

183737

AMENDMENT NO. 2

CONTRACT NO. 5²3683

FOR

Employee Assistance Program (EAP) Services to City employees

This Contract was made and entered into on the 1st day of July, 2005, by and between United Behavioral Health (UBH), Formerly LifeEra, Inc., hereinafter called Contractor, and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City. The Contractor has been providing employee assistance program services under the present agreement which expires on June 30, 2010. The City desires to continue this agreement for maintaining employee assistance program services to eligible City employees and their dependents.

- 1. Section 8 of Agreement 5²3683 is hereby amended to change the Term and Termination of Agreement

8.1 Term

This agreement, originally effective July 1, 2005 shall be extended through June 30, 2011. The passage of the Contract expiration date shall not extinguish, prejudice, or limit either party's right to enforce this contract with respect to any default or defect in performance that has not been cured.

- 2. Exhibit A, Section 1. hereby amended as follows:

Total Monthly Fee 2009-2010: \$2.26 per employee
 Total Monthly Fee 2010-2011: \$2.49 per employee
 Total not to exceed amount: \$175,000

The effective date of this amendment is July 1, 2010. All other terms and conditions of the agreement shall remain unchanged and in full force and effect.

United Behavioral Health

By: _____
Date

(Name and Title)

Address: _____

Telephone: _____

Approved as to Form:

CITY OF PORTLAND

By City Attorney Date

By: _____
Human Resource Director Date

AMENDMENT NO. 1

CONTRACT NO. 30000098
53683-52683
CB. performance 182449

FOR

Employee Assistance Program (EAP) Services to City employees

This Contract was made and entered into on the 1st day of July, 2005, by and between United Behavioral Health (UBH), Formerly LifeEra, Inc., hereinafter called Contractor, and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City. The Contractor has been providing employee assistance program services under the present agreement which expires on June 30, 2008. The City desires to continue this agreement for maintaining employee assistance program services to eligible City employees and their dependents.

1. Section 8 of Agreement 53683 is hereby amended to change the Term and Termination of Agreement

8.1 Term

This agreement, originally effective July 1, 2005 shall be extended through June 30, 2010. The passage of the Contract expiration date shall not extinguish, prejudice, or limit either party's right to enforce this contract with respect to any default or defect in performance that has not been cured.

2. Exhibit A, Section 1. hereby amended as follows:

Total Monthly Fee 2008-09: \$2.05 per employee

Total Monthly Fee 2009-10: Estimated \$2.15. To be negotiated based on utilization and mix of services delivered.

The effective date of this amendment is July 1, 2008. All other terms and conditions of the agreement shall remain unchanged and in full force and effect.



United Behavioral Health

By: Gregory A. Bayer 11/26/08
Date

Gregory A. Bayer, CEO
(Name and Title)

Address: 425 Market St. 14th floor San Francisco CA 94105

Telephone: (415) 547-5000

CITY OF PORTLAND

By: John B. Bell
Elected Official or Delegate

12/31/08
Date

Gary Blackmon
City Auditor

1/2/08
Date

Approved as to Form:

[Signature] 12/08/08
By City Attorney Date

RECEIVED

AUG 07 2006

5 2 6 8 3

JUL 10 2006

LifeEra, Inc. ADMINISTRATIVE SERVICES AGREEMENT

Bureau of Human Resources

This Agreement (the "Agreement") is made as of July 1, 2005 (the "Effective Date") by and between City of Portland ("City", "you" or "your" in this Agreement), and LifeEra, Inc. and its affiliates, ("LEI," "our," "us, or "we" in this Agreement). This Agreement covers the services we are providing to your Employee Assistance Program. This agreement is structured so that the Signature Page appears first, followed by the Definitions and Table of Contents followed by the body of this Agreement and the related Exhibits and Product Schedules. LEI identifies this arrangement as Group Number 189115:

The Product Schedules included in this Agreement indicated by ✓ are:

- Employee Assistance Program Services Product Schedule
Worklife Services Product Schedule
Legal & Financial Services Product Schedule
Liveandworkwell.com Services Product Schedule
Communications Product Schedule
Training Services Product Schedule

By signing below, each party agrees to the terms and conditions of this Agreement.

LifeEra, Inc.
7632 SW Durham Road
Suite 300
Portland, OR 97224-7584

The City of Portland
1120 S.W. Fifth Ave., Room 404
Portland, OR 97204

By [Signature]
Authorized Signature

Print Name Irene Shin

Print Title Director of Contracts

Date July 7, 2006

By [Signature]
Authorized Signature

Print Name YVONNE L. DECKARD

Print Title Director BHR

Date July 7, 2006

City of Portland Attorney's Office

BY [Signature]
MAYOR

By
Authorized Signature

APPROVED AS TO FORM

Print Name [Signature]
Approved as to form
CITY ATTORNEY

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Section 1 Definitions

For the purposes of this Agreement, the Capitalized terms shall have the meanings set forth below:

- 1.1 Agreement Period.** Period of thirty-six (36) months commencing on the Effective Date and will automatically continue for successive one (1) year terms hereafter subject to the remaining provisions of this section.
- 1.2 Clinician.** Any Practitioner who is qualified and duly licensed or certified by the state in which they are located to furnish EAP services to Participants.
- 1.3 EAP Benefit Plan.** "EAP Plan" or "EAP Benefit Plan" means the services to which Participants are entitled under this Agreement as described in detail in the attached EAP Product Schedule.
- 1.4 Employee.** A current or former employee who is an eligible Participant.
- 1.5 Employee Assistance Program (EAP).** Services designed to assist your Employees, their dependents and you in finding solutions for personal and workplace problems.
- 1.6 Negotiated Rate Schedule.** The schedule of rates that the Participating Clinician has agreed to accept as payment in full for services provided to Participants.
- 1.7 Participating Clinician.** A Provider who has entered into a contract with us to provide services to Participants.
- 1.8 Participant.** Your employee, or a dependent of your employee, entitled to benefits or coverage under the terms and conditions of the EAP Benefit Plan.
- 1.9 Practitioner.** A person who is qualified and duly licensed or certified by the state in which he or she is located to furnish EAP services when such an individual is acting within the scope of his or her license or certification.
- 1.10 Product Schedule.** A document that describes in detail the services purchased by you under this Agreement. There may be more than one Product Schedule.
- 1.11 Summary Plan Description.** Document(s) provided to Participants describing the coverage offered under the City of Portland Plan and the terms and conditions of that coverage.
- 1.12 Total Monthly Premium Fee.** The fees for services rendered under this Agreement as represented in Exhibit A.

Section 2 Statement of Services/LifeEra Obligations

- 2.1 Our Services.** LifeEra will provide the City of Portland the services set forth in this Section 2, the services described in the LifeEra Proposal in response to the City of Portland's RFP No. COP-EAP (Exhibit D) and the services described in any attachment, addendum or amendment hereto (collectively the "Services").

- 2.2 Employee Assistance Program.** With respect to the EAP services only, we agree to perform the obligations applied to a Covered Entity as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). You agree to cooperate with us to the extent necessary so that we may fulfill said obligations as set forth by HIPAA.
- 2.3 Participating Clinician Network.** We will enter into arrangements with Clinicians in order to arrange for Employee Assistance Program Services for Participants at rates we negotiate with such Clinicians. We cannot warrant or represent to you or to Participants that a particular Clinician will be available or will continue to be available to a particular Participant or to Participants in general. We will also perform the following services with respect to our Clinician network:
- (a) We will perform a review of the credentials, licensure, professional liability insurance and experience of Participating Clinicians.
 - (b) We shall provide written notice within a reasonable time to a Participant regarding the termination of a Participating Clinician, or the inability to perform services by any Participating Clinicians, if that Participant may be materially and adversely affected by such termination or inability to perform.
 - (c) The relationship between LEI and each Participating Clinician is an independent contractor relationship. Participating Clinicians are not agents or employees of LEI, nor is LEI, or any employee of LEI, an employee or agent of any Participating Clinician. LEI shall not be liable for any claims or demands on account of damages arising out of or in any manner connected with, any injury suffered by a Participant relating to services received by the Participant from any Participating Clinician.
- 2.4 Telephone "Help Line".** We shall make available a "Help Line" with access to trained specialists for you and Participants through our toll-free telephone line. Such specialists shall be made available twenty-four (24) hours a day, seven (7) days a week.
- 2.5 Statistical Reports.** We shall provide standard statistical summaries of program activities for each unit as defined by the City at no charge. The standard statistical summaries are as described on page 51 in the LifeERA Proposal in response to RFP No COP-EAP (Exhibit D.) At your request and for an additional fee, we shall provide, within a time period mutually agreed to by both parties, ad hoc or non-standard specialized reporting of data regarding the services outlined in this Agreement.
- 2.6 Performance by Non-Affiliated Designee.** You agree and understand that certain services under this Agreement may be performed in whole or in part by a non-affiliated designee.

Section 3 City of Portland Obligations

- 3.1 Offer of Coverage.** The City of Portland shall offer the LifeEra EAP Plan to all eligible Employees and dependents and to units of eligible enrollees and dependents as mutually agreed.
- 3.2 Compensation.** You will pay LEI for services rendered under this Agreement pursuant to the Total Monthly Fee reflected in Exhibit A of this Agreement.

- 3.3 Plan Documents.** You will be responsible for the preparation and contents of the Plan document, Plan Description, Summary Plan Description, and a description of the EAP services including all related amendments thereto. You shall be responsible for printing, maintaining a supply of and distributing the Summary Plan Description and all other information and forms necessary for Participant's enrollment and continued eligibility for services under this Agreement.
- 3.4 Plan Changes.** You will notify us in writing if you change the Plan's benefits for services covered under this Agreement within a reasonable period of time prior to the change becoming effective. We will notify you within 30 days of (i) the proposed implementation date of the Plan Design change or that such change cannot be implemented as requested, and (ii) any applicable additional fees due to us as a result of such change. You must accept the change and assume the obligation of applicable additional fees, if any, in writing prior to its implementation. In addition, you shall notify your Members of the change prior to its effective date at your expense.
- 3.5 Notice to Participants.** You will give Participants the information and documents they need to obtain benefits under this Agreement within a reasonable period of time before coverage begins. In the event this Agreement is terminated, you will notify all Participants of the discontinuance of services we are providing under this Agreement.
- 3.6 Other Information.** You will furnish us with all and any other information we reasonably require to perform our obligations under this Agreement.
- 3.7 Responsibility for Information.** You understand and agree that we are not responsible for any delay in the performance of this Agreement or for the non-performance of this Agreement if the delay or non-performance is caused or contributed by you to furnish any of the information or funds described in this Section 3.
- 3.8 Employee Assistance Program.** With respect to the EAP services only, we agree to perform the obligations applied to a Covered Entity as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). You agree to cooperate with us to the extent necessary so that we may fulfill said obligations as set forth by HIPAA.
- 3.9 Regulatory Filing.** In the event that you are required to file this Agreement with federal, state and local governmental authorities, you shall be responsible for filing the Agreement with such authorities as required by any applicable law or regulation. If, following any such filing, the governmental authority requests changes to this Agreement, the parties shall jointly discuss your response to the governmental authority. In the event any federal, state or local governmental authority requires a change to this Agreement that either party deems to be material, either party may request renegotiation of the affected provisions of this Agreement pursuant to Section 9.10 of this Agreement.

Section 4
Use of and Access to Information

- 4.1 Use of Member Information.** Subject to the Business Associate Agreement entered into, or to be entered into, by the parties, LifeEra and the City of Portland may use, reproduce or adapt information obtained in connection with this Agreement, as well as Eligibility Information, in any manner they deem appropriate, except that each party and its agents, employees and contractors shall maintain the confidentiality of this information to the extent required by applicable Law, and may not use the information in any way prohibited by Law. Any work, compilation, processes or inventions developed by LifeEra or the City of Portland or their respective agents, employees or contractors, is deemed Confidential Information of such party under this Agreement.
- 4.2 Use and Disclosure of Protected Health Information (PHI).** The use and disclosure of PHI will be handled in accordance with the terms of that certain Business Associate Agreement which has been or will be entered into by the parties.
- 4.3 Record-Keeping.** We shall establish and maintain a record-keeping system concerning the services to be performed under this Agreement. All such records shall be maintained by LifeEra and shall be available for examination and audit during the term of and in accordance with this Agreement.
- 4.4 Audits.** The City of Portland may inspect and audit LifeEra records, if legally permissible, that directly relate to services made to the City under this agreement. By requesting such information, the City acknowledges and represents to LEI that it has obtained any required Participant consents or authorizations to release such information and the City certifies to LifeEra that it has the proper documentation and procedures in place for receiving and handling confidential information that comply with any then current applicable law.
- 4.4.1** LifeEra will provide reasonable access to information to an auditor, if requested by the City. The City agrees it will obligate any such third party to comply with applicable laws regarding the use of confidential information. Before LifeEra will give access to confidential information to third parties, the third party must sign the LifeEra "Third Party Disclosure Agreement" a specimen of which is attached to this agreement as Exhibit C.
- 4.4.2** LifeEra may inspect and audit, or cause to be inspected and audited, City books and records directly relating to the existence and number of Members. The City and LifeEra shall fully cooperate with representatives of each other and with independent third party auditors hired by either party to conduct any such inspection or audit. Such audits shall be at the auditing party's sole expense and shall only be made during normal business hours, following fifteen (15) business days written notice, without undue interference to release such information and audited party's business activity, and in accordance with reasonable audit practices. If a completed audit reveals a discrepancy in the results and the previous calculations of the audited party, then the auditing party shall deliver written notice setting forth in reasonable detail the basis of such discrepancy. The parties shall use reasonable efforts to resolve the discrepancy within thirty (30) days following delivery of the notice, and such resolution shall be final, binding, and conclusive upon the parties.
- 4.5 Third Party Records Request.** Third party records requests will be handled in accordance with the terms of that certain Business Associate Agreement which has been or will be entered into by the parties.

Section 5 Fees and Payment

5.1 Fees. The City will pay LifeEra the premium fees listed in Exhibit A, as applicable. The City will self-bill for such fees, and payment will be due as set forth in Exhibit A.

5.2 Remedies. If the City of Portland fails to pay LifeEra by the due date any amount owing hereunder, LifeEra after making a reasonable effort to collect and upon notice to the City may, in addition to its remedies under this Agreement, at law or in equity, do any or all of the following: (i) suspend performance of any or all of LifeEra obligations under or in connection with this Agreement.

5.3 Pricing Changes. After the Initial Term of this Agreement, LifeEra may change the fees applicable to the services outlined in Exhibit A. LifeEra will give Customer one hundred twenty days' written notice of any change, and such change will take effect on the first day of the month following the one hundred twenty-day notice period. The City may object to an increase in fees by providing written notice to LifeEra at least thirty days before the expiration of the one hundred twenty-day notice period. If the parties cannot agree on an appropriate fee, this Agreement will terminate at the end of the one hundred twenty-day notice period. If the City does not timely object, it will have no right to terminate this Agreement based on the pricing change.

Section 6 Confidentiality and Intellectual Property

6.1 Confidential and Proprietary Information. In connection with this Agreement, each party may disclose to the other party certain proprietary or confidential technical and business information, databases, trade secrets, and innovations belonging to the disclosing party ("Confidential Information"), the value of which might be lost if the proprietary nature or confidentiality of such Confidential Information is not maintained. For the purposes of this Section, the contents of Exhibits A, B & D to this Agreement are deemed Confidential Information.

6.2 Non-Disclosure of Confidential Information. Neither party will (except to the extent expressly authorized by this Agreement or as required by applicable provisions of the Oregon Public Records Law) disclose Confidential Information of the other party to anyone outside of LifeEra or the City of Portland, nor will either party copy or reproduce any Confidential Information of the other party unless expressly authorized to do so by such party in writing. Each party will disclose Confidential Information of the other party only to its employees who have a need to know the Confidential Information in order to accomplish the purpose of this Agreement and who (i) have been informed of the confidential and proprietary nature of the Confidential Information, and (ii) have agreed not to disclose it to others. In order to preserve and protect the confidential or proprietary nature of any Confidential Information and to prevent it from falling into the public domain or into the possession of persons not bound to maintain its confidentiality, each party will handle the Confidential Information of the other party with the same degree of care that it applies with respect to its own information that it considers as confidential and proprietary, but in no event with less than reasonable care.

6.3 Exceptions and Permitted Disclosures. The receiving party of Confidential Information will not be liable for any disclosure or use of Confidential Information which is publicly available or later becomes publicly available other than through a breach of this Agreement, or if the Confidential Information is shown by written documentation to be known to the receiving party on the date of execution of this Agreement, having been received from a source (other than a party to this Agreement) that had the right to disclose the Confidential Information.

6.4 Subpoena or Public Records Request. Confidential Information may be disclosed pursuant to a bona fide subpoena or pursuant to a valid request under applicable provisions of the Oregon Public Records Law if the party receiving the bona fide subpoena or request has given the other party immediate written notice of receipt thereof so that the other party can object or otherwise intervene as it deems proper.

6.5 Return or Destruction of Information. All Confidential Information will remain the property of the disclosing party, and the receiving party will return all written or tangible materials, and all copies thereof, upon request of the disclosing party. If and to the extent feasible, upon termination of this Agreement, LifeEra will destroy or will return to Customer all Protected Health Information obtained pursuant to this Agreement and shall retain no copies thereof; provided however, that if such return or destruction is not reasonably feasible, the provisions of Section 4 of this Agreement shall continue to apply to such information after the termination hereof.

6.6 Remedies. Any unauthorized disclosure or use of Confidential Information would cause LifeEra or the City immediate and irreparable injury or loss that cannot be adequately compensated with money damages. Accordingly, if either party fails to comply with this Section 6, the other party will be entitled to specific performance including immediate issuance of a temporary restraining order or preliminary injunction enforcing this Agreement, and to judgment for damages caused by the breach, and to any other remedies provided by Law.

Section 7

Limitation of Liability; Compliance with Law

7.1 Representations. Each party represents to the other party the following:

- (a) It is duly organized and validly existing under the laws of the jurisdiction of its organization and has all requisite power and authority to execute and deliver this Agreement.
- (b) It has taken all action necessary for the authorization, execution, delivery and performance of this Agreement, and this Agreement has been duly executed and delivered by it.
- (c) Upon execution by the other party, this Agreement shall constitute a valid and binding obligation, enforceable in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights.
- (d) Neither the execution nor delivery of this Agreement, nor the consummation of the transactions contemplated by this Agreement, nor the fulfillment of or compliance with the terms and conditions of the Agreement will conflict with any law, order, judgment or decree applicable to it or with its governing documents, or result in a breach of or constitute a default under or conflict with any material contract, agreement or instrument to which it is a party or by which it or its properties are bound.

7.2 Force Majeure. Except for the payment obligations set forth in Section 2 of this Agreement (which may be delayed but not excused as the result of a Force Majeure event), the parties are excused from performance under this Agreement to the extent that a party is prevented from performing any obligation, in whole or in part, as a result of causes beyond its reasonable control, including, acts of God, war, civil disturbance, court order, governmental intervention, Change in Law, nonperformance by the other party or any third party, failures or fluctuations in electrical power, heat, light, air conditioning, or telecommunications equipment. Any nonperformance under this Section 6.2 will not constitute a default or a ground for termination of this Agreement.

7.3 Indemnity. To the extent permitted by Oregon law, the City of Portland shall indemnify and hold harmless LifeEra and its officers, directors, employees, agents, successors, and assigns ("LifeEra Indemnities") for, from and against any damages, costs, or attorney's fees, actually incurred by a LifeEra Indemnity, as the result of a claim brought by any third party or a participant or beneficiary relating to the Services, provided that the LifeEra Indemnity has acted in a manner that is consistent with this Agreement and applicable standards of care. LifeEra shall indemnify and hold harmless the City of Portland and its officers, directors, employees, agents, successors, and assigns ("City Indemnities") for, from and against any damages, costs, or attorney's fees, actually incurred by any City Indemnity, as the result of a third party claim that LifeEra, its officers, directors, employees, agents, successors, or assigns acted with negligence, willfully, and/or in violation of applicable standards of care, provided that the City Indemnity has acted in a manner that is consistent with this Agreement, the Plan and applicable standards of care.

7.4 Insurance. We will maintain the following insurance:

- (a) We shall obtain and maintain professional liability insurance in the minimum amounts of Five Million Dollars (\$5,000,000) for any one incident, and Five Million Dollars (\$5,000,000) in the aggregate for the plan year.
- (b) We shall obtain and maintain commercial general liability insurance with minimum coverage of not less than One Million Dollars (\$1,000,000) per claim for bodily injury and property damage.
- (c) As applicable, we shall obtain and maintain worker's compensation insurance coverage for our employees in an amount and form meeting all applicable legal requirements.

7.5 Compliance with Law. The City will comply with all Laws applicable to its Employee Assistance Program benefit plan. LifeEra has no responsibility to advise the City about its compliance with any applicable Law including, without limitation, HIPAA, or the Americans with Disabilities Act.

LifeEra will comply with all Laws applicable to it and to the Services it provides under this Agreement. The City has no responsibility to advise LifeEra regarding its compliance with any applicable Law. LifeEra makes no representation or warranty that the Plan Design selected by the City is in compliance with any Law that applies to the City.

7.6 Limitations. LifeEra (and its affiliates, directors, employees, agents, successors or assigns) will not be liable for any claim which is asserted by Customer more than 180 days after Customer is or reasonably should have been aware of such claim, and will in no event be liable for any claim which is asserted by Customer more than two years after the event resulting in damages or loss.

Section 8 Term and Termination of Agreement

8.1 Term. This Agreement is for an initial term of three years from the Effective Date (the "Initial Term"), and will automatically continue in effect for successive one-year terms hereafter, subject to the remaining provisions of this Section.

8.2 Termination. This Agreement may be terminated as follows:

- (a) By either party, with or without cause, by giving written notice to the other party sixty (60) days prior to the requested termination date;
- (b) Both parties agree to terminate the agreement;
- (c) The EAP plan terminates;

- (d) Automatically, if the parties are unable to agree on an equitable adjustment under Section 5.3 of this Agreement;
- (e) By either party if the other party materially defaults in its performance of this Agreement including, without limitation, any of the provisions related to the use and disclosure of Protected Health Information, and such default continues without cure for a period of sixty days after the terminating party provides written notice to the defaulting party specifying the nature of the default;
- (f) Notwithstanding paragraph (c) above, by fifteen days' prior written notice to the City, if you fail to timely make any payment required under this Agreement, unless you cure that default within such fifteen-day period;
- (g) By either party, at its option, if any court, or governmental or regulatory agency issues to the other party an order or finding of impairment or insolvency, or an order to cease and desist from writing business. The party receiving notice of an order or finding must provide the other party written notice within two business days of receipt; or
- (h) By either party if the other party or a guarantor of the City: (i) makes an assignment for the benefit of creditors; (ii) has a petition filed (whether voluntary or involuntary) under Title 11 of the United States Code, or any other similar statute now or hereafter in effect; (iii) has a receiver, custodian, conservator, or trustee appointed with respect to all or a substantial part of its property; or (iv) has a proceeding commenced against it which substantially impairs performance hereunder.

8.3 Survival. Sections 4, 6 and 7 of this Agreement, and obligations arising under this Agreement prior to the effective date of any termination, will survive termination. In the event of termination of this Agreement, LifeEra will cooperate with Customer and any successor vendor to LifeEra in providing records, reports, data and any other information reasonably required by the successor to carry out its obligations in connection with the Plan. Customer shall reimburse LifeEra for such assistance at a mutually agreed upon rate.

Section 9 Notices

9.1 All notices under this Agreement must be in writing, delivered in person, sent by certified mail, delivered by air courier, or transmitted by facsimile and confirmed in writing (by air courier or certified mail) to a party at the facsimile number and address shown in this Agreement. A party may notify the other party of any changes in the listed address or facsimile number in accordance with the provisions of this Section. All notices are effective upon receipt.

Notices to LifeEra must be addressed as follows:

Contract Administration
LifeEra
7632 SW Durham Road
Portland, OR 97224-7584
Fax No.: (503) 213-2201

Notices to Customer must be addressed as follows:

City of Portland
1120 S. W. Fifth Ave., Rm. 404
Portland, OR 97204
Attn: Benefits Manager
Fax No.: (503) 823-3522

Section 10

Miscellaneous

- 10.1 Entire Agreement; Interpretation; Amendment; Counterparts.** This Agreement (including exhibits, schedules, attachments, or any addendum to this Agreement) constitutes the entire understanding and obligation of the parties with respect to the Services and supersedes any prior agreements, writings, or understandings, whether oral or written. The headings in this Agreement are used only for convenience of reference and do not affect the meaning or interpretation of any provision. The parties may amend this Agreement only through a properly executed writing authorized by both parties. This Agreement may be executed in several counterparts, all of which taken together constitute a single agreement between the parties.
- 10.2 Binding Effect; Assignment.** Except as provided in Section 2.6 and this Section 9, neither party can assign this Agreement or any rights or obligations under this Agreement to anyone without the other party's written consent. That consent shall not be unreasonably withheld. Notwithstanding, we can assign this Agreement, including all of our rights and obligations to our affiliates, to an entity controlling, controlled by, or under common control with us, or a purchaser of all or substantially all of our assets, subject to notice to you of the assignment.
- 10.3 Waivers.** Any failure by a party to comply with any covenant, agreement, or condition herein or in any other agreements or instruments executed and delivered hereunder may be waived in writing by the party in whose favor such obligation or condition runs; except that failure to insist upon strict compliance with any such covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.
- 10.4 Governing Law.** The validity and interpretation of this Agreement and the rights and obligations of the parties under this Agreement shall be governed by all applicable laws.
- 10.5 Compliance with Laws.** You shall substantially comply with and ensure the Plan substantially complies with all applicable laws and regulations. LEI shall substantially comply with all applicable laws and regulations. You acknowledge that the terms of this Agreement will be automatically modified to the extent necessary to comply with any insurance, health service plan, health maintenance organization, prepaid limited health services organization, or other regulatory mandate by a governmental authority. LEI shall notify you if a governmental authority notifies LEI that it must be licensed as an insurer, health service plan, health maintenance organization, prepaid limited health services organization, or other type of licensed insurer to provide EAP Benefit Plan Services. In such event, LEI may cease providing the services that would subject LEI to such licensure, unless both parties can agree upon an amendment to this Agreement that would make such licensure unnecessary. Any such cessation of services shall be effective the earlier of the date required by the governmental authority or after at least 60 days prior written notice to you.
- 10.6 Confidentiality.** The parties shall maintain the confidentiality of all information regarding Participants in accordance with all applicable statutes and regulations.

- 10.7 Renegotiation of this Agreement.** Except as provided in Section 10.6, the parties shall renegotiate this Agreement if either party would be materially adversely affected by continued performance as a result of: (i) a change in law or regulation; (ii) a requirement that either party comply with an existing law or regulation contrary to the party's prior reasonable understanding; or (iii) pursuant to Section 3.12.
- 10.8 Use of Names.** During the term of this Agreement, you shall have the right to designate and make public reference to "LifeEraSM" by name in an accurate, factual manner, as the provider of any of the services indicated on signature page pursuant to this Agreement. LEI shall have the right to make public reference to you by name in the course of identifying itself as the provider of such services pursuant to this Agreement. The parties shall not otherwise use the other's name, trademarks, or service marks without prior written approval.
- 10.9 Entire Agreement.** This Agreement with its exhibits, Product schedules and any subsequent addenda, amendments or attachments, constitutes the entire agreement between the parties governing the subject matter of this Agreement. This Agreement replaces any prior written or oral communication or agreements between the parties relating to the subject matter of this Agreement. The headings and titles within this Agreement are for convenience only and are not part of the Agreement.

**Exhibit A
Fees**

1. Total Monthly Fees:

<u>Type of Service</u>	<u>Total Monthly Fee</u>
Employee Assistance Program: Up to six (6) Assessment and Referral sessions per Participant per problem per calendar year with a Participating or Staff Clinician	\$1.58 per Employee
Liveandworkwell.com	Included
Legal & Financial Services	Included
Participating Clinician Network	Included
Workplace Services	Included
Worklife Services	Included
Unlimited Orientations	Included
Training, Consultative Services, and/or CISM services are available on a fee-for-service basis. Services are billed at an hourly rate.	Training and Consultation: \$125.00/hour CISM: \$190.00/hour

2. Total Monthly Fee Due Date and Payments:

The first day of a month of coverage hereunder is the "Total Monthly Fee Due Date." You agree to remit to us on or before the Total Monthly Fee Due Date the applicable Total Monthly Fee set forth immediately above, for each eligible Employee. Any Total Monthly Fee payments, which remain outstanding more than fifteen (15) days after the Total Monthly Fee Due Date, shall be subject to a late penalty charge of 1.00% for each thirty (30) day period or portion thereof which the Total Monthly Fee payment remains outstanding. If this Agreement is terminated for any reason, you shall continue to be held liable for all Total Monthly Fee payments due and unpaid at the time of such termination including, but not limited to, all applicable Total Monthly Fee payments and late penalty charges for any time the Agreement was in force.

3. Total Monthly Fee Changes:

We may change the Total Monthly Fee at the end of the Initial Term and during any Subsequent Term by giving no less than thirty (30) days prior written notice to you; provided that the Total Monthly Fees shall not be revised more often than one (1) time during any Subsequent Term. Notwithstanding the foregoing, if a change in this Agreement is necessitated by a change in applicable law or regulations or in the interpretation of applicable law or regulations by a court of competent jurisdiction or by any governmental body which has authority to regulate either party or the subject matter of this Agreement, and if such change results in an increase of our risk or expenses under this Agreement, or if there is a material change in the number of your eligible Participants, we may change the Total Monthly Fee at any time upon thirty (30)

days prior written notice to you. Any such change shall not be taken into account in determining whether the limit of one (1) change per Subsequent Term has been reached.

Exhibit B
Products and Services

Employee Assistance Program Services Product Schedule

1. **Definitions.** For purposes of this Schedule, the capitalized terms shall have the following meaning:

Community Assistance Resource: A third party public or private facility, service, program, business, occupation or profession that provides services for the personal, educational, emotional or financial cares and concerns of individuals, including by way of example, services relating to education, medicine, mental health, substance abuse, law and finance.

DOT: United States Department of Transportation.

DOT Regulations: Regulations promulgated by the DOT pursuant to the Omnibus Transportation Employee Testing Act of 1991, and as codified as C.F.R. Part 40 (1994).

Formal Referral: The term used in regards to a management referral whereby the manager identifies a performance problem that the Employee must address, and suggests the EAP as a resource that might be helpful in support of this goal.

Informal Referral: The term used in regards to a management referral whereby a manager suggests to an Employee that the EAP could be helpful to assist with a personal problem.

Mandatory Referral: The term used in regards to a management referral whereby a manager identifies a performance problem and requires that the Employee work with the EAP as a condition of employment retention.

2. **Participant Effective Dates of Coverage for EAP Services.** Subject to your payment of the applicable Total Monthly Fee, as set forth in Exhibit A, coverage for EAP services under this Agreement shall become effective for each Participant on the date specified by you.
3. **Access to EAP Services.** We will implement a plan to help the Participant resolve the issue prompting the request for EAP services through a joint effort between us and the Participant, which joint effort may include supportive counseling and problem-solving or when we deem appropriate, identifying a Community Assistance Resource for the Participant.
4. **Employee Assistance Services.** Subject to the terms of this Agreement, we shall provide Employee Assistance Program ("EAP") services as described below:
- (a) Unlimited twenty-four (24) hour toll-free telephone access
 - (b) Telephonic consultation
 - (c) Assessment of Participant's needs during the Participant's initial phone call
 - (d) Up to six (6) Sessions per Participant per problem per calendar year with a Participating or Staff Clinician

(e) Referral to community resources

(f) Follow-up

(g) Management consultation and support services as a result of Informal Referrals, Formal Referrals and Mandatory Referrals from an Employee's supervisor or manager

5. Workplace Services

(a) **Human Resource Consultation.** We shall provide consultation and support to your human resource representatives on a variety of workplace concerns related to behavioral health twenty-four hours per day.

(b) **DOT Services.** If your Employees are subject to DOT regulations, we shall provide access to Participating Substance Abuse Professionals who will provide consultation, coordination of services, and assistance in instances where your employees who work in safety sensitive positions test positive for drugs or alcohol as described in the DOT Regulations.

Worklife Services Product Schedule

1. **Definitions.** For purposes of this Schedule, the capitalized terms shall have the following meaning:

Adult/Elder Care Provider: A resource facility, service, program, business, occupation, or profession that provides resources for, or is affiliated and associated with the needs, problems, cares, and concerns of the adult or elderly and aged; including by way of example resources for programs, facilities, and services relating to psychological, social, physical, and medical needs, nursing homes, foster homes, acute, intermediate, inpatient, or outpatient care, residential resources, and resources for support services concerning transportation, homemaking, meals, government assistance, financial planning and legal services.

Adult/Elder Care Services: Consultation and provision of information concerning the care and nurture of adults or elderly and aged dependents, and referrals to Adult/Elder resources including Adult/Elder Care Providers.

ChildCare Provider: A person, business or entity maintaining, operating or controlling a child care, day care, sick child care facility, including centers, homes, before and after school care, preschool, cooperatives, camps and summer programs for day, night and/or weekend care.

Child/Parenting Support Services: Consultation and provision of information concerning child development, parenting, and child care needs, and referrals to ChildCare resources including ChildCare Providers.

Chronic Condition Support Services: Consultation and provision of information concerning living conditions and personal matters relating to a chronic medical condition (for example, cancer or depression) of a Participant, and referrals to Community Assistance Resources.

Community Assistance Resource: A third party public or private facility, service, program, business, occupation or profession that provides services for the personal, educational, emotional or financial cares and concerns of individuals, including by way of example, services relating to education, medicine, mental health, substance abuse, law and finance.

Life Learning Education Services: Consultation, education, and referrals to address school choices and concerns at the primary and secondary levels as well as assistance and referrals in selecting a college, community college, vocational school, or graduate school.

Service Plan: A plan of actions or goals with specific resources defined to address the needs of the Participant or his/her elder dependent.

2. Services. We shall provide the following:

2.1 Child/Parenting Support Services

(a) Child/Parenting Referrals. Child/Parenting Support Services shall provide Participants with access to referrals to ChildCare Providers, Community Assistance Resources or other Child/Parenting Care Services. Participants are responsible for payment of any services received by a ChildCare Provider.

(b) Consultation with Participants. Child/Parenting Support Services may include our consultation with the Participant about his/her concerns or questions regarding child development or parenting.

2.2 Adult/Elder Support Services

(a) Adult/Elder Referrals. Adult/Elder Support Services shall provide Participants with access to referrals to Adult/Elder Care Providers, Community Assistance Resources or other Adult/Elder Support Services. Participants are responsible for payment of any services received by an Adult/Elder Care Provider.

(b) Consultation with Participants. Adult/Elder Support Services may include our consultation with the Participant about his/her concerns or questions regarding the care and nurture of an adult/elder dependent.

2.3 Chronic Condition Support Services

(a) Chronic Condition Support Services. Chronic Condition Support Services shall provide Participants with access to referral resources and support services for daily living with, or support for someone with, a chronic illness.

(b) Consultation with Participants. Chronic Condition Support Services may include our consultation with the Participant about his/her concerns or questions with regard to support for daily living with illness, social services, support groups, housing, travel special needs, or assistive technology and advocacy.

2.4 Life Learning Education

(a) Life Learning Education Services. Life Learning Education Services shall provide Participants with access to referral resources and support services for school concerns.

(b) Consultation with Participants. Life Learning Education Services may include our consultation with the Participant about his/her concerns or questions with regard to educational goals and needs.

Legal & Financial Services Product Schedule

1. **Definitions.** For purposes of this Schedule, the capitalized terms shall have the following meaning:

Financial Counseling Referral: Access to information and/or referral to a financial counselor about a Participant financial matter.

Legal Counseling Referral Services: Access to information and/or referral to a legal professional about a Participant legal matter.

Mediation Services: Access to information and/or referral to a mediator to resolve disputes in lieu of pursuing litigation.

2. **Services.** We shall provide the following:

2.1 Legal Counseling Referral

(a) **Services.** Legal Counseling Referral Services shall provide Participants with access to an attorney to consult about a legal matter. Entitles each member to one (1) initial thirty-minute office or telephone consultation per separate legal matter at no cost with a network attorney. The Legal Counseling Referral Services and a free initial teleconference or face to face consultation between the Participant and an attorney will be arranged. In the event that they wish to retain a participating attorney after the initial consultation members will be provided with a preferred rate reduction of 25% from the attorneys' normal hourly rate. Virtually all types of legal matters are eligible for these services. Topics for Legal Counseling may include, but not be limited to: Civil & Consumer Issues; Personal Family Legal Services; Business Legal Services; Real Estate; Criminal Matters; IRS Matters; Estate Planning Law.

(b) **Limitation of Legal Counseling Referral Program.** Notwithstanding anything to the contrary in this Agreement or Schedule, Legal Counseling Referral Services are not available for Participants seeking second legal opinions, third party consultation, or assistance with employment law related questions.

2.2 Financial Counseling Referral

Each member is entitled to no cost telephonic consultations with financial counselors. Telephone consultations are available on the basis on one per separate subject and last between thirty (30) and sixty (60) minutes per subject matter. Local referrals are available for more complex financial planning matters. Topic may include but not limited to: Financial Coaching; Debt Consolidation & Credit Counseling; Homeowners Facing Foreclosure, Financial Planning and Tax Services. Each member shall be provided with unlimited access to a Legal/Financial Web Site with Estate Planning Tools. Resources and topics may include but not be limited to: Legal Library; Legal Forms such as Affidavits, Arbitration, Trademarks etc and, Common Legal Issues such as Divorce and Child Custody, Civil Rights, Traffic Tickets and Personal Injury.

2.3 Mediation Services

Mediation Services shall provide Participants with access to a mediator to help resolve disputes when it is determined that mediation would be a good alternative to litigation.

Liveandworkwell.com Services Product Schedule

1. Definitions. For purposes of this Schedule, the capitalized terms shall have the following meaning:

Liveandworkwell.com: Our member portal, which provides Participants with access to benefit and resource information, an online article library, numerous interactive tools and online discussions.

2. Services.

Liveandworkwell.com shall provide Participants with on-line access to information in one of the following major subject areas: family & friends, health & wellness, managing life changes, work & management and/or education & learning. Within the major subject areas, Participants may access the following:

- (a) Options for accessing our services
- (b) An article library, which provides informational articles on topics, related to EAP and worklife issues.
- (c) On-line discussion groups that discuss designated wellness, self-help and worklife topics.
- (d) Resource information regarding mental health clinicians, schools (domestic and international), colleges, childcare, camps, adoption, elder care, and bureau of consular affairs.
- (e) Interactive tools, including financial calculators, self-assessment tests, personal plans, and links to external resources.
- (f) Message boards for Participants to pose questions, get answers, and share ideas.

Communication Materials Product Schedule

For the duration and subject to the terms of the Agreement, we will provide the following educational and information materials:

1. Member Materials

We will provide you with one customized brochure, a perforated wallet card that describes the benefit for every eligible Employee and a mutually agreed upon number of posters. We will also provide you with a mutually agreed upon number of Managers Resource Guides.

All materials will include the toll-free telephone access number and the Group number, where appropriate.

Training Services Product Schedule

1. **Definitions.** For purposes of this Schedule, the capitalized terms shall have the following meaning:

Consultative Services. Services that incorporate a variety of approaches to effective employee management including needs analysis, human resource policy development, group facilitation, mediation of interpersonal and interdepartmental conflicts, and employee and management training and development programs.

Critical Incident. An unexpected, disruptive event, including, but not limited to, occurrences such as death or serious illness of a co-worker, acts of violence, situations requiring emergency medical assistance, extremely inappropriate or disruptive workplace behavior, threatening external acts such as robberies, fires and bombings, and natural disasters.

Critical Incident Stress Management ("CISM"). Services, which provide rapid, on-site intervention in response to any Critical Incident affecting the workplace. Specially trained debriefers conduct sessions that are educational in focus and help Participants understand how to process the normal emotional, mental, and physical reactions commonly experienced after a critical incident.

Training. Training includes, but is not limited to, seminars designed to build personal awareness in Participants and encourage individual responsibility in facing one's own personal problems and management development designed to help managers build the skills to improve both interpersonal and organizational effectiveness in relating to Employees.

2. **Services**

2.1 **Training and Consultative Services.** We shall provide Training and Consultative Services upon thirty (30) days prior notification by you for scheduling purposes. Training and Consultative Services are available on a fee-for-service basis as described in Exhibit A.

2.2 **Critical Incident Stress Management ("CISM").** We shall provide Critical Incident Stress Management in response to any crisis or tragedy affecting the workplace. Debriefings are conducted within twenty-four (24) to forty-eight (48) hours after an incident occurs, based on the individual circumstances surrounding the incident. CISM services are available on a fee-for-service basis as described in Exhibit A.

2.3 **Unlimited Benefits Orientations.** Upon request, we shall provide manager orientations to introduce our services to your managers upon thirty (30) days' prior written notice for scheduling purposes. We shall provide orientations for Employees covered under this Agreement.

2.4 **Health Fairs.** We shall participate in health fairs for your Employees in a frequency mutually agreed to by the parties; however, you shall provide thirty (30) days' prior notification of health fairs for scheduling purposes.