



TELADOC HEALTH SERVICES AGREEMENT

This Teladoc Health Services Agreement ("Agreement") is entered into on **May 1, 2020** ("**Effective Date**"), by and between **Teladoc Health, Inc.** ("**Teladoc Health**") and **City of Broken Arrow** ("**Employer**"). Teladoc Health and Employer shall be referred to herein as the "**Parties**" and each individually as a "**Party**".

Introduction

A. Teladoc Health provides (i) a suite of telehealth services offered under the Teladoc® and HealthiestYou® brands, and (ii) a suite of expert medical information services offered under the Teladoc® brand, as more fully described in the Exhibit(s) incorporated in this Agreement (collectively, the "**Services**").

B. Employer desires to purchase the Services for use by certain of its employees ("**Employees**") and their eligible dependents ("**Eligible Dependents**") as an additional benefit in connection with Employer's employee benefits program. "Eligible Dependent" means a "dependent," as defined under the Internal Revenue Code, I.R.C. § 152, or as may be mutually agreed between the Parties. Employees and Eligible Dependents are collectively and each referred to as "**Member(s)**".

Terms and Conditions

1. Scope.

This Agreement sets forth the terms and conditions under which Teladoc Health will provide the Services to Employer. Employer agrees to provide access to the Services to all Members and to inform the Members regarding the availability of the Services as provided in this Agreement. The specific Services that Employer has engaged Teladoc Health to provide, as well as the specific terms and conditions applicable to the provisions of those Services, are described in the attached Exhibit(s), which are incorporated by reference and made a part of this Agreement.

Capitalized terms used but not separately defined in the Exhibits shall have the meanings assigned to them in this Agreement. In the event of a conflict between terms set forth in this Agreement and the terms of an Exhibit or Attachment to the Agreement, the terms of the Exhibit or Attachment will govern.

2. Term and Termination; Survival. This Agreement commences on the Effective Date and will continue in force until all Exhibits have terminated or expired ("**Term**"), unless terminated earlier as outlined below; *provided, however*, that the provisions of Section 3 (*Intellectual Property Rights*), Section 5 (*Protected Health Information; Confidential Information*), and Section 7 (*Indemnification; Limitations of Liability*) shall survive any expiration or termination of the Agreement. Either Party may terminate this Agreement (a) for the other Party's material breach of the Agreement, which breach has not been cured, or cannot reasonably be cured, within 30 days after receipt of written notice by the non-breaching Party; or (b) for the other Party's Insolvency. For the purposes of this Agreement, "**Insolvency**" means that the other Party files or is subject to any voluntary or involuntary bankruptcy, receivership, or assignment for the benefit of creditors or similar proceeding.

3. Intellectual Property Rights.

3.1 Employer acknowledges that all materials relating to the Services that are developed by or on behalf of Teladoc Health or provided to the Employer by Teladoc Health (including, without limitation, any Communication and/or Member Engagement materials referred to in the attached Exhibit(s)), and all trade names, service marks, trademarks and logos that are used by Teladoc Health, and such other trade names, trademarks and logos as hereinafter may be designated by Teladoc Health in connection with its business (the "**Teladoc Health Marks**") are the unique intellectual property of Teladoc Health (the "**Intellectual Property**"), and the Employer agrees that: (i) the Employer will not duplicate the Services in any format that would, in whole or in part, infringe upon the intellectual property rights of Teladoc Health, and will not use or disclose the Intellectual Property in any manner other than pursuant to this Agreement; (ii) the Employer and its employees, directors, officers, agents, owners, successors and assigns shall maintain the confidentiality of any non-public Intellectual Property disclosed to the Employer by Teladoc Health; and (iii) on termination of this Agreement, the Employer shall return to Teladoc Health all of the Intellectual Property provided to the Employer upon request.

3.2 Pursuant to the terms of this Agreement and only in a manner that has been approved by Teladoc Health in advance, Teladoc Health grants Employer a limited, non-exclusive, non-transferable license to use the Teladoc Health Marks during the term of this Agreement.

4. No Joint Undertaking. Teladoc Health and Employer are and shall at all times function as independent contractors under this Agreement, and neither Teladoc Health nor Employer is authorized to assume or create any obligations or liabilities, express or implied, on behalf of or in the name of the other Party, except to the extent otherwise specifically contemplated herein. The employees, agents,

representatives, providers, methods, facilities and equipment of a Party shall at all times be under the exclusive direction and control of that Party.

5. Protected Health Information; Confidential Information.

5.1 To the extent that Employer offers any Services as part of its Group Health Plan, as defined by 45 C.F.R. § 160.103, the receipt, creation, use, and/or disclosure of Protected Health Information by Teladoc Health on Employer's behalf will be governed, as applicable, by the Business Associate Agreement attached to this Agreement as **Exhibit 1**.

****MUST BE COMPLETED by Employer:** By choosing the appropriate box below, Employer confirms one of the following statements:

☐ Services being provided under this Agreement are being incorporated as part of Employer's Group Health Plan, as defined by 45 C.F.R. § 160.103

OR

☒ Services being provided under this Agreement are **not** being incorporated as part of Employer's Group Health Plan, as defined by 45 C.F.R. § 160.103

5.2 For purposes of this Agreement, "**Disclosing Party**" shall mean the Party that discloses any Confidential Information, as defined below, to the other Party to this Agreement, and the "**Receiving Party**" shall mean the Party that receives any Confidential Information, as defined below, from the other Party to this Agreement.

- (a) For purposes of this Agreement, "**Confidential Information**" shall include information: (i) that is not known by actual or potential competitors of the Disclosing Party or is generally unavailable to the public; (ii) that has been created, discovered or developed by, or otherwise become known to, the Disclosing Party or in which property rights have been assigned or otherwise conveyed to the Disclosing Party; and (iii) that has material economic value or potential material economic value to the Disclosing Party's present or future business. Confidential Information shall include trade secrets which include all discoveries, developments, designs, improvements, inventions, formulas, software programs, processes, techniques, know-how, negative know-how, data, research, technical data (whether or not patentable or registerable under patent, copyright or similar statutes, and including all rights to obtain, register, perfect, and enforce those proprietary interests) and any other Intellectual Property, customer and supplier lists, price lists, business plans, and any modifications or enhancements of any of the foregoing, and all program, marketing, sales, or other financial or business information disclosed to the Receiving

Party by the Disclosing Party, either directly or indirectly, in writing or orally or by drawings or observation, which has actual or potential economic value to the Disclosing Party, any other information that is treated as confidential, regardless of whether it is marked as such, and any other information that a reasonable party would conclude is confidential or proprietary in nature. Confidential Information shall also include, without limitation, employee information not otherwise defined as Protected Health Information by 45 C.F.R. § 160.103, analyses, forecasts, studies, summaries, marketing plans, financial data, business statistics, property, contracts, methods, transactions, affairs, concepts, ideas, services, products, images, graphics, text, audio, video, software and other data, knowledge, content or information in written, oral, visual and/or physical/sample form.

- (b) Notwithstanding the foregoing, Confidential Information shall not include any information to the extent it: (i) is or becomes a part of the public domain through no act or omission on the part of the Receiving Party; (ii) is disclosed to third parties by the Disclosing Party without restriction on such third parties; (iii) is in the Receiving Party's possession, without actual or constructive knowledge of an obligation of confidentiality with respect thereto, at or prior to the time of disclosure under this Agreement; (iv) is disclosed to the Receiving Party by a third party having no obligation of confidentiality with respect thereto; (v) is independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information; or (vi) is released from confidential treatment by written consent of the Disclosing Party.
- (c) Notwithstanding the foregoing, portions of Confidential Information may be disclosed pursuant to the request of a governmental agency or third party if such disclosure is required by operation of law, regulation or court order, provided the Receiving Party gives the Disclosing Party prompt written notice of such proposed disclosure in order to enable the Disclosing Party to obtain an appropriate protective order, if it so desires.
- (d) The Receiving Party shall hold and maintain the Confidential Information of the Disclosing Party in strictest confidence and in trust for the sole and exclusive benefit of the Disclosing Party. The Receiving Party shall not, without the prior written approval of the Disclosing Party, use for its own benefit, publish or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of the Disclosing Party, any of the Confidential Information of the Disclosing Party.
- (e) The Receiving Party understands and acknowledges that any disclosure or misappropriation of any of the

Confidential Information of the Disclosing Party in violation of this Agreement may cause the Disclosing Party irreparable harm, and that monetary damages may not be a sufficient remedy. Thus, the Receiving Party agrees that the Disclosing Party shall have the right to apply to a court of competent jurisdiction for an order restraining any such disclosure or misappropriation and for such other relief as the Disclosing Party shall deem appropriate, and the Receiving Party expressly agrees that the Disclosing Party shall be entitled, in addition to any other remedy provided by law, to seek an injunction or other equitable remedy respecting such violation or continued violation. Such right is to be in addition to the remedies otherwise available to the Disclosing Party at law or in equity. If any action at law or in equity is brought to enforce or interpret the provisions of this Section, the prevailing Party in such action shall be entitled to reasonable attorneys' fees.

- (f) Upon request, the Receiving Party shall promptly return to the Disclosing Party any and all records, notes and other written, printed or tangible materials pertaining to the Confidential Information of the Disclosing Party.

6. Representations of the Parties; Disclaimer.

6.1 Each Party represents that (a) it has the necessary and actual right and authority to enter into and to perform its obligations under this Agreement, (b) it has taken all necessary corporate action to authorize the execution, delivery, and performance of this Agreement, (c) this Agreement constitutes a valid and binding obligation enforceable against the Party in accordance with its terms, and (d) it will perform its obligations under this Agreement in a manner that complies with all laws applicable to such Party.

6.2 Employer represents that (a) Employer has sought its own legal advice with respect to the use of the Services as part of a wellness program, if applicable; and (b) that Teladoc Health has not provided Employer with advice regarding the legality of any of its wellness programs or use of the Services for such wellness programs.

6.3 Each Party represents that it will maintain such insurance coverage as is reasonably necessary to support its respective obligations under this Agreement, which, for Employer is self-insured and shall maintain insurance amounts sufficient to fulfill this agreement.

Specifically, Teladoc Health represents that during the Term, it will maintain the following minimum types and amounts of insurance in the provision of the Services, with carriers having an AM Best Rating of A- or better:

- (a) Workers Compensation Insurance in the amount required by law;

- (b) Professional Liability/MCO Errors and Omissions coverage of \$10 million per occurrence/aggregate;
- (c) General Liability coverage of \$1 million per occurrence/\$2 million aggregate;
- (d) Technology Errors and Omissions and Cyber Risk Liability coverage (including network security and privacy liability) of \$10 million; and
- (e) Teladoc Health will ensure that each Physician is provided with the requisite medical malpractice insurance coverage, in all cases complying with the minimum requirements of the applicable jurisdiction.

Upon request, Teladoc Health will provide Employer with a certificate evidencing the above insurance coverage.

6.4 Employer acknowledges and agrees that except as may be explicitly set forth in this Agreement, Teladoc Health has made no representations, and has expressly disclaimed to the maximum extent permitted by law, all warranties or representations of every kind or nature, either implied or statutory, as to the Services, including without limitation, any implied warranties of merchantability, fitness for a particular purpose, or title.

7. Indemnification; Limitations of Liability.

7.1 Each Party agrees that it is solely liable for any breach, misrepresentation, error or omission by its employees, agents and representatives concerning the Services or otherwise made by such Party in fulfilling its obligations under this Agreement.

7.2 Each Party's total liability (including the liability of any of its officers, employees, or agents) relating to claims for damages arising from or relating to the performance of this Agreement shall be limited to direct (reasonably foreseeable) damages and shall in no event exceed twice the amount of Fees paid by Employer during the Term; *provided, however, that:*

- (a) Teladoc Health's total obligation for any claim arising from (i) a breach of the Protected Health Information; Confidential Information Section of the Agreement or (ii) from a claim for liability asserted by a third party relating to the performance of this Agreement shall in no event exceed \$5 million; and
- (b) in the event of a decision of liability attributed to both Parties, each Party's obligation will be limited by its relative fault as compared to the other Party or a third party in such matter.

Each Party expressly waives any right to seek consequential, indirect, punitive, or special damages for claimed losses arising from or relating to the performance of this Agreement from the other Party including, without limitation, claims for loss of business, data, revenue, profits, or goodwill, even if the Parties have knowledge of the



possibility of such damages and whether or not such damages are foreseeable.

8. Data Transmission Security. Data transmission security is the process of sending data from one computer system to another in a secure manner so that only the intended recipient of the data receives the data and the data sent is identical to the data received. When ePHI (Electronic Protected Health Information) is transmitted over an electronic communications network i.e. "the internet", transmissions of ePHI to and from Teladoc Health will utilize Secure File Transport Protocol (SFTP).

Employer is expressly prohibited from indirectly or directly, knowingly violating or attempting to violate the security of Teladoc Health's web sites, including, without limitation, accessing data not intended for such user or logging into a server or account which user is not authorized to access, attempting to probe, scan or test the vulnerability of the system or network or to breach security or authentication measures, scanning or testing the performance of the system or network, attempting to interfere with service to any user, host or network, including, without limitation, via means of submitting a virus or "trojan horse" to the Web site, overloading, "flooding", "mail bombing" or "crashing", or sending unsolicited electronic mail, including promotions and/or advertising of products or services. Violations of system or network security may result in civil or criminal liability. Teladoc Health will investigate occurrences that may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations.

9. Publicity. Teladoc Health may use Employer's trade name and logo on Teladoc Health's standard sales-deck and customer list(s) solely to indicate, during the Term, Employer's status as a customer of Teladoc Health, without other indications of endorsement. All other use of Employer's trade name, trademark, service mark, or symbol in Teladoc Health's advertising, publicity or other promotional endeavors requires the prior consent of Employer.

10. Dispute Resolution. Prior to the institution of formal court action, the Parties agree that any claim or controversy arising from this Agreement shall be considered and addressed by one representative from Teladoc and one representative from the Employer at a meeting held upon at least five business days' advance notice from the complaining Party. Such meeting shall be held at a neutral location in the city where the non-complaining Party has its principal office. If the claim or controversy is not resolved by the representatives at such meeting or within five business days thereafter, either Party may proceed with court action.

11. Miscellaneous.

11.1 Entire Agreement; Amendment; Severability. This Agreement (including any Exhibits or attachments hereto) constitutes the entire agreement by and between Teladoc Health and Employer relating in any manner of its subject matter, and any representation, warranty, covenant, understanding or agreement not contained or incorporated in it by reference shall be of no force or effect. This Agreement supersedes all prior proposals, discussions, writings, and agreements between the Parties relating to the subject matter hereof. This Agreement may only be modified in writing, signed by an authorized representative of each Party. In the event any provision of this Agreement shall be determined to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather this Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

11.2 Waiver. Any failure on the part of a Party to comply with any of its obligations, agreements, or responsibilities under this Agreement may be waived by the other Party to whom such compliance is owed. No waiver of any provision of such agreements shall be deemed a waiver of any other provision, nor shall any waiver constitute a waiver of any failure other than that waived.

11.3 No Third Party Beneficiaries. No person other than the Parties and their respective successors and permitted assigns is intended to be a beneficiary of this Agreement. In executing this Agreement, the Parties do not intend to create third-party beneficiary rights in anyone not a Party to the Agreement.

11.4 Force Majeure. Neither Party shall have liability to the other as a result of a Force Majeure Event; *provided, however*, that the non-performing Party uses commercially reasonable efforts to avoid or remove such causes of nonperformance and restores performance as soon as such causes are removed. For purposes of this Agreement, "**Force Majeure Event**" means an event not reasonably foreseeable, beyond a Party's reasonable control, and occurring without its fault or negligence, including, without limitation (a) an act of nature, such as fire, flood, earthquake, storm, tornado, lightning, landslide, sink hole, or outbreak of disease, (b) a service failure caused by third parties, such as a power or utility outage or a labor dispute affecting suppliers or subcontractors, (c) a civil disruption such as war, invasion, insurrection, trade embargo, or activities by terrorists or public enemies, or (d) action by a governmental body that enjoins or prevents performance by a Party.

11.5 Notice. All notifications, consents, reports, requests, demands, and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed given: (i) three (3) days after being mailed (with return receipt requested), (ii) when emailed, or (iii) one (1)

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day after being sent via a recognized overnight courier service, to the Parties at the following addresses, or pursuant to such other instructions as may be designated in writing by the Party to receive such notice:

If to Teladoc Health:

Teladoc Health, Inc.
Attn: Chief Legal Officer
2 Manhattanville Road, Suite 203
Purchase, NY 10577
Email: legalnotices@bestdoctors.com

With a Copy to: clientservices@teladoc.com

If to Employer:

City of Broken Arrow
ATTN: JANETTE MCCORMICK
220 S. FIRST STREET
Broken Arrow, OK 74012
EMAIL: JMcCormick@BrokenArrowOK.Gov

11.6 Governing Law; Jurisdiction; Venue. This agreement shall be performed under the Laws of the State

of Oklahoma which is where the agreement has been entered. The Law of the State of Oklahoma shall govern this agreement. Jurisdiction and Venue for the enforcement of this Agreement shall be in the District Court of Tulsa County, State of Oklahoma.

11.7 Joint Preparation. This Agreement is deemed to have been prepared jointly by the Parties, and any uncertainty or ambiguity herein shall not be interpreted against either Party, but shall be interpreted according to the application of the rules of interpretation for arm's length agreements

11.8 Counterparts; Electronic Signatures. This Agreement may be executed in any number of counterparts (and may be executed by way of email or electronic signature, and if so, shall be considered an original), all of which shall constitute one and the same instrument, and each Party hereto may execute this Agreement by signing one or more counterpart, which shall not affect the construction of this Agreement. Each signatory represents that he/she has full authority to sign this Agreement on behalf of his/her respective Party and to bind and obligate such Party to the terms hereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Teladoc Health, Inc.		City of Broken Arrow	
Print Name	Title	Print Name	Title
Signature	Date	Signature	Date

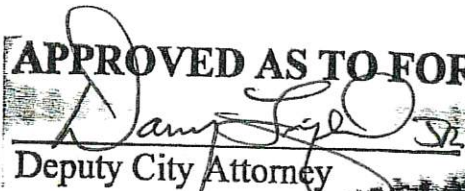
APPROVED AS TO FORM:

Deputy City Attorney

Exhibit 1
Business Associate Agreement

This BUSINESS ASSOCIATE AGREEMENT ("BAA") is entered into by and between Employer (referred to herein as "**Plan Sponsor**"), on behalf of Plan Sponsor's Group Health Plan ("**Covered Entity**"), and Teladoc Health, Inc. and its affiliated companies (referred to herein as "**Business Associate**") pursuant to the Teladoc Health Services Agreement dated **May 1, 2020** ("**Agreement**"), the terms and conditions of which are incorporated by reference into this BAA. The Effective Date of this BAA shall be the same as the Effective Date defined in the Agreement.

Introduction

WHEREAS, the U.S. Department of Health and Human Services ("HHS") has promulgated privacy and security requirements reflecting the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), Public Law 104-191; and the American Recovery and Reinvestment Act of 2009 (the "**ARR Act**"), including, without limitation, the requirements of the Health Information Technology for Economic and Clinical Health Act (the "**HITECH Act**"), which is part thereof, enacted and established additional provisions for written business associate agreements and required these additional provisions be incorporated into all business associate agreements;

WHEREAS, the HIPAA Rules provide that a Covered Entity is permitted to disclose Protected Health Information ("**PHI**") to a Business Associate only if the Covered Entity has first obtained "satisfactory assurances," in the form of a written contract requiring that the business associate will appropriately safeguard such PHI;

WHEREAS, Business Associate will be providing services to the Covered Entity as described in the Agreement ("**Services**");

WHEREAS, Business Associate may, in the course of providing the Services to the Covered Entity, receive, create, use, and/or disclose PHI on Covered Entity's behalf which would create a business associate relationship between the Parties, thus necessitating a written contract that meets the applicable requirements of the HIPAA Rules.

NOW THEREFORE, in consideration of the mutual promises contained herein, Covered Entity and Business Associate (each a "**Party**" and together the "**Parties**") agree as follows:

Terms

1. Definitions.

Definitions. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as set forth in the Privacy Rule, the Security Rule (as both are defined below) and/or the security and privacy provisions of the ARR Act and the HITECH Act that are applicable to business associates along with any regulations issued by HHS with respect to the ARR Act and the HITECH Act that relate to the obligations of agents and subcontractors of business associates.

- (a) "**Covered Services**" shall mean, as applicable, the activities related to administering the Expert Medical Services and/or the activities related to administering the parts of the Teladoc Services which are performed on behalf of Covered Entity, which include engagement activities and eligibility verification. The delivery of, and activities related to the delivery of, Cross-Coverage Consultations is not an activity performed by Business Associate on behalf of Covered Entity.
- (b) **Electronic Protected Health Information** or **ePHI** shall have the meaning given such term in 45 C.F.R. § 160.103, but limited to the information received from or created on behalf of Covered Entity by Business Associate to perform the Covered Services.
- (c) **HIPAA Rules** shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164.
- (d) "**Individual**" shall have the same meaning as the term "individual" in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- (e) "**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- (f) **Protected Health Information** or **PHI** shall have the meaning given such term in 45 C.F.R. § 160.103, but limited to the information received from or created on behalf of Covered Entity by Business Associate to perform the Covered Services.
- (g) "**Security Rule**" shall mean the Standards for Security of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

2. Permitted Uses and Disclosures by Business Associate. Business Associate may use and disclose PHI only as follows:

- (a) Business Associate may use or disclose PHI in order to perform its obligations under the Agreement relating to providing the Covered Services.
- (b) Business Associate may use or disclose PHI as Required By Law.

- (c) Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of Business Associate.
- (d) Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that – (1) the disclosures are Required by Law, or (2) Business Associate obtains reasonable assurances from the entity to which the information is disclosed that it will be held confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the entity, and the entity notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (e) Business Associate may use PHI to provide data aggregation services to Covered Entity.
- (f) Business Associate may use PHI to create de-identified information as defined by 45 C.F.R. §164.514(b). The Parties agree that once PHI is de-identified, it is no longer subject to this BAA.
- (g) Business Associate may use PHI to create a limited data set as defined by 45 C.F.R. §164.514(e)(2) and use and disclose such limited data set pursuant to 45 C.F.R. §164.514(e)(1).
- (h) Business Associate may use and disclose PHI for research purposes pursuant to a HIPAA compliant authorization form from the Individual or as permitted by and pursuant to 45 C.F.R. §164.512(i).
- (i) Business Associate may disclose PHI at the direction of Covered Entity to any other vendors of Covered Entity that provide other services for or on behalf of Covered Entity. Covered Entity hereby agrees that it shall not request or permit Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA if done by Covered Entity.
- (j) Business Associate agrees to use reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request pursuant to 45 C.F.R. § 164.502(b).
- (k) Subject to any form signed by an Individual prohibiting such Disclosure, Business Associate may provide to Plan Sponsor PHI, subject to the requirements of 45 C.F.R. § 164.504(f)(2), for the purpose of carrying out legitimate plan administration functions that the Plan Sponsor performs on behalf of Covered Entity. Plan Sponsor agrees it will only request PHI for legitimate plan administration functions.

3. Obligations and Activities of Business Associate. Business Associate agrees to:

- (a) not use or disclose PHI other than as permitted or required by this BAA or as Required By Law.
- (b) use commercially reasonable and appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by this BAA.
- (c) in accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- (d) report, within thirty (30) days of becoming aware, to Covered Entity any use or disclosure of the PHI not provided for by this BAA, any Breaches of Unsecured PHI as required at 45 C.F.R. 164.410, and any successful Security Incident of which it becomes aware. Successful Security Incidents shall not include pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, Use or Disclosure of PHI.
- (e) mitigate, to the extent practicable, any harmful effect that is, or becomes, known of a use or disclosure of PHI by the Business Associate or any of its employees, agents, contractors or subcontractors in violation of the requirements of this BAA, the Privacy Rule, ARR Act or HITECH Act.
- (f) implement and use appropriate policies and procedures for the identification and notification of Breach.
- (g) make available PHI in a Designated Record Set to the individual or the individual's designee as necessary to satisfy Covered Entity's obligation under 45 C.F.R. § 164.524. Business Associate will, at the request of the Individual or Covered Entity, provide a copy of PHI directly to the Individual or the Individual's designee.
- (h) make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under C.F.R. § 164.526.
- (i) maintain and make available the information required to provide an accounting of disclosures to the Individual as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.528.
- (j) comply with the requirements of Subpart E of 45 C.F.R. Part 164 to the extent Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164.
- (k) make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI available to the Secretary, in a time and manner reasonably designated by the Secretary, for purposes of having the Secretary determine Covered Entity's compliance with the Privacy Rule. Business Associate shall have an annual HIPAA compliance audit conducted by an independent third party auditor and, upon request by Covered Entity, provide the results of such annual audit to Covered Entity. In the event of a Breach occurs, Business Associate will conduct an additional audit which shall be shared with Covered Entity at Covered Entity's request as confirmation the issue causing the Breach was remediated.

4. Obligations of Covered Entity.

- (a) To Inform of Privacy Practices and Restrictions:
 - (1) Covered Entity shall notify Business Associate in writing of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - (2) Covered Entity shall notify Business Associate in writing of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
 - (3) Covered Entity shall notify Business Associate in writing of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (b) Representations by Covered Entity. Covered Entity represents that it has the right and authority to disclose PHI to Business Associate to enable Business Associate to perform its obligations and provide services to Covered Entity. Except as otherwise permitted in this BAA, Covered Entity shall not request that or permit Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity. Covered Entity will neither request nor require Business Associate to deliver any PHI to Covered Entity, plan sponsor, or a third party in violation of this BAA.

5. Term and Termination.

- (a) Term. This BAA shall take effect on the Effective Date and shall terminate when the Agreement terminates.
- (b) Termination for Cause. Both Parties agree that this BAA may be terminated by either Party upon breach of a material term of the BAA. The non-breaching Party shall:
 - (1) provide the breaching Party the opportunity to cure the breach or end the violation within fifteen (15) days; and
 - (2) if cure of such breach is not possible or if the breaching Party does not cure the breach or end the violation within fifteen (15) days, terminate the BAA.
- (c) Effect of Termination. Upon termination of this BAA for any reason, Business Associate shall:
 - (1) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - (2) Destroy the remaining PHI that Business Associate still maintains in any form;
 - (3) Continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this section, for as long as Business Associate retains the PHI;
 - (4) Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at section 2(c) and 2(d) which applied prior to termination; and
 - (5) Destroy the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- (d) Survival. The obligations of Business Associate under this section 5 shall survive the termination of this BAA.

6. Miscellaneous.

- (a) Regulatory References. Any reference in this BAA to a section of the HIPAA Rules means the section as in effect or as amended.
- (b) Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- (c) Interpretation. Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.
- (d) No Third-Party Beneficiaries. Nothing expressed or implied in this BAA is intended to confer, nor shall anything in the BAA be deemed to confer, upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- (e) Governing Law. This BAA shall be governed by and construed in accordance with the laws of the State of New York.

HEALTHIESTYOU SERVICES EXHIBIT

This HealthiestYou Services Exhibit (the "Exhibit") is entered into on **May 1, 2020** ("Effective Date"), by and between **Teladoc Health, Inc.** ("Teladoc Health") and **City of Broken Arrow** ("Employer"), pursuant to the terms of the Teladoc Health Services Agreement entered into by the Parties, dated **May 1, 2020** ("Agreement"), the terms and conditions of which are incorporated by reference into this Exhibit. Teladoc Health and Employer shall be referred to herein as the "**Parties**" and each individually as a "**Party**".

I. Introduction

- A. Teladoc Health provides a suite of telehealth services, as more fully described below (collectively, the "**HealthiestYou Services**"), and has entered into a contract with one or more professional associations that employ and/or contract with physicians (collectively, the "**Provider**"), and for which Teladoc Health provides various operational and administrative services to the Provider. The physicians who are employed by, or under a contractual arrangement with, the Provider form a network that is designed to facilitate medical consultations provided by a physician who provides patient care, via telephone or web-based video, for another physician when the other physician is not available ("**Cross-Coverage Consultation(s)**") to individuals and groups desiring to purchase such Cross-Coverage Consultations. The arrangement between Teladoc Health and the Provider permits Teladoc Health to offer a program to its customers that consists of: (a) a network of providers who provide medical consultations via telephone or web-based video; and (b) support for the operation and administration of that network, as further described herein.
- B. Employer desires to purchase the HealthiestYou Services for use by certain of its employees ("**Employees**") and their eligible dependents ("**Eligible Dependents**") as an additional benefit in connection with Employer's employee benefits program. "Eligible Dependent" means a "dependent," as defined under the Internal Revenue Code, I.R.C. § 152, or as may be mutually agreed between the Parties. Employees and Eligible Dependents are collectively and each referred to as "**Member(s)**".

II. Term and Termination

- A. Teladoc Health will provide the HealthiestYou Services to Employer commencing on **May 1, 2020** ("**Start Date**"). This Exhibit commences on the Effective Date and will continue in force for an initial term that will end on the **first** anniversary of the Start Date ("**Initial Term**"), unless terminated earlier pursuant to **Section II(B)** below. Unless otherwise agreed by the Parties, at the expiration of the Initial Term, the Agreement will be extended automatically on a year-to-year basis, unless either Party has given written notice to the other at least 60 days prior to the scheduled expiration of the Agreement of its election not to extend the Agreement. Any extensions of this Agreement past the Initial Term are referred to as "**Renewal Term**". The Initial Term and any Renewal Terms of this Agreement are collectively referred to as the "**Term**."
- B. In addition to the termination provisions outlined in **Section 2** of the Agreement, either Party may terminate this Exhibit for convenience on each anniversary of the Start Date by providing 60 days' advance written notice to the other Party.

III. Teladoc Services

- A. During the Term, Teladoc Health will provide the HealthiestYou Services described in this Exhibit, which consist of HealthiestYou Services to Members and HealthiestYou Services to Employer. As used in this Exhibit, the following terms shall have the following meanings:

"**Consultation**" means a unit of the HealthiestYou Services for a Member (*for example, an instance of General Medical Cross-Coverage Consultation*).

"**PEPM**" means "Per Employee Per Month," which the Parties recognize as a common term in the health care industry. For purposes of this Exhibit, PEPM is defined as the applicable rate paid by Employer to Teladoc Health for each Employee who is eligible to utilize the HealthiestYou Services each month.

"**Physician**" means a doctor who is licensed to practice medicine and/or osteopathic medicine and is associated with the Provider to provide Cross-Coverage Consultations.

- B. **Teladoc Services for Members.** Teladoc Health will provide the following HealthiestYou Services to Members:

1. The HealthiestYou Services include access to the Physicians, who are selected and engaged by the Provider to provide patient and Physician interaction, whereby the Physician may diagnose the patient's ailment, recommends therapy, and if necessary and appropriate, writes a non-DEA controlled prescription. The HealthiestYou Services are designed to provide Physician access in the states where the Members live and travel. Each Physician shall be licensed to practice medicine and/or osteopathic medicine, be technologically proficient, trained in Cross-Coverage Consultations, and covered by medical malpractice insurance having limits equal to or greater than the minimum required limits in the state where such Physician practices. Cross-Coverage Consultations are not delivered via Internet questionnaires. Teladoc Health has the right to limit or restrict the HealthiestYou Services in any state or jurisdiction where the provision of such services is or would be contrary to applicable rule, law or regulation and shall provide Employer written notice of such limitation or restriction within 30 days.
2. It is understood by the Parties that the Physicians will not prescribe any Drug Enforcement Agency ("**DEA**") controlled substances or narcotics and operate subject to applicable state regulations. Teladoc Health is not required to guarantee that the Member will receive a prescription, and only the Members who have completed the necessary steps to create the legally

mandated doctor/patient relationship (as described herein) will receive Cross-Coverage Consultations. Those steps include: (i) completing a comprehensive electronic health record ("EHR"), either online or by telephone with a designated Teladoc Health representative (It being understood that, in the event the Member fails to complete the EHR, the Member will not have access to the Physicians, and Teladoc Health will so advise the Member when he/she accesses the HealthiestYou Services); (ii) agreeing to Teladoc Health's Terms and Conditions confirming an understanding that the Provider is not obligated to accept the Member as a patient, and that the Member's participation in the HealthiestYou Services may be cancelled at any time without recourse by the Member; and (iii) the Member also understands and acknowledges that the HealthiestYou Services provide Cross-Coverage Consultations when the Member's primary care physician is not accessible. If at any time a Physician or other provider determines that the Member's condition is a life-threatening emergency, he or she shall direct the Member to the nearest emergency facility.

3. The HealthiestYou Services consist of the following:

- i. **Included HealthiestYou Services:**
 - a. **General Medical:** Toll-free access to telephone or web-based video Cross-Coverage Consultations provided by a Physician whereby the Physicians diagnose common or routine conditions, recommend treatment or direct the Member to contact his/her primary care physician, and if necessary and where appropriate, write a non-DEA controlled prescription. General Medical access is available on-demand 24 hours, 365 days per year. Members shall have the option to schedule Consultations currently between the hours of 7AM to 9PM local time, seven days a week, subject to availability.
4. Teladoc Health agrees: (i) upon receipt of written notification by Employer of a Member's eligibility for HealthiestYou Services, to initiate that Member's identity in the Member database using Employer's identification number, and begin processing that Member so that he/she may receive HealthiestYou Services; (ii) to provide and maintain an adequate system, forms and other resources for Members to: (a) complete the required EHR online, and (b) access and agree to Teladoc Health's Terms and Conditions.
5. Teladoc Health further agrees to: (i) maintain a database of the Members' information (in an electronic format that is compliant with the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA")), including but not limited to those changes adopted and incorporated by Section XIII of the American Recovery and Reinvestment Act of 2009 ("ARRA") known as Health Information Technology for Economic and Clinical Health ("HITECH") Act, and update the database periodically with information provided by Employer or its third party administrator as new Members are enrolled; and (ii) provide initial training for Employer's designated employees (i.e., *HR personnel*) at the time of implementation. Notwithstanding the foregoing, Employer acknowledges and agrees that: (a) Employer will be responsible for providing training and administering the HealthiestYou Services to Members; (b) if Employer requests Teladoc Health to attend any events such as, but not limited to, enrollment meetings, health fairs, etc., Teladoc Health will charge additional fees for attendance as mutually agreed by the Parties.

C. HealthiestYou Services for Employer. Teladoc Health will provide the following services to Employer.

1. Account Support. Teladoc Health will be available to Employer to assist with the following:
 - Implementing the HealthiestYou Services
 - Launching the Member Engagement Package(s) described below, and monitoring its performance
 - Providing assistance to Employer in answering questions and resolving issues
 - Reviewing and explaining reporting
2. Reporting. Teladoc Health will provide Employer with the following reporting:
 - **Monthly** standard utilization reporting package*
 - **Quarterly** standard savings reporting package*
 - If Employer requests Teladoc Health to prepare any non-standard reports that require information technology programming, Teladoc Health will charge the Employer an additional fee of two hundred dollars (\$200) per hour, times that number of hours necessary for such non-standard reporting program development.

*The information included in any such report to Employer will be de-identified (i.e., aggregated). In accordance with applicable law, Teladoc Health will not share any personal identifiable information of any Member with Employer in such reports.

3. Communications & Member Engagement. Fees include the following Member Engagement Package(s):

i. **Member Engagement Package:**

- a. Teladoc Health will provide a template description of the HealthiestYou Services for use by the Employer to communicate the HealthiestYou Services to Employees. Any changes or modifications to such template description, and any and all materials used by the Employer or its agents to describe the HealthiestYou

Services, must be approved in advance in writing by Teladoc Health prior to distribution. Such communications include, but are not limited to, those that are in written form, on websites, on the radio, on television, sent by email, sent by fax, etc. In addition, the Employer hereby authorizes Teladoc Health to communicate directly with the Members for the purpose of: (i) promoting the HealthiestYou Services and ancillary services or products related to the provision of remote care; and (ii) treatment, payment and health care operations of Teladoc Health.

- b. Teladoc Health will perform the following Member Engagement activities (*including postage and processing costs, if applicable*):
 - **Eligibility Awareness:** Create and deploy Welcome and Onboarding communications on an ongoing basis.
 - **Benefit Education:** Ongoing benefit education communications (e.g. seasonal and reminder communications each year delivered by direct mail, email, and/or digital channels).
 - **Email Curriculum:** Monthly email curriculum targeting registered and non-registered Members using seasonally relevant themes.

Employer Responsibilities: Provide the Teladoc Health approved description of the HealthiestYou Services to Employees. Cooperate with Teladoc Health in implementing the HealthiestYou Services. Provide consistent contextual placement of content and messaging related to the HealthiestYou Services across all appropriate Employee touch-points (e.g. Employee Benefits Portal, Direct Outreach, Open Enrollment, Newsletters, etc...) Provide Teladoc Health with timely and accurate contact information for Employees, including: Name (first, last, middle initial), mailing address, and email address.

IV. Eligibility and Fees

- A. **Eligibility Files.** By the 1st day of each month, Employer, or its third party administrator, shall deliver to Teladoc Health an accurate file identifying the number of Employees eligible to utilize the HealthiestYou Services in that month (the "**Eligibility File**") and their applicable contact information, in a format approved by Teladoc Health. If Employer, or its third party administrator, fails to deliver the Eligibility File by the 1st day of the month, then the last valid Eligibility File delivered to Teladoc Health will be deemed to be the Eligibility File for that month. Alternatively and as applicable, Employer may either provide Eligibility File information via Teladoc Health's Client Site portal, or via a Real Time Eligibility (RTE) process, as mutually agreed by the Parties. If Employer subsequently requests a modification to their method of delivering Eligibility File information, Teladoc Health may charge the Employer an additional fee of two hundred dollars (\$200) per hour, times that number of hours necessary to effect such modification.
- B. **Fees.**
 1. Employer agrees to pay Teladoc Health the following fees (collectively, the "**Fee**"):
 - i. a recurring PEPM Fee of US \$6.00 for each Employee eligible to utilize the HealthiestYou Services each month.
 - ii. The PEPM Fee includes an assumption of up to 50% annual utilization of the General Medical Services (the "**Utilization Target**"). If actual annualized utilization exceeds the current year's Utilization Target, the PEPM Fee shall increase for the next Renewal Term by \$0.50 for each 10% increment of utilization in excess of the Utilization Target. In addition, a new Utilization Target will be set for the next Renewal Term by rounding up the actual annualized utilization to the nearest 10%. For example, where the Utilization Target for the current year is 50%, if actual annualized utilization in that year is 56%, the Utilization Target for the following year will be increased to 60% and the PEPM Fee for the following year will increase by \$0.50. Such increase in the PEPM Fee will not exceed \$2.00 in any Renewal Term.
 2. The Fee is based on approximately 562 Employees in the Eligibility File each month.
 3. With 60 days' advance written notice to Employer, the PEPM Fee set forth above may be increased on each anniversary of the Start Date by five (5%) percent rounded to the nearest penny if the Teladoc Health book of business pricing is being increased as a result of overall book of business results, even if actual utilization does not exceed the Utilization Target.
- C. **Payment of Fees.**
 1. Teladoc Health will submit an invoice to Employer on the 4th day of each month based on the Eligibility File delivered by Employer to Teladoc Health for that month ("**Invoice**"), and Employer agrees to pay such Invoice by the last day of that month.
 2. If applicable, Teladoc Health will submit an Invoice to Employer for Physician Consult Fees on the 1st day of each month with respect to Consultations that occurred within the prior thirty (30) day period, and Employer agrees to pay such Invoice by the last day of that month; *provided, however*, that if claims are sent via EDI 837 file transfer, Teladoc Health will submit an 837 transaction file for any Physician Consult Fee to the applicable healthcare payer.
 3. Unless Employer directs otherwise in writing, Teladoc Health will deliver all Invoices for the HealthiestYou Services via email to the following email address: **csnyder@brokenarrowok.gov**.
 4. If any Fees due to Teladoc Health become more than sixty (60) days delinquent, Teladoc Health may suspend provision of the HealthiestYou Services until such amounts have been paid.

BEHAVIORAL HEALTH ADDENDUM

This **Behavioral Health Addendum** (the "**Addendum**") is entered into on **May 1, 2020** ("**Addendum Effective Date**"), by and between **Teladoc Health, Inc.** ("**Teladoc Health**") and **City of Broken Arrow** ("**Employer**"), pursuant to the terms of the Teladoc Health Services Agreement entered into by the Parties, dated **May 1, 2020**, which includes a HealthiestYou Services Exhibit (collectively, the "**Agreement**"), the terms and conditions of which are incorporated by reference into this Addendum. Teladoc Health and Employer shall be referred to herein as the "**Parties**" and each individually as a "**Party**". The Agreement shall be amended to include the additional provisions set forth below, and any capitalized terms not otherwise defined herein shall have the meanings given to them in the Agreement.

I. Introduction

- A. Teladoc Health provides a suite of telehealth services, which includes behavioral health services as more fully described below (the "**BH Services**"), and has entered into a contract with one or more professional associations (collectively, the "**BH Provider**") that employ and/or contract with various behavioral health practitioners, including psychiatrists, psychologists, clinical social workers, licensed professional counselors, mental health counselors, certified drug and alcohol abuse counselors, and marital and family therapists (each, a "**BH Practitioner**"), and for which Teladoc Health provides various operational and administrative services to the BH Provider. The BH Practitioners who are employed by, or under a contractual arrangement with, the BH Provider form a network that is designed to facilitate the provision of behavioral health consultations via telephone or web-based video ("**BH Consultation(s)**"). The arrangement between Teladoc Health and the BH Provider permits Teladoc Health to offer the BH Services to its customers that consist of: (a) a network of BH Practitioners who provide BH Consultations; and (b) support for the operation and administration of that network, as further described herein.
- B. Employer desires to purchase the BH Services for use by certain of its employees ("**Employees**") and their eligible dependents ("**Eligible Dependents**") as an additional benefit in connection with Employer's employee benefits program. "Eligible Dependent" means a "dependent," as defined under the Internal Revenue Code, I.R.C. § 152, or as may be mutually agreed between the Parties. Employees and Eligible Dependents are collectively and each referred to as "**Member(s)**".

II. Term and Termination

- A. Teladoc Health will provide the BH Services to Employer commencing on the Addendum Effective Date. This Addendum commences on the Addendum Effective Date and will continue in force until the expiration of the HealthiestYou Services Exhibit to the Agreement ("**Term**").

III. BH Services

- A. During the Term, Teladoc Health will provide the BH Services described in this Addendum.
- B. **BH Services for Members.** Teladoc Health will provide the following BH Services to Members:
 1. **The BH Practitioners:**
 - i. General: The BH Services include access to the BH Practitioners who provide BH Consultations to Members by telephone or video conference in the BH Services' service area. The BH Services offer Members ongoing access to behavioral diagnostic services, talk therapy, and prescription medication management, when appropriate. The BH Practitioners are selected and engaged by the BH Provider to provide behavioral health clinical intake assessments, ongoing talk therapy, and medication management in accordance with behavioral health protocols and guidelines that are tailored to the telehealth industry.
 - ii. Types and Selection: The BH Services are designed to allow the Member to select the type of BH Practitioner that will provide the BH Consultation. The following types of BH Practitioners are available under the BH Services:
 - Psychiatrists (MD/DO);
 - Psychologists (PhD);
 - Counselors (Masters);
 - Clinical Social Workers (Masters);
 - Therapists (Marriage and Family) (Masters); and
 - Substance Abuse Counselors.
 - iii. Requirements: Each BH Practitioner is required to satisfy all applicable state licensing laws in his/her field of practice. Each BH Practitioner shall also be board certified in his/her field of practice as applicable, technologically proficient, trained in providing behavioral health counseling services, and covered by medical malpractice insurance or other applicable liability insurance having limits equal to or greater than the minimum required amounts in the state where the BH Practitioner practices.
 2. **The BH Consultations:**
 - i. Prerequisites: In order for a Member to receive a BH Consultation, the Member must complete a comprehensive medical history and an assessment that is specific to the BH Services. This medical history may either be completed online or by telephone with a designated BH Services representative. If the Member fails to provide their

comprehensive medical history, the Member will not have access to the BH Practitioners, and Teladoc Health will so advise the Member when he/she attempts to schedule a BH Consultation. In order for a Member to receive a BH Consultation, the Member must also agree to Teladoc Health's Informed Patient Consent and Release Form confirming an understanding that the BH Practitioner is not obligated to accept the Member as a patient, and that the Member's participation in the BH Services may be cancelled at any time without recourse by the Member.

- ii. **Scheduling:** Teladoc Health will provide the Member with information identifying each BH Practitioner's licensure, specialties, gender and language, and will provide sufficient biographical information on each BH Practitioner to allow the Member to select the BH Practitioner from whom the Member wishes to receive treatment. The Member may schedule BH Consultations through Teladoc Health's website/mobile platform. When scheduling a subsequent BH Consultation, the Member may choose to receive the BH Consultation from a different BH Practitioner. Alternatively, a Member may choose the same BH Practitioner for any subsequent BH Consultation. There are no limitations on the number of BH Consultations a Member may receive.
 - iii. **Individual Sessions:** The Initial BH Consultation is expected to be 45 minutes in length on average, followed by subsequent psychiatric visits that will be shorter in length. Prior to each BH Consultation, the Member will be required to complete a brief intake assessment. A BH Practitioner may determine that the treatment of a Member's particular behavioral health issue would be managed more appropriately through in-person therapy. In such a case, the BH Practitioner will encourage the Member to make an appointment for an in-person visit. Employer acknowledges that the terms of the BH Services do not apply to any in-person visits between a Member and a BH Practitioner.
 - iv. **Clarifications:** Unlike General Medical Cross-Coverage Consultations, the BH Consultations:
 - are not accessible 24 hours per day, 365 days per year. Rather, a Member must schedule a BH Consultation with a BH Practitioner, and the BH Consultation with a particular BH Practitioner must occur within a time period for which the BH Practitioner is scheduled to support the BH Services;
 - are not intended to be *Cross-Coverage* Consultations. Rather, the BH Services are designed to make BH Practitioners available by telephone or video conference even when another behavioral health counselor is available to the Member for an in-person visit;
 - are not intended to be provided in emergency situations. Rather, Teladoc Health will follow an internal emergency protocol that includes calling 911 in emergency situations; and
 - are currently not available to Members who are minors.
3. **Prescription Drug Formulary:** The BH Services include a customized formulary of commonly-prescribed behavioral health medications (e.g., antidepressants, anti-anxiety, etc...). Medications may be prescribed only by BH Practitioners who are psychiatrists. Such BH Practitioners will generally issue a 30-day prescription, but may, in their discretion, issue a 90-day prescription. As is the case under the General Medical Services, BH Practitioners will not prescribe DEA controlled substances or narcotics under the BH Services. In the event a BH Practitioner elects to prescribe a DEA controlled substance or narcotic, or any other medication that is outside of the BH Services' formulary, the BH Practitioner shall refer the Member for an in-person visit, and the terms of the BH Services will not apply to such visit or to the prescription.

IV. BH Services Fees

A. Fees.

1. Employer agrees to pay Teladoc Health the following fees in connection with the BH Services:
 - i. There will be no additional PEPM Fees charged to the Employer for the BH Services, unless subsequently increased pursuant to Section IV(A)(1)(iii) below.
 - ii. Utilization of the BH Services is calculated by assuming that approximately 20% of the population needs behavioral health care in a given year, in accordance with the Kaiser Family Foundation Analysis of the 2015 National Survey on Drug Use and Health. The BH Services include an assumption of up to **25%** annual utilization, calculated based on 20% of Employer's total Employees (the "Utilization Target"). If actual annualized utilization exceeds the current year's Utilization Target, the PEPM Fee shall increase for the next Renewal Term by \$0.10 for each 5% increment of utilization in excess of the Utilization Target. In addition, a new Utilization Target will be set for the next Renewal Term by rounding up the actual annualized utilization to the nearest 5%. For example, where the Utilization Target for the current year is 25%, if actual annualized utilization in that year is 32%, the Utilization Target for the following year will be increased to 35% and the PEPM Fee for the following year will increase by \$0.20.

V. Other Terms & Conditions

The terms and conditions set forth in the Agreement shall apply to the BH Services in the same manner that such sections apply to the HealthiestYou Services.

DERMATOLOGY ADDENDUM

This **Dermatology Addendum** (the "**Addendum**") is entered into on **May 1, 2020** ("**Addendum Effective Date**"), by and between **Teladoc Health, Inc.** ("**Teladoc Health**") and **City of Broken Arrow** ("**Employer**"), pursuant to the terms of the Teladoc Health Services Agreement entered into by the Parties, dated **May 1, 2020**, which includes a HealthiestYou Services Exhibit (collectively, the "**Agreement**"), the terms and conditions of which are incorporated by reference into this Addendum. Teladoc Health and Employer shall be referred to herein as the "**Parties**" and each individually as a "**Party**". The Agreement shall be amended to include the additional provisions set forth below, and any capitalized terms not otherwise defined herein shall have the meanings given to them in the Agreement.

I. Introduction

- A. Teladoc Health provides a suite of telehealth services, which includes dermatology services as more fully described below (the "**Dermatology Services**"), and has entered into a contract with one or more professional associations (collectively, the "**Dermatology Provider**") that employ and/or contract with various practitioners, including licensed dermatologists (each, a "**Dermatology Practitioner**"), and for which Teladoc Health provides various operational and administrative services to the Dermatology Provider. The Dermatology Practitioners who are employed by, or under a contractual arrangement with, the Dermatology Provider form a network that is designed to facilitate the provision of dermatology consultations via Teladoc Health's web-based message center using store-and-forward technology telephone or web-based video ("**Dermatology Consultation(s)**"). The arrangement between Teladoc Health and the Dermatology Provider permits Teladoc Health to offer the Dermatology Services to its customers that consist of: (a) a network of Dermatology Practitioners who provide Dermatology Consultations; and (b) support for the operation and administration of that network, as further described herein.
- B. Employer desires to purchase the Dermatology Services for use by certain of its employees ("**Employees**") and their eligible dependents ("**Eligible Dependents**") as an additional benefit in connection with Employer's employee benefits program. "Eligible Dependent" means a "dependent," as defined under the Internal Revenue Code, I.R.C. § 152, or as may be mutually agreed between the Parties. Employees and Eligible Dependents are collectively and each referred to as "**Member(s)**".

II. Term and Termination

- A. Teladoc Health will provide the Dermatology Services to Employer commencing on the Addendum Effective Date. This Addendum commences on the Addendum Effective Date and will continue in force until the expiration of the HealthiestYou Services Exhibit to the Agreement ("**Term**").

III. Dermatology Services

- A. During the Term, Teladoc Health will provide the Dermatology Services described in this Addendum.
- B. **Dermatology Services for Members.** Teladoc Health will provide the following Dermatology Services to Members:
 1. **The Dermatology Practitioners:**
 - i. General: The Dermatology Services include access to the Dermatologist Practitioners who provide Dermatology Consultations to Members through an online message center using store-and-forward technology in the Dermatology Services' service area. The Dermatology Services offer Members access to upload photographs of their dermatological conditions to licensed dermatologists, who provide treatment and prescription medication, when appropriate. The Dermatologist Practitioners are selected and engaged by the Dermatology Provider to provide dermatological assessments in accordance with standard dermatology protocols and guidelines that are tailored to the telehealth industry
 - ii. Requirements: Each Dermatologist Practitioner is required to satisfy all applicable state licensing laws in his/her field of practice. Each Dermatologist shall also be technologically proficient, trained in providing dermatology counseling services, and covered by medical malpractice insurance or other applicable liability insurance having limits equal to or greater than the minimum required amounts in the state where the Dermatologist Practitioner practices.
 2. **The Dermatology Consultations:**
 - i. Prerequisites: In order for a Member to receive a Dermatology Consultation, the Member must complete Teladoc Health's medical history disclosure form (if they have not previously completed it), as well as a comprehensive Dermatology Intake Form prior to a Dermatology Consultation. The intake will consist of a Dermatology History section and an intake form for the condition for which the Member is seeking treatment describing the area of concern. This medical history may either be completed online or by telephone with a designated Dermatology Services representative. Additionally, the Member must upload at least three images of their condition prior to communicating with a Dermatology Practitioner. If the Member fails to complete the dermatology intake form or upload the required number of images, the Member will not have access to the Dermatologist Practitioners, and Teladoc Health will so advise the Member when he/she attempts to schedule a Dermatology Consultation. In order for a Member to receive a Dermatology Consultation, the Member must also agree to Teladoc Health's Informed Patient Consent and Release Form and Teladoc Health's Terms and Conditions confirming an understanding that

the Dermatology Practitioner is not obligated to accept the Member as a patient, and that the Member's participation in the Dermatology Services may be cancelled at any time without recourse by the Member. Members will be allowed to request more than one (1) Dermatology Consultation at any given time.

- ii. Initial Dermatology Consultation: The Member will be able upload a minimum of three (3) images and a maximum of five (5) images for the Dermatologist Practitioner to review. A Dermatologist Practitioner will respond to the Member's image submission via the Teladoc Health Message Center within two (2) business days of such submission. The Dermatologist Practitioner will either (a) determine that no additional information is required and provide a diagnosis and prescription, if appropriate; or (b) request additional information from the Member before making a diagnosis.
- iii. Member Follow-up: The Member will have seven (7) days after diagnosis to respond to the Dermatologist Practitioner with follow-up questions via the Teladoc Health Message Center. The Member will be able to respond only once and may upload up to five (5) additional images in the response. The Member will not be charged for a one-time follow-up Dermatology Consultation question.
- iv. Subsequent Dermatology Consultations: For subsequent Dermatology Consultations, the Member will have the option of selecting the same Dermatologist Practitioner with whom they had a prior Dermatology Consultation or a new Dermatologist Practitioner licensed in their state.
- v. Clarifications: Unlike General Medical Cross-Coverage Consultations, the Dermatology Consultations:
 - are not accessible 24 hours per day, 365 days per year. Rather, a Member must submit the required information for a Dermatology Consultation and will receive a response from a Dermatology Practitioner within two (2) business days;
 - are not intended to be *Cross-Coverage* Consultations. Rather, the Dermatology Services are designed to make Dermatology Practitioners available through an online message center using store-and-forward technology even when another dermatology practitioner is available to the Member for an in-person visit; and
 - are not intended to be provided in emergency situations. Rather, Teladoc Health will follow an internal emergency protocol that includes calling 911 in emergency situations.

IV. Dermatology Services Fees

A. Fees.

1. Employer agrees to pay Teladoc Health the following fees in connection with the Dermatology Services:
 - i. There will be no additional PEPM Fees charged to the Employer for the Dermatology Services.

V. Other Terms & Conditions

The terms and conditions set forth in the Agreement shall apply to the Dermatology Services in the same manner that such sections apply to the HealthiestYou Services.

MUSCULOSKELETAL ADDENDUM

This Musculoskeletal ("MSK") Addendum (the "Addendum") is entered into on **May 1, 2020** ("Addendum Effective Date"), by and between **Teladoc Health, Inc.** ("Teladoc Health") and **City of Broken Arrow** ("Employer"), pursuant to the terms of the Teladoc Health Services Agreement entered into by the Parties, dated **May 1, 2020**, which includes a HealthiestYou Services Exhibit (collectively, the "Agreement"), the terms and conditions of which are incorporated by reference into this Addendum. Teladoc Health and Employer shall be referred to herein as the "**Parties**" and each individually as a "**Party**". The Agreement shall be amended to include the additional provisions set forth below, and any capitalized terms not otherwise defined herein shall have the meanings given to them in the Agreement.

I. Introduction

- A. Teladoc Health provides a suite of telehealth services, which includes self-directed back pain, neck pain, and other related musculoskeletal treatment services, as more fully described below (the "**MSK Services**"), and has entered into a contract with a third party musculoskeletal telehealth company ("**MSK Program Vendor**"), that provides self-directed back pain, neck pain, and other related musculoskeletal treatment programs and access to live health coaching services via telephone, chat, or web-based video (each, an "**MSK Program Vendor-certified Coach**"). The MSK Program Vendor provides a network that is designed to facilitate the provision of back pain, neck pain, and other related musculoskeletal treatment programs via telephone, chat, or web-based video (the "**MSK Consultations**"), and Teladoc Health provides various operational and administrative services to the MSK Program Vendor with respect to the provision of MSK Consultations. The arrangement between Teladoc Health and the MSK Program Vendor permits Teladoc Health to offer the MSK Services to its customers that consists of: (a) a network of MSK Program Vendor-certified Coaches who provide MSK Consultations, and (b) support for the operation and administration of that network, as further described herein.
- B. Employer desires to purchase the MSK Services for use by certain of its employees ("**Employees**") and their eligible dependents ("**Eligible Dependents**") as an additional benefit in connection with Employer's employee benefits program. "Eligible Dependent" means a "dependent," as defined under the Internal Revenue Code, I.R.C. § 152, or as may be mutually agreed between the Parties. Employees and Eligible Dependents are collectively and each referred to as "**Member(s)**".

II. Term and Termination

- A. Teladoc Health will provide the MSK Services to Employer commencing on the Addendum Effective Date. This Addendum commences on the Addendum Effective Date and will continue in force until the expiration of the HealthiestYou Services Exhibit to the Agreement ("**Term**").

III. MSK Services

- A. During the Term, Teladoc Health will provide the MSK Services described in this Addendum.
- B. **MSK Services for Members.** Teladoc Health will provide the following MSK Services to Members:
 1. **The MSK Program Vendor-certified Coaches:**
 - i. General: The MSK Services include access to MSK Program Vendor-certified Coaches who provide MSK Consultations to Members by web, telephone, chat, or video conference. The MSK Services offer Members an automated and interactive web-based body of content that is wellness-oriented and guides Members through a personalized program of care that includes functional and pain data collection through onboarding surveys, video tutorials instructing Members in healthy back and neck exercises and education, automated process and participation tracking, Member notifications and encouragement via the app and email communications, three subsequent functional and pain data surveys, and end of program reporting. MSK Program Vendor-certified Coaches are selected and engaged by the MSK Program Vendor to provide back pain, neck pain, and other related musculoskeletal treatment assessments in accordance with standard protocols and guidelines that are tailored to the telehealth industry.
 - ii. Requirements: Each MSK Program Vendor-certified Coach is required to have (i) a Master's degree in exercise physiology, kinesiology or health education, (ii) 1+ years of clinical experience working with patients with low back pain under the direct supervision of a physical therapist, (iii) certification from American Council on Exercise (ACE), and (iv) MSK Program Vendor certification. The MSK Program Vendor-certified Coach may also have professional certification(s) in areas such as fitness, yoga, Pilates or personal training.
 2. **The MSK Consultations:**
 - i. Prerequisites: In order for a Member to receive MSK Consultations, the Member is required to complete a set of 6 Risk and Safety Assessments to determine the Member's suitability for the MSK Services. If suitability is determined, the Member is required to review and agree to the MSK Services Terms and Conditions, and completes a Healthy Back Assessment before the initial MSK Consultation is initiated. If the Member is determined to be "high risk" (as determined based on the Member's responses to the 6 Risk and Safety Assessments), an MSK Program Vendor-

certified Coach will also contact the Member to investigate the possibility of a more serious condition than those addressed by the MSK Services.

- ii. Scheduling: The Initial MSK Consultation is initiated upon the Member's successful completion of a set of 6 Risk and Safety Assessments to determine the Member's suitability for the MSK Services. If suitability is determined, the Member then completes a Healthy Back Assessment, after which the initial MSK Consultation is initiated. Subsequent MSK Consultations are available On-Demand during normal business hours (9:00 a.m. to 5:00 p.m. MT). Members receive confirmation emails showing the date and time of scheduled MSK Consultations.
- iii. Clarifications: Unlike the HealthiestYou Services Cross-Coverage Consultations, the MSK Consultations:
 - are not accessible 24 hours per day, 365 days per year. Rather, MSK Consultations may be scheduled during normal business hours (9:00 a.m. to 5:00 p.m. MT), with chat being available during non-business hours.
 - are not intended to be Cross-Coverage Consultations. Rather, the MSK Services are designed to make MSK Program Vendor-certified Coaches available by web, telephone, chat, or video conference even when another physical therapy practitioner is available to the Member for an in-person visit.
 - are not intended to be provided in emergency situations. Rather, the MSK Services will follow an internal emergency protocol that includes calling 911 in emergency situations.
 - are currently not available to Members who are minors (who are under the age of 18).
 - a Member's full use of the MSK Services may consist of multiple individual MSK Consultations over the course of 4 to 8 weeks, collectively referred to as that Member's "**MSK Case**."

IV. MSK Services Fees

A. Fees.

1. Employer agrees to pay Teladoc Health the following fees in connection with the MSK Services:
 - i. There will be no additional PEPM Fees charged to the Employer for the MSK Services related to Back Pain.

V. Other Terms & Conditions

The terms and conditions set forth in the Agreement shall apply to the MSK Services in the same manner that such sections apply to the HealthiestYou Services.

EXPERT MEDICAL SERVICES ADDENDUM

This **Expert Medical Services Addendum** (the "**Addendum**") is entered into on **May 1, 2020** ("**Addendum Effective Date**"), by and between **Teladoc Health, Inc.** ("**Teladoc Health**") and **City of Broken Arrow** ("**Employer**"), pursuant to the terms of the Teladoc Health Services Agreement entered into by the Parties, dated **May 1, 2020**, which includes a HealthiestYou Services Exhibit (collectively, the "**Agreement**"), the terms and conditions of which are incorporated by reference into this Addendum. Teladoc Health and Employer shall be referred to herein as the "**Parties**" and each individually as a "**Party**". The Agreement shall be amended to include the additional provisions set forth below, and any capitalized terms not otherwise defined herein shall have the meanings given to them in the Agreement.

I. Introduction

- A. Teladoc Health provides a suite of expert medical information services, as more fully described in **Section III(B)(2)** below (collectively, the "**Expert Medical Services**"), designed to improve the quality and decrease the cost of health care by connecting individuals and their treating physicians with specialists who can provide expert guidance with respect to diagnoses and treatment plans.
- B. Employer desires to purchase the Expert Medical Services for use by certain of its employees ("**Employees**") and their eligible dependents ("**Eligible Dependents**") as an additional benefit in connection with Employer's employee benefits program. "Eligible Dependent" means a "dependent," as defined under the Internal Revenue Code, I.R.C. § 152, or as may be mutually agreed between the Parties. Employees and Eligible Dependents are collectively and each referred to as "**Member(s)**".
- C. In accepting the Expert Medical Services, Employer acknowledges and agrees to the following:
 - (a) The Expert Medical Services do not provide significant benefits in the nature of medical care or treatment.
 - (b) Teladoc Health may be unable to provide the Expert Medical Services to a Member if Teladoc Health does not have the records it deems necessary, such as medical records and related test reports, radiology, pathology, and/or physician notes ("**Required Medical Information**"), or if Teladoc Health does not have the Member authorizations and/or consents it deems necessary to obtain such data.
 - (c) Teladoc Health may refuse to provide or may terminate the provision of the Expert Medical Services to a Member if the Member declines to execute any required consents and/or authorizations, or if Teladoc Health determines, in its reasonable discretion, that a Member's use of any Expert Medical Services is or was for a purpose other than for the Member's treatment by his/her treating physician (e.g., for litigation purposes).
 - (d) Teladoc Health does not and will not have any authority to make benefit determinations, and any such decisions will be made by Employer in accordance with Employer's benefits programs and/or plan documents. Use of the Expert Medical Services by the Members is not a condition of participation in or payment under Employer's program(s) of insurance. The Expert Medical Services may not be used for utilization review purposes.
 - (e) Teladoc Health will have no power or authority on behalf of Employer to waive, alter, or modify by estoppel or otherwise, any of the terms or conditions of any benefit program provided by Employer. Teladoc Health will have no power or authority to bind Employer to any insurance or other risk.
 - (f) Teladoc Health is not responsible for the administration, development, or legal review of any program Employer uses to incentivize Members to use the Expert Medical Services. Teladoc Health may, in its own discretion, refuse to participate in any such program.
 - (g) Employer represents that any Member contact information provided to Teladoc Health by Employer (or by a third party on behalf of Employer) may be used by Teladoc Health to contact the Members for the purposes of performing the Expert Medical Services, and that Employer has obtained any necessary consents, if applicable, for Teladoc Health to contact Members using the Member contact information.

II. Term and Termination

- A. Teladoc Health will provide the Expert Medical Services to Employer commencing on the Addendum Effective Date. This Addendum commences on the Addendum Effective Date and will continue in force until the expiration of the HealthiestYou Services Exhibit to the Agreement ("**Term**").

III. Expert Medical Services

- A. During the Term, Teladoc Health will provide the Expert Medical Services described in this Addendum, which consist of services to Members and services to Employer. As used in this Addendum, the following terms shall have the following meanings:

"**Global Expert Panel**" means Teladoc Health's network of more than 50,000 physicians, who were selected based on proprietary methods, including polling, peer reviews, and clinical and academic accomplishment.

"**Physician**" means a physician who works with Teladoc Health to perform certain Expert Medical Services, is licensed in the state where the Member is located, and has gone through Teladoc Health's specialized credentialing process.

"Expert" means an Expert on the Global Expert Panel who has contracted with Teladoc Health to perform certain Expert Medical Services and has gone through Teladoc Health's specialized credentialing process.

"Business Day" means the week days of Monday through Friday, except for the following Teladoc Health corporate holidays: New Year's Day (*January 1 or, if on a weekend, the following Monday*), Presidents Day (*third Monday in February*), Memorial Day (*last Monday in May*), Independence Day (*July 4 or, if on a weekend, the following Monday*), Labor Day (*first Monday in September*), Thanksgiving (*fourth Thursday and Friday in November*), and Christmas (*December 25 or, if on a weekend, the following Monday*).

"Business Hours" means 8am to 9pm Eastern Time.

"Case" means a unit of the Expert Medical Services for a Member (*for example, an instance of Expert Medical Opinion*).

"PEPM" means "Per Employee Per Month," which the Parties recognize as a common term in the health care industry. For purposes of this Exhibit, PEPM is defined as the applicable rate paid by Employer to Teladoc Health for each Employee who is eligible to utilize the Expert Medical Services each month.

B. Expert Medical Services for Members.

1. Expert Medical Services for Members is comprised of:
 - A toll free number
 - Live coverage during Business Days and during Business Hours, with messages taken off-hours
 - A Member Portal
 - A Member App for both iOS and Android phones
 - Confirming the Member's eligibility by checking the most current Eligibility File, if provided. Employer will provide Teladoc Health with a contact person who is available, via telephone on Business Days between 9am and 5pm EST or via email, to verify the eligibility of any individual not listed in the Eligibility File.
 - A Physician who will provide navigational support and advice by completing the initial intake with the Member and discussing the Member's specific needs. The Physician will identify, based on the intake with Member, the type of Case that is appropriate and necessary for the member. The Physician will initiate, coordinate, and manage the Case, with support from the Teladoc Health Clinical Operations Team and other clinical resources as necessary, and will be in communication with the Member throughout the course of the Case.
2. Teladoc Health's suite of Expert Medical Services consists of the following types of Cases:
 - i. **"Find a Doctor"** is a Service whereby Teladoc Health identifies for a Member one or more physicians in the Member's geographic region from Teladoc's proprietary database, which includes physicians from the Global Expert Panel and other physicians identified by Teladoc Health's proprietary algorithm, based on the Member's specific condition.
 - ii. **"Ask the Expert"** is a Service whereby a Physician or Expert provides a response to a Member's question(s) related to an established diagnosis, without need for that Member's medical records.
 - iii. **"Expert Medical Opinion"** is a Service whereby an Expert provides to the Member a written report of the Member's applicable medical records and Required Medical Information with the goal of helping the Member to identify the right diagnosis and treatment plan.
 - iv. **"Critical Case Support"** is an Expert Medical Opinion for Members who are in an in-patient medical setting experiencing a traumatic or catastrophic event such as traumatic brain injury, spinal cord injury, multi-organ failure, serious burns, or premature birth. With Critical Case Support, Teladoc Health will address, in real time, the immediate and highly complex needs of the Member. Coverage for Critical Case Support is 24x7x365.
 - v. **Treatment Decision Support ("TDS")** is a Service whereby Teladoc Health provides Members with health coaching and on-line educational modules to support shared decision making for preference sensitive conditions. Members are provided access to a range of tools and resources to support Member empowerment.
 - vi. **"Medical Records eSummary"** is a Service whereby Teladoc Health will collect all of the Member's medical records, prepare a summary of the records, and provide the Member with written suggestions to address their health issues in the coming 12-18 months.
 - vii. **"Behavioral Health Navigator"** is a collaborative mental health Service that supports Members and their treating providers to enable a more accurate diagnosis, optimal treatment pathway, and better coordination of care to generate better outcomes. Teladoc Health leverages a team of clinicians, psychologists, psychiatrists, and Experts to help identify the correct diagnosis and provide an action plan for Members and their families struggling with mental health illness. Members may access these clinical resources to answer simple questions related to mental health that do not require a full assessment or action plan. After the delivery of an action plan, Members may also access navigation assistance and support for up to six months, to identify mental health resources in their community. Additionally, Teladoc Health will provide integration services, and collaborate closely with the Employer's other key benefit providers through a cross-referral approach that supports the Employer's behavioral health strategy.

C. Expert Medical Services for Employer. Teladoc Health will provide the following services to Employer:

1. **Account Support.** Teladoc Health will be available to Employer to assist with the following:
 - Implementing the Expert Medical Services
 - Launching the Member Engagement Package(s) described below, and monitoring its performance
 - Providing assistance to Employer in answering questions and resolving issues
 - Reviewing and explaining reporting
2. **Reporting.** Teladoc Health will provide Employer with the following reporting:
 - **Annual** standard utilization reporting package*
 - If Employer requests Teladoc Health to prepare any non-standard reports that require information technology programming, Teladoc Health will charge the Employer an additional fee of two hundred dollars (\$200) per hour, times that number of hours necessary for such non-standard reporting program development.

*The information included in any such report will be de-identified (i.e., aggregated). In accordance with applicable law, Teladoc Health will not share any personal identifiable information of any Member with Employer in such reports.

3. **Communications & Member Engagement.** Fees include the following Member Engagement Package(s):

- i. **Member Engagement Package:**
 - a. Teladoc Health will provide a template description of the Expert Medical Services for use by the Employer to communicate the Expert Medical Services to Employees. Any changes or modifications to such template description, and any and all materials used by the Employer or its agents to describe the Expert Medical Services, must be approved in advance in writing by Teladoc Health prior to distribution. Such communications include, but are not limited to, those that are in written form, on websites, on the radio, on television, sent by email, sent by fax, etc. In addition, the Employer hereby authorizes Teladoc Health to communicate directly with Employees for the purpose of promoting the Expert Medical Services.
 - b. Teladoc Health will perform the following Member Engagement activities (*including postage and processing costs, if applicable*):
 - **Eligibility Awareness:** Create and deploy Welcome and Onboarding communications on an ongoing basis.
 - **Benefit Education:** Ongoing benefit education communications (e.g. *seasonal and reminder communications each year delivered by direct mail, email, or digital channels*).
 - **Email Curriculum:** Monthly email curriculum using seasonally relevant and/or condition-specific themes.
 - **Awareness Support:** Access to customizable communication pieces to support onboarding, and increase awareness & utilization.

Employer Responsibilities: Provide the Teladoc Health approved description of the Expert Medical Services to Employees. Cooperate with Teladoc Health in implementing the Expert Medical Services. Provide consistent contextual placement of content and messaging related to the Expert Medical Services across all appropriate Employee touch-points (e.g. Employee Benefits Portal, Direct Outreach, Open Enrollment, Newsletters, etc...) Provide Teladoc Health with timely and accurate contact information for Employees, including: Name (first, last, middle initial), mailing address, and email address.

IV. Eligibility and Fees

- A. **Eligibility Files.** By the 1st day of each month, Employer, or its third party administrator, shall deliver to Teladoc Health an accurate file identifying the number of Employees eligible to utilize the Teladoc Services in that month (the "**Eligibility File**") and their applicable contact information, in a format approved by Teladoc Health. If Employer, or its third party administrator, fails to deliver the Eligibility File by the 1st day of the month, then the last valid Eligibility File delivered to Teladoc Health will be deemed to be the Eligibility File for that month. Alternatively and as applicable, Employer may either provide Eligibility File information via Teladoc Health's Client Site portal, or via a Real Time Eligibility (RTE) process, as mutually agreed by the Parties. If Employer subsequently requests a modification to their method of delivering Eligibility File information, Teladoc Health may charge the Employer an additional fee of two hundred dollars (\$200) per hour, times that number of hours necessary to effect such modification.
- B. **Fees.**
 1. Employer agrees to pay Teladoc Health a recurring PEPM Fee of US \$4.00 (the "**Fee**") for each Employee eligible to utilize the Expert Medical Services each month.

2. The Fee is based on approximately 562 Employees in the Eligibility File each month. The Fee may be increased or decreased by Teladoc Health if the actual number of Employees in the Eligibility File decreases or increases by more than twenty percent (20%) of this number for a period of three (3) consecutive months.
 3. During the Term and for a period of up to twelve (12) months after the expiration or termination of this Exhibit, Teladoc Health may audit Employer's records upon request as may be reasonably necessary to verify the number of Employees reported in the Eligibility File. If any such audit identifies an inaccuracy in such Files, the Parties will adjust the Fees owed by Employer as necessary to correct for such inaccuracy.
- C. **Payment of Fees.**
1. Teladoc Health will submit an invoice to Employer on the 4th day of each month based on the Eligibility File delivered by Employer to Teladoc Health for that month ("Invoice"), and Employer agrees to pay such Invoice by the last day of that month.
 2. Unless Employer directs otherwise in writing, Teladoc Health will deliver all Invoices for the Expert Medical Services via email to the following email address: **csnyder@brokenarrowok.gov**.
 3. If any Fees due to Teladoc Health become more than sixty (60) days delinquent, Teladoc Health may suspend provision of the Expert Medical Services until such amounts have been paid.

V. Other Terms & Conditions

The terms and conditions set forth in the Agreement shall apply to the Expert Medical Services in the same manner that such sections apply to the HealthiestYou Services.