LWbyMSL's EAP Services telephonically and Sponsoring Organization acknowledges that the Wellbeing Platform Services may not be fully accessible outside the Territory (for example, certain retail offers may not be available to Territorial Eligible Users who are accessing the Wellbeing Platform Services from outside the Territory).

(b) **Non-Territorial Eligible Users.** Unless otherwise stated in this Agreement, if Sponsoring Organization wishes to sponsor Services for Direct Eligible Users who permanently reside outside of the Territory or who desire to use or access the Services primarily from outside the Territory ("**Non-Territorial Eligible Users**"), the Parties shall separately address the Services available to such Non-Territorial Eligible Users, as well as any other specific terms and conditions applicable to such Non-Territorial Eligible Users, in the **Non-Territorial Eligible Users Schedule**, which may include session limits, service delivery modalities and pricing that differ from comparable Services applicable to Territorial Eligible Users. In the absence of any other agreement between the Parties, global Services for multinational Sponsoring Organizations will be addressed in one or more addendums to the **Non-Territorial Eligible Users Schedule**. Unless otherwise set forth in the **Non-Territorial Eligible Users Schedule**, or if no such Schedule is included in this Agreement, Sponsoring Organization acknowledges that LWbyMSL is not obligated to provide any Services outside of the Territory.

(c) **California EAP Services.** Notwithstanding any other provision in this Agreement, Sponsoring Organization must inform LWbyMSL in writing if any of Sponsoring Organization's Eligible Users reside in or expect to receive any EAP Services in California. LWbyMSL has no obligation to provide any EAP Services in California until the Parties have complied with applicable California laws.

**2.3. Minimum Age of Eligible Users; Valid Legal Consent Requirement.** Except as otherwise restricted or required by locally applicable law, Eligible Users must be legally eligible to independently use the EAP Services and must otherwise legally be able to independently accept and comply with the eligibility requirements set forth in the Eligible User Documentation to access the Wellbeing Platform Services. If Eligible Users are not legally eligible to independently use the Services, such Eligible Users may only use or access the Services with the consent of a parent or other legal guardian capable of providing legally acceptable consent.

**2.4. Nature of LWbyMSL's Relationship with Sponsoring Organization's Eligible Users.** Due to the sensitive nature of the Services LWbyMSL provides, Sponsoring Organization acknowledges that LWbyMSL has the right to communicate directly and privately with Eligible Users as necessary to provide the Services to Eligible Users. The relationship between Sponsoring Organization's Eligible Users and LWbyMSL will remain confidential in the absence of an Eligible User's consent to release information about the Eligible User and LWbyMSL shall be under no obligation to disclose any Personal Information LWbyMSL possesses about Sponsoring Organization's Eligible Users to Sponsoring Organization, even if that information might be beneficial to Sponsoring Organization.

**2.5. Changes to Services, Supplemental Services; Amendments.** LWbyMSL reserves the right to make changes to the Services (including, but not limited to, upgrades, EAP Services delivery protocols or the features and services available on LWbyMSL's Wellbeing Platform including the specific inclusion or exclusion of retailers in LWbyMSL's Perks & Savings Services), or to other

aspects of the Services that affect LWbyMSL's customers generally and that are reasonable and necessary to LWbyMSL's business operations; *provided, however*, that if a change is made to Sponsoring Organization's Services that Sponsoring Organization reasonably and in good faith determines to substantially degrade the value of the Services Sponsoring Organization contracted for under this Agreement, then Sponsoring Organization may terminate this Agreement as if LWbyMSL had materially breached this Agreement pursuant to the procedures set forth in Section 4.2(b) of these Standard Terms & Conditions. LWbyMSL shall have the opportunity to cure LWbyMSL's deemed breach or show that the changes LWbyMSL made did not substantially degrade the value of the Services Sponsoring Organization contracted for under this Agreement. Notwithstanding the foregoing, the Parties may enter into amendments, addendums or other modifications at any time provided that such modification is set forth in writing signed by both Parties.

**2.6. Spot Rewards Program.** The Spot Rewards Program is LWbyMSL's proprietary program that allows Sponsoring Organization to allocate an immediate one-time "on-the-spot" pre-funded monetary reward ("**Spot Rewards**") to a Direct Eligible User. If Sponsoring Organization has contracted to receive the Recognition Add-on, Spot Rewards will be included as part of the Sponsoring Organization's Services and the additional terms and conditions set out in the **Spot Rewards Schedule** attached hereto shall apply.

**2.7. Responsibility for Eligible Users Using the Wellbeing Platform Services.** Sponsoring Organization acknowledges that, as between the Parties, Sponsoring Organization is in a better position to restrict access to the Wellbeing Platform Services and to manage and discipline Sponsoring Organization's Eligible Users who abuse the Wellbeing Platform Services or breach the terms and conditions in the Eligible User Documentation. By sponsoring the Wellbeing Platform Services Sponsoring Organization shall be responsible for and agrees to hold harmless and indemnify LWbyMSL from any loss, damage, cost or expense (including reasonable legal fees and expenses) suffered, incurred or paid by LWbyMSL arising from or relating to: (a) illegal, discriminatory, harassing, libelous, slanderous, or other legally offensive content posted on the Wellbeing Platform by Sponsoring Organization's Direct Eligible Users ("**User Content**"), and (b) illegal, criminal, or fraudulent activity (perpetrated against LWbyMSL or any of LWbyMSL's affiliates, contractors or vendors) by Sponsoring Organization's Direct Eligible Users ("**User Activity**"). LWbyMSL does not monitor or moderate User Content or User Activity and LWbyMSL hereby disclaims any responsibility or liability to Sponsoring Organization for any User Content or User Activity.

**2.8. Unauthorized Access to Sponsoring Organization's Services.** Sponsoring Organization shall use reasonable efforts to prevent unauthorized persons from accessing or using the Services and Sponsoring Organization must notify LWbyMSL promptly if Sponsoring Organization becomes aware of any unauthorized access to or use of the Services; *provided, however*, that this paragraph does not limit LWbyMSL's responsibility to maintain and enforce the security features LWbyMSL uses to prevent unauthorized persons from accessing or using the Services.

## Section 3. Fees; Taxes.

**3.1. Calculation of Fees.** Sponsoring Organization shall pay the fees equal to the Unit Price per Direct Eligible User indicated on the Order Form, multiplied by Minimum Quantity of Direct Eligible Users (or Sponsoring Organization's actual Direct Eligible User population as updated (the "**Fees**"). Fees do not include any applicable Federal, Provincial, State or jurisdictional taxes or levies, or any other sales tax, VAT, or GST, as applicable. If other rates apply to any part of Sponsoring Organization's user population, such as a different Unit Price per Non-Territorial Eligible User, such rates are described in and calculated in the manner set forth on the **Non-Territorial Eligible Users Schedule** and any amounts payable thereunder constitute Fees for purposes of this Agreement. The Parties acknowledge and agree that the fees set out on the Order Form are an estimate and that the actual Fees may vary according to the Sponsoring Organization's population of Direct Eligible Users.

**3.2. Incurring Fees.** Sponsoring Organization shall not begin to incur Fees until the earlier of (a) the first day LWbyMSL actually begins to perform Services for Direct Eligible Users, or (b) the first day of the calendar month





immediately following the date on which LWbyMSL has completed all of LWbyMSL's implementation or onboarding activities, even if Sponsoring Organization has not communicated that the Services are available to Sponsoring Organization's Eligible Users or (where applicable) provided LWbyMSL with a User List (through no fault of LWbyMSL), in which case LWbyMSL shall use the Minimum Quantity to calculate Sponsoring Organization's Fees.

**3.3. Invoicing:** The Fees will be invoiced *in advance* on the frequency identified on the Order Form and will be calculated based on the number of Direct Eligible Users as of the Effective Date and shall reflect timely updates to Direct Eligible Users. LWbyMSL reserves the right to invoice the Sponsoring Organization less frequently if Sponsoring Organization's estimated periodic invoice amount is below 1,000.00 per month or 3000.00 per quarter in the specified Currency. Any Ancillary Services will be invoiced and payable monthly *in arrears* unless otherwise agreed.

**3.4. Expenses.** LWbyMSL reserves the right to charge the Sponsoring Organization for expenses incurred by LWbyMSL, including but not limited to transportation and accommodation costs. Such expenses are not included as part of the fees set out on the Order Form and will be invoiced separately.

**3.5. Pricing Adjustments.** Except as set forth in Sections 3.6 and 3.7, if LWbyMSL wants to adjust the Unit Price or any fee-for-service rate in the ordinary course of business (an "Ordinary Adjustment"), LWbyMSL may do so by notifying Sponsoring Organization in writing at least ninety (90) days before the Ordinary Adjustment becomes effective. Any such Ordinary Adjustment will become effective only upon Sponsoring Organization's written acceptance of such Ordinary Adjustment. LWbyMSL shall not propose any Ordinary Adjustments before the end of the Initial Term.

**3.6. Inflation Adjustments.** Notwithstanding anything to the contrary in Section 3.3 the Fees will be subject to an annual increase on each anniversary of the Effective Date based on the greater of 2.0% or the rise in the annual wage as reflected in the greater of 2.0% or the rise in the annual wage as reflected in the National Average Wage Index (NAWI) issued by the United States Social Security Administration.

**3.7. Excess Utilization Rate Adjustment.** If Sponsoring Organization's actual Utilization Rate over any 12-month period exceeds the Budgeted Utilization Rate by 2.0% or more, LWbyMSL will adjust the Unit Price ("Adjusted Rate"), establish an adjusted BUR, and notify Sponsoring Organization of the Adjusted Rate and adjusted BUR. The Adjusted Rate and the adjusted BUR will remain in effect for the balance of the Term. Any such increase in Fees will not be retroactive. If Sponsoring Organization objects to the Adjusted Rate or adjusted BUR, Sponsoring Organization shall provide notice of such objections to LWbyMSL within thirty (30) days and the Parties shall attempt in good faith to resolve the dispute. If the parties do not agree on the Adjusted Rate and adjusted BUR, then LWbyMSL shall have the right to (a) terminate this Agreement upon ninety (90) days advance written notice; or (b) continue to provide Services for the Fees in effect immediately prior to the Excess Utilization Rate Adjustment.

**3.8. Payments.** Sponsoring Organization must pay LWbyMSL all Fees plus applicable Taxes and expenses, in the currency specified on the Order Form. All Fees shall be paid to LWbyMSL within thirty (30) days of the date of an invoice. Sponsoring Organization shall pay all invoices via pre-authorized debit (PAD) or recurring credit card payments (PAP). Payment will be processed on the invoice due date or the first business day following the invoice due date if the due date is on a weekend or a holiday. Sponsoring Organization shall complete all documentation requested by LWbyMSL to set up the payment method concurrently with the execution of this Agreement.

**3.9. Overdue Payments.** Interest on overdue invoices will accrue at a rate of 1.5% monthly starting five (5) calendar days after the due date of the invoice. Payment will be deemed to be made on the date that Sponsoring Organization's payment is credited to LWbyMSL's designated bank account.

**3.10. Taxes Applicable to Eligible Users.** Notwithstanding anything to the contrary in this Agreement, Sponsoring Organization (or Sponsoring Organization's applicable Affiliates) shall be responsible for calculating, withholding, and paying to the applicable taxing authority, any amounts that

arise in respect of fringe benefit, social security, social welfare, and other applicable taxes or when Sponsoring Organization is deemed to have provided anything of taxable value to Sponsoring Organization's Eligible Users, including when Sponsoring Organization directly pays any amounts to Eligible Users through the Wellbeing Platform (such as LWbyMSL's Spot Rewards Program). Notwithstanding the foregoing, LWbyMSL acknowledges that LWbyMSL shall remain responsible for all income taxes LWbyMSL incurs because of LWbyMSL's providing the Services pursuant to this Agreement.

#### Section 4. Term and Termination.

**4.1. Initial Term; Automatic Renewal.** This Agreement will be effective when signed by both Parties and shall continue until the end of the Initial Term identified on the Order Form. This Agreement shall automatically renew for successive one-year periods ("Renewal Term") unless either Party delivers to the other, at least ninety (90) days prior to the end of the Initial Term or the applicable Renewal Term (collectively referred to as the "Term"), written notice of the Party's intention not to renew the Agreement ("Non-Renewal").

**4.2. Termination.** Notwithstanding Section 4.1 above:

(a) LWbyMSL may terminate this Agreement at any time if Sponsoring Organization fails to pay Fees when due and for thirty (30) days thereafter (other than Fees being disputed in good faith by Sponsoring Organization).

(b) Either Party may terminate this Agreement immediately upon written notice if a material breach remains uncured by the breaching Party for more than thirty (30) days after the breaching Party's receipt of a notice from the non-breaching Party describing the breach with reasonable specificity.

(c) After the Initial Term, each Party shall have the right to terminate this Agreement by giving at least ninety (90) days prior written notice of termination to the other Party.

(d) This Agreement shall automatically terminate, without notice: (i) upon the institution by or against either Party of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of either Party's debts; (ii) upon either Party making an assignment for the benefit of creditors; or (iii) upon either Party's dissolution or ceasing to do business.

**4.3. Effect of Termination or Expiration; Unfinished Counseling Sessions; Closing Accounts.** Upon the expiration or termination of this Agreement:

(a) Sponsoring Organization shall pay all outstanding Fees within thirty (30) days after the date of such expiration or termination;

(b) LWbyMSL shall cease to provide Services on such expiration or termination date except that Eligible Users who have not completed their course of counseling sessions (which began before such expiration or termination date) shall be able to complete any planned course of counseling sessions under this Agreement; and

(c) Each Eligible User's Account (as defined in the Eligible User Documentation) on the Wellbeing Platform will be closed and the Eligible Users shall have a reasonable opportunity to withdraw or redeem unused amounts in their CashBack Wallets or Rewards Accounts, in each case in accordance with the terms and conditions set forth in the Eligible User Documentation.

#### Section 5. Confidentiality and Data Privacy.

**5.1. Confidentiality.** Neither Party shall use or disclose confidential information of the other Party except as required in accordance with such Party's obligations under this Agreement. The terms and conditions of this Agreement (including pricing provisions) shall be kept confidential at all times. Any Party receiving confidential information under this Agreement (the "Receiving Party") shall use the same degree of care as it uses to protect its own confidential information of like nature, but no less than a reasonable degree of care, to maintain in confidence the confidential information of the Party that has disclosed such confidential information (the "Disclosing Party"). The foregoing obligations shall not apply to any information that: (i) is at the time of disclosure, or thereafter becomes, part of the public domain through a source other than the Receiving Party; (ii) is subsequently disclosed to the Receiving Party by a third party that does not impose an obligation of



confidentiality on the Receiving Party; (iii) was known to the Receiving Party at the time of disclosure; (iv) was generated independently by the Receiving Party; or (v) is required or permitted to be disclosed by law, subpoena or other legal process. In the absence of a separate written agreement, LWbyMSL may share Sponsoring Organization's confidential information with LWbyMSL's third-party subcontractors or vendors who are bound by obligations of confidentiality to LWbyMSL at least as stringent as those in this Agreement, but only to the extent reasonably necessary for LWbyMSL to perform LWbyMSL's obligations under this Agreement.

**5.2. Data Privacy.** LWbyMSL shall comply with all applicable Federal, Provincial, and State laws concerning information or data privacy. Where applicable the Parties may be required by applicable law to enter into a Business Associate Agreement or GDPR Data Privacy Addendum. LWbyMSL's standard agreements will be separately provided to Sponsoring Organization when necessary. The Parties acknowledge and agree that if executed, the Business Associate Agreement or the GDPR Data Privacy Addendum shall be incorporated into this Agreement as if set forth herein.

**5.3. Receipt and Use of Personal Information.** Except for information disclosed by Sponsoring Organization in its User List, LWbyMSL does not expect, need, or desire to receive, and Sponsoring Organization shall not disclose, any Personal Information about Sponsoring Organization's Eligible Users to LWbyMSL. Instead, LWbyMSL expects to collect such information (if at all) directly from the Eligible Users who use the Services. Sponsoring Organization acknowledges that LWbyMSL may use, process, transfer, or disclose Eligible Users' Personal Information to LWbyMSL's subcontractors and vendors to the extent LWbyMSL is authorized to do so by the consents Eligible Users provide to LWbyMSL, including without limitation pursuant to the Eligible User Documentation, but only to the extent reasonably necessary for LWbyMSL to perform its obligations under this Agreement.

**5.4. Injunctive Relief.** The Receiving Party agrees that any breach by it or by any of its agents, representatives or employees of the provisions hereof may cause irreparable harm to the Disclosing Party and that actual damages may be difficult to ascertain and, in any event, may be inadequate. Accordingly, in the event of such breach, the Disclosing Party shall be entitled to seek temporary and/or permanent injunctive relief against the Receiving Party and/or its agents, representatives, and employees (in addition to such other legal or equitable remedies as may be available), without the necessity of proving irreparable harm or actual damage to the Disclosing Party.

#### **Section 6. Intellectual Property.**

**6.1. Ownership.** Each Party owns all Intellectual Property it owned prior to the Effective Date and that which it creates in the performance of its obligations under this Agreement. As between the Parties and vis à vis any third party, LWbyMSL is and shall remain the sole and exclusive owner of all Intellectual Property in the Wellbeing Platform and in any materials LWbyMSL prepares for Sponsoring Organization in order for LWbyMSL to advertise LWbyMSL's services to Sponsoring Organization's Eligible Users (together with any related goodwill, whether owned by LWbyMSL or licensed to LWbyMSL, on the Effective Date or acquired thereafter); *provided, however*, that Sponsoring Organization shall remain the sole owner of any Intellectual Property Sponsoring Organization provides to LWbyMSL to customize the Wellbeing Platform for Sponsoring Organization's Eligible Users or to create any such advertising materials for Sponsoring Organization's Eligible Users. For clarity, the reports LWbyMSL delivers to Sponsoring Organization as part of the Services (but not the underlying data) shall become Sponsoring Organization's property upon delivery. Sponsoring Organization will not (and Sponsoring Organization's Eligible Users will not) acquire any ownership of, or other rights in relation to, any of LWbyMSL's Intellectual Property by using or receiving any Services. Upon the expiration or termination of this Agreement each Party shall promptly return to the other Party, any Intellectual Property of the other Party in its possession or control.

**6.2. License.** LWbyMSL hereby grants to Sponsoring Organization and Sponsoring Organization's Eligible Users, starting on the Effective Date and continuing throughout the Term, a non-exclusive, non-transferable license to access and use the Wellbeing Platform and LWbyMSL's other Intellectual Property as may be required to receive and use the Services for the duration

of this Agreement. LWbyMSL's license grant is subject to the following conditions:

(a) Sponsoring Organization shall not assign, transfer, sublicense, charge or otherwise deal in, encumber, or make available to any third party the Services, the Wellbeing Platform, or any of LWbyMSL's other Intellectual Property, and any attempt to do so shall be null and void and shall constitute Sponsoring Organization's material breach of this Agreement; and

(b) Sponsoring Organization shall not (and shall not attempt to) modify, merge, copy, disseminate, display, disassemble, reverse engineer, tamper with, or otherwise attempt to decrypt or derive any source code, digital content, trade secrets or proprietary information included in LWbyMSL's Wellbeing Platform or create any websites or mobile applications similar to LWbyMSL's Wellbeing Platform.

#### **Section 7. Warranties; Disclaimers.**

**7.1. By LifeWorks by Morneau Shepell.** LWbyMSL warrants to Sponsoring Organization that: (i) LWbyMSL shall perform the services in a professional and workmanlike manner in accordance with this Agreement; (ii) LWbyMSL's Intellectual Property does not now, and shall not during the Term, infringe on the rights of any third-party; (iii) LWbyMSL has the requisite authority to enter into this Agreement and is lawfully entitled to supply the Services to Sponsoring Organization and Sponsoring Organization's Eligible Users; (iv) LWbyMSL will use reasonable skill and care to perform the Services in accordance with industry practice; (v) LWbyMSL will comply with all laws and regulations applicable to LWbyMSL relating to LWbyMSL's provision of the Services; and (vi) LWbyMSL shall maintain amounts and types of insurance coverage appropriate to similarly situated businesses in LWbyMSL's industry and Sponsoring Organization may request from LWbyMSL, and LWbyMSL shall provide, a certificate of insurance from LWbyMSL's insurers no more frequently than once per year.

**7.2. By Sponsoring Organization.** Sponsoring Organization warrants to LWbyMSL that: (i) Sponsoring Organization has all the requisite authority to enter into this Agreement and is lawfully entitled to enter into this Agreement; (ii) Sponsoring Organization is solely responsible for the accuracy and completeness of all information Sponsoring Organization provides to LWbyMSL pursuant to this Agreement; (iii) Sponsoring Organization will comply with the limitations, restrictions and obligations as set out in this Agreement; and (iv) Sponsoring Organization will provide all reasonable cooperation to LWbyMSL in the performance of this Agreement.

**7.3. Disclaimer Regarding Licensed Professionals and Fiduciaries.** LWbyMSL's Services are not intended to replace disciplines requiring professional licensure such as the practice of law, psychiatry, medicine or financial advisory services. An independently licensed lawyer, doctor, fiduciary or other applicable licensed professional will be involved whenever LWbyMSL's Services could constitute the practice of law, psychiatry, medicine, financial advisory services or other licensed discipline. LWbyMSL does not provide separate insurance for the actions or inaction of any such professionals.

**7.4. Disclaimer Regarding External Links.** The Wellbeing Platform may include links to third-party websites, including websites of LWbyMSL's commercial partners or websites promoted by their respective commercial partners. LWbyMSL is not responsible for: (i) the operation or content of these other websites; (ii) any act or omission of their commercial partners or other third parties promoted on these other websites; and (iii) any links provided (or not provided) by such third parties.

**7.5. Exclusions.** The warranties provided in this Agreement comprise all the warranties made with respect to the Services pursuant to this Agreement. Any other representations, warranties, conditions or other terms, whether express or implied and including, without limitation, implied warranties, conditions and other terms of merchantability, satisfactory quality or fitness for a particular purpose, are expressly excluded to the extent permitted by law. Without limiting the foregoing, LWbyMSL does not warrant that, to the extent the Services require computers, computer software, mobile devices, mobile network technology or other third-party hardware, software, or technology,



the provision of those Services will be entirely error free or will run uninterrupted.

**Section 8. Limitation of Liability.**

**8.1. Liability Limits; No Consequential Damages.** LWbyMSL's liability (including the liability of any of LWbyMSL's Affiliates), if any, to any person, arising out of or in any way related to this Agreement or the performance of LWbyMSL's duties and obligations hereunder, shall for all purposes in total be limited to direct damages in an amount not to exceed an amount equivalent to twelve (12) months of Fees paid by Sponsoring Organization in the period prior to the event giving rise to the claim. In no event shall LWbyMSL have any liability at any time for any loss of profits, loss of business revenue, failure to realize expected savings, or for any indirect, special, or consequential damages, even if advised of the possibility of such damages.

**Section 9. Notices.** All notices given under this Agreement shall be in writing and shall be sent to the Parties at the address set forth on the Order Form, attention to their respective Legal Departments. Each such notice, request or communication shall be effective upon receipt or if not received on a Business Day, on the next succeeding Business Day.

**Section 10. Applicable Law.** This Agreement shall be governed by and construed in accordance with substantive law of the State of Delaware and the federal laws of the United States applicable therein and each Party agrees to submit to the exclusive jurisdiction of the courts in New Castle County, Delaware, but each Party is also entitled to apply to any court worldwide for injunctive relief or other remedies in order to protect or enforce its Intellectual Property rights or confidential information.

**Section 11. Force Majeure.** If either Party to this Agreement (the "Non-Performing Party") is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any Force Majeure Event, and if the Non-Performing Party has used commercially reasonable efforts to avoid the impact of the applicable Force Majeure Event and minimize its duration, then the Non-Performing Party's failure to perform its obligations will be excused and will not give rise to any liability for losses or other damages, and the time for performance of such obligations will be extended for the period of delay or inability to perform due to such Force Majeure Event. In order to be excused from its obligations as a result of a Force Majeure Event, the Non-Performing Party shall be required to (i) promptly notify the other Party of the circumstances creating the failure or delay to meet its obligations, and (ii) for so long as it is continuing to excuse its obligations under the Agreement, use commercially reasonable efforts to re-commence performance of its obligations as soon as reasonably possible. Any payment obligations of either Party hereunder shall not be excused as the result of any Force Majeure Event provided that the banking systems used by the Parties in the ordinary course of business are functioning normally notwithstanding the Force Majeure Event.

**Section 12. Waiver.** No delay or indulgence by either Party at any time, to enforce any of the provisions of this Agreement, or any right with respect thereto, shall be construed as a waiver of such provision or right, nor shall it prejudice or restrict the rights of that Party. A waiver of its rights shall not operate as a waiver of any subsequent breach. No right, power or remedy conferred upon or reserved for either Party is exclusive of any other right, power or remedy available to that Party and the rights, powers and remedies shall be cumulative.

**Section 13. English Language.** The Parties have expressly requested that this Agreement be drawn up in the English language.

**Section 14. Severability.** Any provision of this Agreement, which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**Section 15. Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings regarding the subject matter hereof, whether written or verbal and each of

the Parties acknowledges that it has not been induced to enter into this Agreement by reason of any other representation made by or on behalf of the other Party. Nothing in the preceding sentence shall limit or exclude any liability for fraud or fraudulent misrepresentation. Any amendment to this Agreement must be in writing and signed by authorized representatives of both Parties.

**Section 16. Survival.** Terms which by their nature survive expiration or Non-Renewal of this Agreement shall survive, including but not limited to Section 2.4 (Nature of LWbyMSL's Relationship With Sponsoring Organization's Eligible Users), Section 3 (Fees; Taxes), Section 4.3 (Effect of Termination or Expiration; Unfinished Counseling Sessions; Closing Accounts), Section 5 (Confidentiality and Data Privacy), Section 6 (Intellectual Property), Section 8 (Limitation of Liability), Section 10 (Applicable Law), Section 12 (Waiver), Section 14 (Severability), and Section 17 (Assignment).

**Section 17. Assignment.** This Agreement shall be binding upon both Parties and their respective, successors and permitted assigns. Neither Party may assign or transfer this Agreement to any third-party; *provided, however*, that LWbyMSL may assign (including an assignment by operation of law), transfer or delegate any of LWbyMSL's rights or obligations to any of LWbyMSL's Affiliates or any successor in interest to all or substantially all of the assets or business of the LifeWorks by Morneau Shepell™ business, without Sponsoring Organization's consent, in which case, such Affiliate or successor in interest shall be bound by and entitled to the benefit of the terms, conditions and obligations of this Agreement.

**Section 18. Electronic Signatures; Counterparts.** Signatures may be provided in digital form (such as DocuSign™) or transmitted by electronic means (such as via email confirmation, .PDF or facsimile). This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. No counterpart shall be effective until each Party has executed at least one counterpart.

\* \* \*





**SERVICES SCHEDULE (USA)**

**LifeWorks Essential + Add-ons - Services Schedule (USA)**

The LifeWorks Essential services will be provided as set forth below. Any “Ancillary Services” may incur an additional charge or fee for service and are set forth below in the Ancillary Services section.

<b>Essential Services</b>	<b>Service Type</b>
24-hours, 7 days a week, toll-free telephone access to Employee Assistance Program (“EAP”) for crisis counselling, risk assessment and matching to appropriate service(s)	EAP Services
Professional EAP Counselling Services: Face-to-face, Telephonic, Self-Directed, SMS/Text, and Video Counselling  <input checked="" type="checkbox"/> CA Session Limit – USA, Non-CA/NV: Short term, Client-Centered Clinically Appropriate EAP model per Eligible User per applicable EAP Services category per contract year.  <b>OR</b> <input type="checkbox"/> Session Limit - USA, CA/NV: <u>Up to three (3)</u> per Eligible User within a rolling six (6) month period, provided, that regardless of the issue or topic, such Eligible User does not receive more than three (3) total sessions through LWbyMSL in any six (6) month period.  Topics including but not limited to: <ul style="list-style-type: none"> <li>o Stress &amp; Life Management</li> <li>o Depression, Anxiety, Grief, Loss, Anger, &amp; Violence</li> <li>o Relationships, Life Changes, Family Matters, Parenting</li> <li>o Substance Abuse, Addictions, Smoking Cessation</li> <li>o Career Support &amp; Resiliency Coaching</li> <li>o Pre-Retirement Planning (Lifestyle Planning)</li> <li>o Personal Traumatic Events</li> </ul>	EAP Services
WorkLife Solutions Services: <ul style="list-style-type: none"> <li>o Eldercare Consultation</li> <li>o Childcare Consultation</li> <li>o Community Referrals</li> <li>o Health &amp; Wellbeing Online Programs</li> <li>o Virtual Fitness Program</li> <li>o Financial Consultation</li> <li>o Legal Consultation</li> </ul>	EAP Services
Workplace Referral Program – 1:1 based on counselling model	EAP Services
LifeWorks Platform Services: <ul style="list-style-type: none"> <li>o Company Posts Newsfeed</li> <li>o Wellbeing Content</li> <li>o Perks (Exclusive Offers, Cashback, and Gift Cards)</li> <li>o Online Self-Directed Programs</li> <li>o Total Wellbeing Index (TWI)</li> </ul>	Wellbeing Platform Services
Manager / Key Personnel Consultations (24/7/365)	EAP Services
Digital Promotional Materials	EAP Services
Quarterly Statistical Reports	EAP Services

### Ancillary Services\*\*\*

Service	Pricing
People Leader and Employee Orientation Sessions	Included
Workplace Learning Solutions - Live Webinar/Seminar -	Starting at \$595
Workplace Learning Solutions - Workshops -	Starting at \$1095
Workplace Learning Solutions - E-Learning -	Per participant pricing model
Workplace Learning Solutions - LifeSpeak -	Subscription-based pricing model
Workplace Learning Solutions - Leadership Coaching -	Starting at \$350/hr
Workplace Learning Solutions - Mediation -	Starting at \$350/hr
Workplace Referral Program (Monitored or Mandated)	Included
Department of Transportation Substance Abuse Program (SAP) Program - Hourly Rate	Pricing to be confirmed at time of purchase
Drug Testing - Hourly Rate	Pricing to be confirmed at time of purchase
Fitness For Duty - Hourly Rate	Pricing to be confirmed at time of purchase
Critical Incident Support – Routine Response – Three-hour minimum for each request required. One (1) counsellor invoiced to the customer at an hourly rate.	\$210/hour, 3 hour minimum. Each additional hour is \$210/hour
Critical Incident Support – Rapid Response – One (1) counsellor invoiced to the customer at an hourly rate	\$367/hour
Travel Fee for Onsite Critical Incident Response	\$125/incident

\*\*\*Pricing subject to change. Fees for travel, rescheduling, and cancellation may apply. Additional terms may apply.

### Service Terms

- 1 **Eligible Users & Population Updates**
  - 1.1 **No User List.** If Sponsoring Organization's purchased Services do not require Sponsoring Organization's Eligible Users to create individual accounts on the Wellbeing Platform, then Sponsoring Organization will not need to provide a User List. Sponsoring Organization may update its Direct Eligible User population not more than once per year by providing updated population counts to LWbyMSL via the designated Customer Success Manager or LWbyMSL Contract Administration Team, as directed. Updates must be received no later than the fifth day of the calendar month in order to apply to the following month.
  - 1.2 **User List.** If Sponsoring Organization's purchased Services require Sponsoring Organization's Eligible Users to create individual accounts on LWbyMSL's Wellbeing Platform, then prior to commencing the Services, Sponsoring Organization must provide an User List so that LWbyMSL may directly contact Sponsoring Organization's Direct Eligible Users and invite them to access the Wellbeing Platform Services. Sponsoring Organization shall not disclose any other information to LWbyMSL in Sponsoring Organization's User List, including any other Personal Information (including but not limited to social insurance numbers, social security numbers or other government issued identification numbers or any other personal information such as gender, religion, ethnicity, race, creed, sexuality, marital status, or similar information) concerning any Eligible User. As between the Parties, Sponsoring Organization assumes sole responsibility for the accuracy of any information Sponsoring Organization discloses to LWbyMSL in Sponsoring Organization's User List. Sponsoring Organization acknowledges that Sponsoring Organization has obtained all consents necessary to disclose the information in Sponsoring Organization's User List to LWbyMSL.
    - 1.2.1 **Updating Sponsoring Organization's User List.** In order to add new Direct Eligible Users or to remove Direct Eligible Users that are no longer part of Sponsoring Organization or otherwise eligible to receive Wellbeing Platform Services, Sponsoring Organization must either: (i) deliver an updated User List to LWbyMSL no later than the **fifth (5<sup>th</sup>) day** of each calendar month during the Term of this Agreement; or (ii) Sponsoring Organization must update Sponsoring Organization's population of Direct Eligible Users in Sponsoring Organization's service profile through Sponsoring Organization's Administrator Account on LWbyMSL's Wellbeing Platform.
  - 1.3 **Reduction.** Sponsoring Organization agrees not to reduce its Direct Eligible Users by more than five percent (5%) in any month except as otherwise agreed by the Parties.
  - 1.4 **Using Services; Affiliates.** The Services may be accessed only by Direct Eligible Users and their associated Indirect Eligible Users. Direct Eligible Users of Sponsoring Organization's Affiliates (and their associated Indirect Eligible Users) may use the Services only if authorized by Sponsoring Organization (for example, by identifying Sponsoring Organization's Affiliates to LWbyMSL or identifying Sponsoring Organization's Direct Eligible Users to LWbyMSL in Sponsoring Organization's User List). If the Services are used by Eligible Users of any of Sponsoring Organization's permitted Affiliates then each such Affiliate shall be deemed to be bound by this Agreement and shall be jointly and severally responsible for all payments owed to LWbyMSL hereunder; *provided, however*, that only Sponsoring Organization (and not Sponsoring Organization's Affiliates) shall be entitled to bring an action under this Agreement against LWbyMSL. In order for Sponsoring Organization's Affiliates to be eligible to provide the Services to their Eligible Users pursuant to this Agreement Sponsoring Organization must identify them on the **Services Schedule**. Notwithstanding the foregoing, this Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.



- 1.5 Consent to EAP Services.** Sponsoring Organization's Eligible Users will request access to the EAP Services by telephone or through an alternative modality (such as chat or video) offered on LWbyMSL's Wellbeing Platform if available in Sponsoring Organization's jurisdiction. Before receiving any EAP Services (including when calling into LWbyMSL's call centers to request EAP Services), Eligible Users will receive information about their privacy rights and shall be required to consent to terms and conditions applicable to LWbyMSL's EAP Services prior to being able to access the EAP Services. EAP Services may be provided through in-person counseling sessions, a referral to a community-based resource, or through telephonic or video-based services, in all cases subject to what is available locally under Sponsoring Organization's service plan.
- 1.6 Wellbeing Platform Services User Documentation.** Except for certain Wellbeing Platform Services that do not require Eligible Users to create an individual account on LWbyMSL's Wellbeing Platform (such as instructions on how to access the EAP Services or access LWbyMSL's Life Content Library), Sponsoring Organization's Eligible Users will each be required to create an account on LWbyMSL's Wellbeing Platform and consent to the Eligible User Documentation to access the Wellbeing Platform Services. Copies of the Eligible User Documentation are publicly available on the Website. Notwithstanding anything to the contrary in this Agreement, and subject to applicable law, LWbyMSL reserves the right to modify or amend the Eligible User Documentation at any time.
- 1.7 Sponsoring Organization's Administrator Account.** By sponsoring the Wellbeing Platform Services, Sponsoring Organization will have access to an administrator account (the "Administrator Account") and Sponsoring Organization and all Administrators must comply with the portions of the Eligible User Documentation applicable to Administrators when using the Administrator Account. Sponsoring Organization represents and warrants to LWbyMSL that: (i) it has obtained all consents necessary for Administrator to have access to the information accessible via the Administrator account (which includes without limitation Eligible User names, email addresses and enrollment status) (collectively "Admin Info"); (2) Administrator shall only use the Admin Info as permitted under this Agreement and the Eligible User Documentation and related to the provision or cessation of the Services; and (3) Sponsoring Organization shall indemnify and hold harmless LWbyMSL for any losses or damages that result from any actions or omissions of an Administrator.

