

**PROFESSIONAL SERVICE AGREEMENT
(Sex Offender Treatment/Individual Therapy/
Group and Family Counseling)**

THIS AGREEMENT ("Agreement") is between **Yamhill County** (County), a political subdivision of the State of Oregon, acting through the Juvenile Division of its Department of Community Justice (DCJ), and **Higher Ground Counseling, Inc.** ("Contractor"), located at 2505 Portland Road, Suite 202B, Newberg, Oregon, 97132.

RECITALS

1. County operates a Juvenile Division as part of its Department of Community Justice. The mission of the Juvenile Division includes the promotion of community safety; offender accountability; competency development; and restoration/rehabilitation of victims and offenders. In order to provide adequate services for its Juvenile Division and its Juvenile Division clients, the county is seeking to establish a personal services agreement with Contractor, for Contractor to provide sex offender treatment; individual therapy; and group and family counseling as an independent contractor.
2. Contractor is licensed as required by law, and is qualified to perform the duties outlined in this Agreement. County is authorized to enter into this agreement under ORS 203.010(3). NOW THEREFORE

AGREEMENT

In exchange for the promises and other consideration set forth below, IT IS HEREBY AGREED:

Section 1. Effective Date. The term of this Agreement is from November 1, 2016 through June 30, 2017, unless terminated in accordance with Section 5 below. It is understood by both parties that no commitments have been or are made by either party beyond the termination of this agreement.

Section 2. Services. Contractor agrees to perform the services ("Services") included in the Statement of Work attached as Exhibit A to this Agreement, and incorporated herein by this reference.

Section 3. Reporting. County and Contractor agree to prepare and furnish reports to each other upon request. County and Contractor agree to and do hereby grant to each other the right to reproduce, use and disclose for each party's internal administration purposes only, all or any part of the reports, data, and technical information furnished under the Agreement.

Section 4. Payment. County agrees to pay Contractor for the services provided under this Agreement at the rate of \$80.00 per hour for individual/family therapy, and \$40.00 per hour for each individual participating in a group therapy session. No minimum number of hours is guaranteed by this Agreement. The maximum amount to which the county is obligated to pay under this agreement is \$10,000. County shall make payment to Contractor no later than the 30th

day of the month following receipt, review and approval of an itemized statement for services provided in the preceding month.

Section 5. Termination; No Encumbrance or Expenditure after Notice of Termination.

A. Either party may terminate this Agreement upon thirty days written notice to the other party. Termination shall not excuse liabilities incurred prior to the termination date.

B. In addition, in the event County no longer receives funds adequate to enable it to continue this Agreement, it will provide written notice of termination of this Agreement to Contractor. Upon issuance of notice, this Agreement is terminated. However, any obligations existing at the time of termination will survive termination

C. Contractor shall not make expenditures, enter into agreements, or encumber funds in its possession, or to be transferred by County, after notice of termination or termination as set out above, without prior written approval from County.

Section 6. Independent Contractor. Contractor is engaged under this Agreement as an independent contractor, and will be so deemed for purposes of the following:

A. Contractor will be solely responsible for payment of any federal or state taxes required as a result of this Agreement.

B. This Agreement is not intended to entitle Contractor to any benefits typically granted to County employees. Without limitation, but by way of illustration, the benefits that are not intended to be extended by this Agreement to Contractor are vacation, holiday and sick leave; other leaves with pay; tenure; medical and dental coverage; life and disability insurance; overtime; Social Security; Workers' Compensation; unemployment compensation; or retirement benefits, except as required by law.

C. Contractor is an independent contractor for purposes of the Oregon Workers' Compensation Law (ORS Ch. 656) and is solely liable for any Workers' Compensation coverage under this Agreement. If Contractor has the assistance of other persons in the performance of this Agreement, Contractor will qualify and remain qualified for the term of this Agreement as a carrier-insured employer or a self-insured employer as provided by ORS 656.403 et. seq.

Section 7. Requirements Imposed by Law. Contractor shall comply with all applicable Public Contract Laws to including, but not limited to, ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.530, as applicable. ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.530 and Article XI, Section 10, of the Oregon Constitution are incorporated into this Agreement by this reference. In addition, Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. The Contractor hereby represents and warrants that he has

complied with the tax laws of this state and any political subdivision of this state having jurisdiction over Contractor, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318, and that the Contractor shall continue to comply with the tax laws of this state or a political subdivision of this state during the term of this Agreement. Contractor's failure to comply with the tax laws of this state or a political subdivision of this state before or during the term of this Agreement is an event of default for which County may terminate this Agreement and seek damages and other relief available under the terms of this Agreement or under applicable law.

Section 8. Indemnification. Subject to Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, County agrees to indemnify, hold harmless, save and defend Contractor, its officers, agents and employees against any and all claims, suits, actions, damages, costs, losses, fees, expenses or judgments resulting from, arising out of or connected with any such injury or the Services provided by County pursuant to this Agreement. Contractor agrees to indemnify, hold harmless, save and defend County, its officers, agents and employees against any and all claims, suits, actions, damages, costs, losses, fees, expenses or judgments resulting from, arising out of or connected with any such injury or the Services provided by Contractor pursuant to this Agreement.

Section 9. Insurance. Contractor, at Contractor's expense, shall obtain the following insurance coverage and keep such coverage in effect during the entire term of this Agreement (except with respect to Professional Liability Insurance, which shall be kept in effect for a period of the term of this Agreement plus two years):

- A. Workers' Compensation Insurance in compliance with statutory requirements;
- B. Commercial General Liability Insurance (including contractual liability and completed operations coverage, and coverage for liability resulting from hazardous substances), on an occurrence basis, with not less than \$1,000,000 per occurrence for bodily injury and property damage liability, with an annual aggregate limit of \$2,000,000;
- C. Professional Liability Insurance, including errors and omissions coverage, covering Contractor pursuant to this Agreement, with a per occurrence and aggregate limit of not less than \$1,000,000, to protect against all loss suffered by County or third parties, including financial and consequential loss, caused by error, omission, or negligent acts related to provision of the Services;
- D. Automobile Liability Insurance, with a combined single limit, or the equivalent of not less than \$250,000 per occurrence, for bodily injury and property damage with respect to Contractor's vehicles, whether owned, hired, or non-owned, assigned to, or used by Contractor in connection with the Services;

The Commercial General Liability Insurance shall (i) name the County, its directors, officers, employees and agents as additional insureds and (ii) include a cross-liability and severability of interest clause and a waiver of subrogation clause but only with respect to Contractor's activities to be performed under this Agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

The required insurance coverages shall be (i) with insurance companies admitted to do business in the state of Oregon and rated A or better by Best's Insurance Rating, and (ii) acceptable to County. At County's request, Contractor shall furnish County with certificates of insurance for each of the required insurance coverages. The certificates of insurance shall indicate (a) the types of insurance coverage, (b) the identity of all persons or entities covered, (c) the amounts of insurance coverage, and (d) the period of insurance coverage. Any required insurance coverage shall provide that it may not be canceled except after at least 30 days written notice to County.

Section 10. Confidentiality. Contractor acknowledges that Contractor or his agents may, in the course of their performance under this Agreement, be exposed to or acquire information that is the confidential information of County or County clients. Any and all (i) client information, (ii) information provided by County and marked confidential, (iii) Protected Health Information or EPHI as described or defined in Exhibit B to this Agreement, or (iv) information identified as confidential in a separate writing, that becomes available to Contractor or its agents in the performance of this Agreement, shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items, including software, that result from Contractor's use of the Confidential Information are also deemed Confidential Information. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information for any purposes whatsoever, except as may be provided elsewhere under this Agreement or in conformance with Exhibit B. Contractor agrees that, upon termination of this Agreement or at County's request, Contractor will turn over to County all documents, papers and other matter in Contractor's possession that embody Confidential Information.

Section 11. Subcontracts; Assignment. Contractor shall not enter into any subcontracts for any of the Services required under this Agreement without County's prior written consent. This Agreement shall not be assigned by Contractor without the prior written consent of County.

Section 12. Non-discrimination. Contractor agrees that no person shall, on the grounds of race, color, religion, national origin, sex, gender, marital status, or age, suffer discrimination in the performance of this Agreement when employed by Contractor.

Section 13. Waiver; Remedies. County and Contractor acknowledge that any breach, violation, or default by either party of the provisions contained in this Agreement might result in damage to the other party. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

Section 14. Governing Law; Jurisdiction; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding, (collectively "Claim") between County and Contractor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Yamhill County for the State of Oregon. By execution of this Agreement, Contractor consents to the in personam jurisdiction of the Yamhill County Circuit Court.

EXHIBIT A
STATEMENT OF WORK

Contractor agrees to perform the following obligations under this agreement:

1. Provide professional individual therapy and counseling, family counseling, group counseling, risk/needs assessment; clarification/family reunification services ("Services") to clients identified by the Department of Community Justice (DCJ) Director or the Director's designee. The manner and means of providing the Services under this Agreement shall be in the sole discretion and professional judgment of Contractor, subject to the direction of the DCJ Director or the Director's designee, and subject to the laws, rules and regulations relating to the provision of services by County. Services under this Agreement shall be provided in places determined by Contractor to be appropriate. Services shall include, but not be limited to, therapeutic services and visits with clients and family, treatment management and consultation with staff members of County and its Juvenile Division in times of client and/or family crisis situations.
2. Record and report to County, client's reaction to treatment, changes in conditions, summary of care given and patients' progress and current status pursuant to a treatment plan. Reports shall be made in a timely manner and/or as requested by County.
3. Immediately inform the DCJ Director or the Director's designee if he has reasonable cause to believe that any child with whom Contractor comes into contact with has suffered abuse, or that any person with whom Contractor comes into contact with has abused a child. Under Oregon law, child abuse includes physical injury, neglect or maltreatment, sexual abuse and sexual exploitation, threat of harm, mental injury or child stealing.
4. Retain, maintain and keep accessible all records relevant to this Agreement for a minimum of six years, or longer if require by applicable law, following Agreement termination, full performance or the conclusion of an audit, controversy or litigation arising out of or related to this agreement, whichever is later.

EXHIBIT B
BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT

RECITALS

- A. The Contractor may use and disclose Protected Health Information and Electronic Protected Health Information ("EPHI") in the performance of its obligations under the Agreement;
- B. County operates drug and alcohol treatment programs subject to the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, "Part 2"); if Contractor is a Qualified Service Organization (QSO) under Part 2, Contractor also must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information with respect to the performance of his obligations under the Agreement;
- C. The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164, require that County, as a Covered Entity, obtain satisfactory assurances from its Business Associates, as that term is defined in the Privacy Rule and Security Rule, that they will comply with the Business Associate requirements set forth in 45 CFR 164.502(e) and 164.504(e) and as amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("ARRA"); Contractor is a Business Associate of County and desires to provide such assurances with respect to the performance of Contractor's obligations under the Agreement; and
- D. Both County and Contractor are committed to compliance with the standards set forth in Part 2, the Privacy Rule and Security Rule as amended by the HITECH Act, and as they may be amended further from time to time, in the performance of their obligations under the Agreement.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

The parties agree that the following terms and conditions shall apply to the performance of their obligations under the Agreement, effective upon execution. Capitalized terms used, but not otherwise defined in this Agreement, shall have the same meaning as those terms in Part 2, the Privacy Rule and Security Rule.

1. SERVICES Pursuant to the Agreement, Contractor provides certain services for or on behalf of County, as described in the Agreement, which may involve the use and disclosure of Protected Health Information and EPHI. Contractor may make use of Protected Health Information and EPHI to perform those services if authorized in the Agreement and not otherwise limited or prohibited by this Agreement, Part 2, the Privacy Rule, the Security Rule and other applicable federal or state laws or regulations. All other uses of Protected Health Information and EPHI are prohibited.

2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR

(a) Contractor agrees to not use or disclose Protected Health Information or EPHI other than as permitted or required by the Agreement, and as permitted by Part 2, the Privacy Rule, the Security Rule or as otherwise required by law. Notwithstanding any other language in this Agreement, Contractor acknowledges and agrees that any patient information it receives from County that is protected by Part 2 regulations is subject to protections that prohibit Contractor from disclosing such information to agents or subcontractors without the specific written consent of the subject individual.

- (b) Contractor agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information and EPHI other than as provided for by the Agreement as amended by this agreement (as an exhibit to the Agreement), and if necessary will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by the Part 2 regulations.
- (c) Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information or EPHI by Contractor in violation of the requirements of the Agreement, as amended by this agreement.
- (d) Contractor agrees to report to County, as promptly as possible, any use or disclosure of the Protected Health Information or EPHI not provided for by the Agreement, as amended by this agreement, of which it becomes aware.
- (e) Contractor agrees to ensure that any agent, including a contract hearing officer or other subcontractor, to whom it provides Protected Health Information or EPHI received from, or created or received by Contractor on behalf of County, agrees to the same restrictions and conditions that apply through the Agreement, as amended by this agreement, to Contractor with respect to such information.
- (f) Contractor agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information and EPHI in a Designated Record Set (the hearing file), to County or, as directed by County, to an Individual in order to meet the requirements under 45 CFR 164.524.
- (g) Contractor agrees to make any amendment(s) to Protected Health Information and EPHI in a Designated Record Set that the County directs or agrees to pursuant to 45 CFR 164.526 at the request of County or an Individual, and in the time and manner designated by County.
- (h) Contractor agrees to make internal practices, books, and records, including policies and procedures and any Protected Health Information or EPHI, relating to the use and disclosure of Protected Health Information and EPHI received from, or created or received by Contractor on behalf of County, available to County or to the Secretary, within the time and in the manner designated by County or the Secretary, for purposes of the Secretary determining County's compliance with Part 2, the Privacy Rule or Security Rule.
- (i) Contractor agrees to refer requests for disclosures of Protected Health Information and EPHI to the County for response, except for requests related to conducting the contested case hearing. To the extent Contractor discloses Protected Health Information or EPHI for purposes not related to conducting the contested case hearing, Contractor agrees to document such disclosures to the extent such documentation is required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.
- (j) Contractor agrees to provide to County or an Individual, in time and manner to be designated by County, information collected in accordance with Section 2(i) of this Amendment, to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.
- (k) Contractor agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of the County.
- (l) In the event of Discovery of a Breach of Unsecured Protected Health Information, Contractor shall:
- (i) Notify the County of such Breach. Notification shall include identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Contractor to have

been accessed, acquired or disclosed during such Breach and any other information as may be reasonably required by the County necessary for the County to meet its notification obligations;

(ii) Confer with the County as to the preparation and issuance of an appropriate notice to each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Contractor to have been accessed, acquired or disclosed as a result of such Breach;

(iii) Where the Breach involves more than 500 individuals, confer with the County as to the preparation and issuance of an appropriate notice to prominent media outlets within the State or as appropriate, local jurisdictions; and,

(iv) Confer with the County as to the preparation and issuance of an appropriate notice to the Secretary of DHHS of Unsecured Protected Health Information that has been acquired or disclosed in a Breach. Contractor understands that if the Breach was with respect to 500 or more individuals, such notice to the Secretary must be provided immediately, and therefore, time is of the essence in the obligation to confer with the County. If the Breach was with respect to less than 500 individuals, a log may be maintained of any such Breach and the log shall be provided to the Secretary annually documenting such Breaches occurring during the year involved.

(v) Except as set forth in (vi) below, notifications required by this section are required to be made without unreasonable delay and in no case later than 60 calendar days after the Discovery of a Breach. Therefore, the notification of a Breach to the County shall be made as soon as possible and Contractor shall confer with the County as soon as practicable thereafter, but in no event, shall notification to the County be later than 30 calendar days after the Discovery of a Breach. Any notice shall be provided in the manner required by the HITECH Act, sec 13402(e) and (f), Public Law 111-5, 45 CFR 164.404 through 164.410 and as agreed upon by the County.

(vi) Any notification required by this section may be delayed by a law enforcement official in accordance with the HITECH Act, sec 13402(g), Public Law 111-5.

(vii) For purposes of this section, the terms "Unsecured Protected Health Information" and "Breach" shall have the meaning set forth in 45 CFR § 164.402. A Breach will be considered as "Discovered" in accordance with the HITECH Act, sec 13402(c), Public Law 111-5, 45 CFR 164.404(a)(2).

(m) Contractor shall comply with 45 C.F.R. 164.308, 164.310, 164.312 and 164.316 and all requirements of the HITECH Act, Public Law 111-5, that relate to security and that are made applicable to Covered Entities, as if Contractor were a Covered Entity.

(n) Contractor shall be liable to the County, and shall indemnify the County for any and all direct costs incurred by the County, including, but not limited to, costs of issuing any notices required by HITECH or any other applicable law, as a result of Contractor's Breach of Unsecured Protected Health Information.

3. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

(a) General Use and Disclosure Provisions.

(1) Except as otherwise limited or prohibited by this Amendment, Contractor may use or disclose Protected Health Information and EPHI to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement and this Amendment, provided that such use or disclosure would not violate Part 2, the Privacy Rule or Security Rule if done by County or the minimum necessary policies and procedures of County.

(2) County has determined that disclosures to Contractor under the Agreement are necessary and appropriate for County's Treatment, Services, Payment and/or Health Care Operations under Part 2, the HIPAA Privacy Rule and Security Rule and Required By Law under Or Laws 1999, ch. 849 (HB 2525).

(3) All applicable federal and state confidentiality or privacy statutes or regulations, and related procedures, continue to apply to the uses and disclosures of information under this agreement, except to the extent preempted by Part 2 or the HIPAA Privacy Rule and Security Rule.

(b) Specific Use and Disclosure Provisions.

(1) Except as otherwise limited in this agreement, Contractor may use Protected Health Information and EPHI for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.

(2) Except as otherwise limited in this agreement, Contractor may disclose Protected Health Information and EPHI for the proper management and administration of the Contractor, provided that disclosures are Required By Law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.

(3) Contractor may use Protected Health Information and EPHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

(4) Contractor may not aggregate or compile County's Protected Health Information or EPHI with the Protected Health Information or EPHI of other Covered Entities unless the Agreement permits Contractor to perform Data Aggregation services. If the Agreement permits Contractor to provide Data Aggregation services, Contractor may use Protected Health Information and EPHI to provide the Data Aggregation services requested by County as permitted by 45 CFR 164.504(e)(2)(i)(B), subject to any limitations contained in this Amendment. If Data Aggregation services are requested by County, Contractor is authorized to aggregate County's Protected Health Information and EPHI with Protected Health Information or EPHI of other Covered Entities that the Contractor has in its possession through its capacity as a Contractor to such other Covered Entities provided that the purpose of such aggregation is to provide County with data analysis relating to the Health Care Operations of County. Under no circumstances may Contractor disclose Protected Health Information or EPHI of County to another Covered Entity absent the express authorization of County.

4. OBLIGATIONS OF COUNTY

(a) County shall notify Contractor of any limitation(s) in its notice of privacy practices of County in accordance with 45 CFR 164.520, to the extent that such limitation may affect Contractor's use or disclosure of Protected Health Information and EPHI. County may satisfy this obligation by providing Contractor with County's most current Notice of Privacy Practices.

(b) County shall notify Contractor of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information or EPHI, to the extent that such changes may affect Contractor's use or disclosure of Protected Health Information and EPHI.

(c) County shall notify Contractor of any restriction to the use or disclosure of Protected Health Information or EPHI that County has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Contractor's use or disclosure of Protected Health Information or EPHI.

5. PERMISSIBLE REQUESTS BY COUNTY

(a) County shall not request that Contractor use or disclose Protected Health Information or EPHI in any manner that would not be permissible under Part 2, the Privacy Rule or Security Rule if done by County, except as permitted by Section 3(b) above.

(b) County may conduct a survey of Contractor with respect to Contractor's compliance with the terms of this Agreement and applicable law for the establishment of policies and procedures for the safeguarding of any Protected Health Information and EPHI provided to Contractor by County. Contractor shall implement any recommendations of County resulting from such surveys as may be reasonably necessary to ensure compliance with the terms of this agreement and applicable law for the safeguarding of any Protected Health Information and EPHI provided to Contractor by County.

6. TERM AND TERMINATION

(a) Effective Date; Term. This agreement shall be effective on the date on which all parties have executed it and all necessary approvals, if any, have been granted. This agreement shall terminate on the earlier of (i) the date of termination of the Agreement (to which this agreement is an exhibit), or (ii) the date on which termination of this agreement is effective under Section 6(b).

(b) Termination for Cause. In addition to any other rights or remedies provided in this agreement, upon either the County's or Contractor's knowledge of a material breach by the other party of that party's obligations under this agreement, the party not in breach shall either:

(1) Notify the other party of the breach and specify a reasonable opportunity in the Notice of Breach to the party in breach to cure the breach or end the violation, and terminate the Agreement and this agreement if the party in breach does not cure the breach of the terms of this agreement or end the violation within the time specified;

(2) Immediately terminate the Agreement and this agreement if the party in breach has breached a material term of this agreement and cure is not possible in the reasonable judgment of the party not in breach; or

(3) If neither termination nor cure is feasible, the party not in breach shall report the violation to the Secretary.

(4) The rights and remedies provided in this agreement are in addition to any rights and remedies provided in the Agreement of which this is an exhibit.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this Section 6(c), upon termination of the Agreement and this exhibit/agreement, for any reason, the party in breach shall, at the other party's option, return or destroy all Protected Health Information and EPHI received from the other party, or created or received by Contractor on behalf of County. This provision shall apply to Protected Health Information and EPHI that is in the possession of Contractor or agents of Contractor. Contractor shall retain no copies of the Protected Health Information or EPHI.

(2) In the event that Contractor determines that returning or destroying the Protected Health Information or EPHI is infeasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon County's written acknowledgement that return or destruction of Protected Health Information or EPHI is infeasible, Contractor shall extend the protections of this agreement to such Protected Health Information and EPHI and limit further uses and disclosures of such Protected Health Information and EPHI to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information or EPHI.

7. MISCELLANEOUS

(a) Regulatory References. A reference in this Amendment to a section in Part 2, the Privacy Rule, or Security Rule, or the HITECH Act means the section in effect as of the effective date of this agreement or as the Rules may be subsequently amended from time to time.

(b) Amendment; Waiver. The Parties agree to take such action as is necessary to amend the Agreement and this exhibit/agreement from time to time as is necessary for County to comply with the requirements of Part 2, the Privacy Rule, Security Rule, HIPAA and the HITECH Act. No provision hereof shall be deemed waived unless in writing, duly signed by authorized representatives of the parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this Amendment.

(c) Survival. The respective rights and obligations of Contractor under Section 6(c), this Section 7(c), and Section 7(e) of this agreement shall survive the termination of the Agreement and this exhibit/agreement.

(d) Interpretation; Order of Precedence. Any ambiguity in this agreement or the Agreement of which this agreement is an exhibit, shall be resolved to permit County to comply with Part 2, the Privacy Rule, Security Rule and the HITECH Act. The terms of this agreement amend and supplement the terms of the Agreement, and whenever possible, all terms and conditions in this agreement and the Agreement to which this agreement is an exhibit are to be harmonized. In the event of a conflict between the terms of this agreement and the terms of the Agreement, the terms of this exhibit/agreement shall control; provided, however, that this agreement shall not supersede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA preempts those laws or regulations. In the event of any conflict between the provisions of the Agreement (as amended by this Amendment) and Part 2, the Privacy Rule or the Security Rule, the more stringent rule shall apply.

(e) No Third-Party Beneficiaries. County and Contractor are the only parties to this agreement and are the only parties entitled to enforce its terms. Nothing in this agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this agreement.

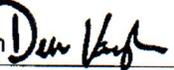
(f) Successors and Assigns. The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

(g) Except As Amended. Except as amended by this exhibit/agreement, all terms and conditions of the Agreement shall remain in full force and effect.

8. SIGNATURES

By signing this agreement, the parties certify that they have read and understood this exhibit/agreement, that they agree to be bound by the terms of this exhibit/agreement and that they have the authority to sign this agreement.

CONTRACTOR:

By: Devin Vaughn  LPC, LMFT, CCSST

Title: Therapist/Owner

COUNTY:

By: 
Mary Starrett

Title: Chair, Board of Commissioners

Date: 11/29/2016

Date: 12-8-16