

ADMINISTRATIVE TELEPSYCHIATRY AGREEMENT

THIS ADMINISTRATIVE TELEPSYCHIATRY AGREEMENT ("Agreement") is made and entered into effective as of the 16th day of December, 2020 ("Effective Date") by and between **Genoa Healthcare, LLC**, a Pennsylvania limited liability company ("Vendor"), and **Yamhill County**, a political subdivision of the State of Oregon, acting by and through its Department of Health and Human Services ("Clinic") (each a "Party" and collectively, the "Parties").

WHEREAS, Clinic provides psychiatric services to children and/or adults, including those covered by private insurance, Medicaid, Medicare and private pay ("Clinic's Program");

WHEREAS, Clinic and Vendor desire to enter into this Agreement for the provision of providing licenses to its telepsychiatry program (hereinafter, the "Telepsychiatry Software"), physicians or nurse practitioners to be supervised by Clinic (each a "Telepsychiatry Provider") to deliver medical services through the software, and implementation and program management services (collectively, "Telepsychiatry Program" or "Services").

NOW, THEREFORE, in consideration of the recitals and mutual covenants, agreements and promises contained in this Agreement and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. RELATIONSHIP BETWEEN CLINIC AND VENDOR

1.1 Independent Contractors. Except as otherwise set forth in this Agreement, the relationship created by this Agreement between Clinic and the Vendor is solely one of independent contractors and nothing in this Agreement shall be construed or deemed to create any other relationship between Clinic and Vendor. Nothing in this Agreement is intended nor shall be construed to allow Clinic to exercise any control or direction over the means, manner or method by which Vendor provides its Services (other than Clinic's oversight of Provider Services, as defined below). Vendor will be solely responsible for payment of any federal or state taxes required as a result of this Agreement. As an independent contractor, Vendor acknowledges and agrees that Vendor, including its Telepsychiatry Providers, is not entitled to any benefits granted to Clinic's employees. Without limitation, but by way of illustration, the benefits which are not granted to Vendor or its Telepsychiatry Providers include 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 otherwise required by law. Vendor is an independent contractor for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this Agreement. If Vendor has the assistance of other persons in the performance of this Agreement, Vendor will qualify and remain qualified for the term of this Agreement as a carrier-insured employer or a self-insured employer under ORS 656.403 et. seq.

1.2 No Rights Except as Set Forth Herein. Neither party shall have any expressed or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the other party, except as herein provided.

B.O. 20-404

1.3 Confidential Information. Clinic and Vendor shall not disclose, orally or in writing, to any person other than their respective members, shareholders, directors, managers, officers, employees, agents, advisors or affiliates (collectively, the "Representatives"), or as required under applicable law, any confidential or proprietary information, knowledge or data concerning the business, affairs, operations, secrets, dealing, or finances of the other Party furnished directly or indirectly by such other Party (collectively, the "Confidential Information") without the prior written consent of the other Party. As used in this Agreement, Confidential Information does not include any information which: (i) at the time of disclosure is generally available to and known by the public (other than as a result of disclosure directly or indirectly by the receiving Party); (ii) was available to either Party on a non-confidential basis from a source other than the Party to this Agreement, provided that such source is not and was not bound by a confidentiality agreement with the Party hereto; (iii) has been independently acquired or developed by either Party without violating any of the obligations hereunder; or (iv) such disclosure is required by law.

2. VENDOR DUTIES

2.1 Duties.

- a. Vendor shall provide royalty-free, perpetual. Worldwide, irrevocable (for the duration of this Agreement) licenses to its Telepsychiatry Software to the staff, employees, and clients of Clinic.
- b. Except as otherwise expressly provided herein, or as otherwise required by state of federal law, County and OHA will not own the right, title and interest in any intellectual property created or delivered by Contractor in connection with the Services. With respect to that portion of the intellectual property that Contractor owns, Contractor grants to County and OHA a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 9.A.(1) on County's and OHA's behalf; and (3) sublicense to third parties the rights set forth in Section 9.A.(1).
- c. If state or federal law requires that County, OHA, or Contractor grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then Contractor shall execute such further documents and instruments as County or OHA may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OHA.
- d. Provide access to the Telepsychiatry Software to Clinic staff, employees and clients.
- e. Arrange for the provision of professional services by advanced practice registered nurses ("APRNs") and physicians (whose duties may include, without limitation, consultation, the direct provision of the Telepsychiatry Program and

Telepsychiatry Services to Clinic's clients, and collaboration with and supervision of APRNs) to treat Clinic's clients over the Telepsychiatry Software (collectively, "Provider Services").

- f. Upon request, provide implementation and program management services described in Schedule 1.1.

2.2 Provider Qualifications. Vendor makes no representations or warranties about the abilities of the Telepsychiatry Providers. Each Telepsychiatry Provider has contractually represented himself or herself to Vendor as fully capable and in good standing with applicable medical or nursing laws. Vendor has a duty to immediately inform Clinic of any material information it receives impacting the abilities or status of any Telepsychiatry Provider. Any failure to inform Clinic of known information affecting a Telepsychiatry Provider's abilities or capabilities will constitute a material breach of this Agreement. However, Clinic shall be solely responsible for determining whether a Telepsychiatry Provider has the requisite qualifications and authority to perform the Telepsychiatry Services that Clinic requests that the Telepsychiatry Provider perform on its behalf. Vendor shall not be liable for any issues or damages arising out of Telepsychiatry Providers' practice of medicine or other profession for which such Telepsychiatry Provider is licensed.

2.3 Professional Documents. Vendor has reviewed certain documentation provided to Vendor by the Telepsychiatry Provider(s) with respect to the Telepsychiatry Providers' qualifications to perform the Services, including academic degree; professional licenses; participation in certain identified commercial third-party payor plans, Medicare and Medicaid; professional liability coverage; and a current resume or curriculum vitae. Vendor hereby represents and warrants that Telepsychiatry Provider(s) has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Vendor will apply that skill and knowledge with care and diligence to perform the Services in a professional manner and in accordance with standards prevalent in Vendor's industry, trade or profession. Telepsychiatry Provider(s) must hold all licenses, certificates, authorizations and other approvals as required by applicable law to deliver the Provider Services under this Agreement. Telepsychiatry Provider(s) may, without constraint from Yamhill CCO or Clinic, advise or advocate on behalf of a Yamhill CCO member with regard to treatment options.

2.4 Liability Insurance.

- a. Vendor shall maintain during the entire term of this Agreement professional liability insurance, including malpractice insurance for Vendor's Telepsychiatry Providers and covering Vendor's & Vendor's Telepsychiatry Providers performance of Vendor's Services, Provider Services and other professional acts of the Telepsychiatry Providers rendered under Clinic's supervision under this Agreement in the amount of \$2,000,000 per claim and \$10,000,000 annual aggregate. This coverage must remain in place during the entire term of this Agreement and shall remain continuous; if cancelled an extended reporting period must be purchased for a minimum of three years.
- b. Evidence of Coverage. As evidence that Vendor has obtained the insurance coverage required by this Agreement, Vendor shall furnish a certificate of insurance to Clinic prior to the commencement of Vendor Services, Services

and Provider Services under this Agreement and, thereafter, within a reasonable period of time following receipt of a written request from Clinic not to exceed five (5) business days.

- c. Commercial General Liability Insurance. Vendor shall maintain during the entire term of this Agreement general commercial liability insurance to cover claims of persons and/or injuries or damages that do not arise out of the Vendor Services, Services and Provider Services provided by Vendor or its telepsychiatry Providers, on an occurrence basis, with not less than \$2,000,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$4,000,000.

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) reasonably acceptable to Clinic, with the exception of any wholly owned Captives. At Clinic's request, Vendor shall furnish Clinic with certificates of insurance for each of the required insurance coverages. Vendor is required to provide the Clinic, upon request, with Actuarial opinion of their insurance program to ensure the profitability of their Captive and to ensure that the funding of the Captive is at least 80% or higher. 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 Clinic.

The Commercial General Liability and Commercial Automobile Liability shall (i) name Clinic, its directors, officers, and employees, as additional insureds, (ii) provide that it is primary insurance with respect to the interests of Clinic and that any insurance maintained by Clinic is excess and not contributory, and (iii) include a cross-liability and severability of interest clause and a waiver of subrogation clause.

2.5 Records and Reports.

2.5.1 Ownership and Confidentiality. The ownership and right of control of all reports, records, medical records and supporting documents prepared in connection with the Services and Provider Services provided hereunder shall rest exclusively in Clinic. Vendor shall maintain any information received in connection with its duties hereunder in strict confidence, and shall not disclose any such information to any individual or entity outside except as authorized or as may be required for the performance of its duties hereunder. Upon the expiration or termination of this Agreement for any reason, Vendor shall promptly deliver to Clinic all such records, except that Clinic shall permit Vendor reasonable access to such records during business hours for any ongoing medical purposes and/or in order to defend against for any reason, including any professional liability claims or disciplinary actions. The provisions of this Section 2.5.1 shall survive the expiration or termination of this Agreement for any reason.

Vendor acknowledges that it or its agents may, in the course of their performance under this Agreement, be exposed to or acquire information that is the confidential information of Clinic or Clinic clients. Any and all (i) client information, (ii) information

provided by Clinic and marked confidential, (iii) Protected Health Information or EPHI as described or defined in Exhibit B, or (iv) information identified as confidential in a separate writing, that becomes available to Vendor or its agents in the performance of this Agreement shall be deemed to be confidential information of Clinic ("Confidential Information"). Any reports or other documents or items, including software, that result from Vendor's use of the Confidential Information are also deemed Confidential Information. Vendor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Vendor 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. Vendor agrees that, upon termination of this Agreement or at Clinic's request, Vendor will return to Clinic all documents, papers and other matter in Vendor's possession that embody Confidential Information and Vendor will certify that all such Confidential Information has either been returned or destroyed.

2.5.2 Records.

- a. Vendor shall maintain all financial records related to this Agreement in accordance with generally accepted accounting principles or National Association of Insurance Commissioners accounting standards. In addition, Vendor shall maintain any clinical records, other records, books, documents, papers, plans, records of shipment and payments and writings of Vendor, whether in paper, electronic or other form, that are pertinent to this Agreement, collectively referred to as "Records" in such a manner to clearly document Vendor's performance.
- b. Vendor agrees that the following shall be open for inspection by Clinic, Yamhill CCO, OHA, the Secretary of State's Office of the State of Oregon, the Federal Government and their duly authorized representative at any reasonable time during business hours: a) Services provided under this Agreement by Vendor; b) facilities used in conjunction with such Services; c) client records; d) Vendor's policies, procedures and performance data; e) information privacy and security records; f) financial records and other similar documents and Records of Vendor that pertain, or may pertain, to Services under this Agreement for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, Vendor shall permit authorized representatives of Clinic and the Oregon Health Authority to perform site reviews of all services delivered by Vendor hereunder. Vendor agrees to retain and keep accessible all Records for a minimum period of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the termination or expiration of this Agreement. If there are unresolved audit or other questions at the end of the above period, Vendor shall, retain the records until the questions are resolved.
- c. **Expenditure** Records. Vendor shall document the expenditure of all funds paid to Vendor under this Agreement. Unless applicable federal law requires Vendor to utilize a different accounting system, Vendor shall create and maintain all

expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit Clinic and the Oregon Health Authority to verify how the funds paid to Vendor under this Agreement were expended.

- d. Vendor agrees to annually provide Clinic with copies of their Fraud and Abuse policy and documentation of rate setting methodologies. Clinic encourages Vendor to use the Jarvis rate setting tool. Clinic may approve an alternative method if it demonstrates a similar level of thoroughness. Vendor will comply with Clinic's quality and utilization management protocols established in partnership with Yamhill CCO and Yamhill CCO's Quality Assurance and Performance Improvement Plan. Vendor shall provide documentation regarding training, NPI numbers and background checks for each person providing services under this agreement where applicable upon request.
- e. Clinic will provide Vendor with a copy of Clinic's OHA approved written grievance system procedures to ensure compliance.

2.5.3 Reporting.

Vendor agrees to prepare and furnish reports and data required by Clinic, Yamhill CCO or OHA at a minimum quarterly, including but not limited to:

- a. Client, service and financial information as specified.
- b. All additional information and reports that Clinic, Yamhill CCO or OHA reasonably requests, including but not limited to the information or disclosure required by 42 CFR 455.104 and 42 CFR 455.434.
- c. Compliance with data submission specification of the All Payers All Claims (APAC) reporting system and/or Measures and Outcome Tracking System (MOTS) data collection system as applicable.
 - 1. The APAC reporting system was established in ORS 442.464 and 442.466. Data submitted under this Agreement may be used by Clinic, Yamhill CCO or OHA for purposes related to obligations under ORS 442-464 to 442.468 and OAR 409-025-0100 to OAR 409-025-0170. Submission of encounter data in accordance with this Agreement will fulfill Vendor's responsibility for APAC submission. Failure of Vendor to submit under this Agreement the encounter data required to fulfill the responsibility for APAC reporting is subject to compliance and enforcement under OAR 409-025-0150 as well as under this Agreement.
 - 2. All Individuals receiving Services with funds provided under the 2019-2021 IGA must be enrolled and that Individual's record maintained in the Measures and Outcome Tracking System (MOTS) using Procedure Codes listed in each Service Element, as specified in OHA's MOTS Reference Manual located at: <http://www.oregon.gov/oha/amh/mots/Pages/resource.aspx>, and the "Who Reports in MOTS Policy" as stated below:

Which Behavioral Health Providers are required to Report in MOTS? The data collection system for the Health Systems Division (HSD) is the Measures and Outcomes Tracking System or MOTS. In general, behavioral health providers who are either licensed or have a letter of approval from the HSD (or the former Addictions & Mental Health Division [AMH]), and receive public funds to provide treatment services are required to report to MOTS. In addition to the general rule above, there are four basic ways to classify who is required to submit data to MOTS:

- i. Providers with HSD contracts that deliver treatment services (this includes Community Mental Health Programs [CMHP], Local Mental Health Authorities [LMHA] and other types of community behavioral health providers); These programs should all have a license or letter of approval from the HSD or AMH;
- ii. Providers that are subcontractors (can be a subcontractor of a CMHP or other entity that holds a contract with HSD or OHA, such as a Mental Health Organization [MHO], or a Coordinated Care Organization [CCO]);
- iii. Providers that HSD does not contract with but are required to submit data to MOTS by State/Federal statute or rule; These include DUII providers and methadone maintenance providers;
- iv. Providers that contract with other governmental agencies (e.g., Oregon Youth Authority [OYA] or the Department of Corrections [DOC] to deliver mental health and/or substance abuse services).

Note: Primary care physicians that provide a single service on behalf of the CMHP are not required to report the MOTS status or service level data. If you have questions, contact MOTS Support at MOTS.Support@state.or.us.

- d. Vendor will provide Clinic with a quarterly summary of total enrollment, completion and outcome measures within 30 days after the end of each quarter in order to reconcile fiscal targets.
- e. Vendor agrees to and does hereby grant Clinic the rights to reproduce, use and disclose for Clinic purposes, all or any part of the reports, data, and technical information furnished to Clinic under the Agreement.

2.6 Background Check.

- a. Vendor will ensure that all employees and volunteers who perform work or Services under this Agreement, or who have access to any information about clients serviced under this Agreement, have completed a criminal background check and are approved by a qualified entity in accordance with OAR 943-007-0001 through 943-007-0501.
- b. In addition to potentially disqualifying conditions under OAR 407-007-0290, the following is a potentially disqualifying condition: abuse as determined from child protective services investigation reports held by the State of

Oregon's Department of Human Services (DHS) regardless of the date of initial report or outcome which have an outcome of founded, substantiated, or valid and in which the Subject Individual (SI) is determined to have been responsible for the abuse.

- c. An employee or volunteer of Vendor may be hired on a preliminary basis, in accordance with the requirements and limits described in OAR 407-007-0315. An employee or volunteer of Vendor hired on a preliminary basis may not have unsupervised contact with individuals receiving services under this Agreement and may only participate in the limited activities described in OAR 407-007-0315. An employee or volunteer of Vendor hired on a preliminary basis must be actively supervised at all times as described in OAR 407-007-0315.
- d. Any current employee or volunteer hired for a new position with the Vendor must be approved at the time the employee or volunteer accepts the new position. Notwithstanding the requirements of paragraph B of this section, a current employee or volunteer who accepts a new position with the Vendor may be hired for a new position on a preliminary basis without active supervision in accordance with the limits and requirements described in OAR 407-007-0315.
- e. There are only two possible outcomes of a background check: approval or denial. If the Vendor's employee or volunteer is denied, she or he may not have contact with clients referred for Services under this Agreement and may not have access to information about clients. Employees or volunteers of Vendor who are denied do have the right to contest the denial as described in OAR 943-007-0501.

2.7 Representation/Warranty. Vendor represents and warrants to Clinic that Vendor has never been and is not currently suspended or excluded from participation in any federal health care programs, as defined under 42 U.S.C. § 1320a-7b(f), or any form of state Medicaid program, and to Vendor's knowledge, there are no pending or threatened governmental investigations that may lead to such suspension or exclusion. Vendor hereby represents and warrants that no personnel, directors or officers, nor anyone who will provide services pursuant to this Agreement, is presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation in any federally funded health care program, including Medicare and Medicaid, or under investigation by any federally or state funded health care program. Vendor agrees to screen its personnel and subcontractors at a minimum monthly against the Office of the Inspector General (OIGs) List of Excluded Individual and Entities (LEIE) and the System for Award Management (SAM) list for exclusions. Vendor hereby agrees to immediately notify County of any threatened, proposed, or actual debarment, suspension, or exclusion from any federally funded health care program, including Medicare and Medicaid, that affects any Personnel or subcontractor providing services under this Agreement.

2.8 Prevention/Detection of Fraud and Abuse

2.8.1 Fraud and Abuse Policies: Vendor shall have Fraud and Abuse policies and procedures, and a mandatory compliance plan, in accordance with OAR 410-120-1510, 42 CFR 433.116, 42 CFR 438.214, 438.600 to 438.610, 438.808, 42 CFR 455.20, 455.104 through 455.106 and 42 CFR 1002.3, which enable the Vendor or its Subcontractors to prevent and detect Fraud and Abuse activities as such activities relate to the OHP. These policies, at a minimum, must include:

- a. Administrative and management requirements for Vendor's employees and Subcontractors of written standards of conduct and articulate Vendor's commitment to comply with all applicable federal and State laws;
- b. Risk evaluation to monitor compliance in identified problem areas such as claims, Prior Authorization, service verification, utilization management and quality review;
- c. Member Grievance and Appeal resolution processes protecting the anonymity of complaints and to protect callers from retaliation;
- d. Vendor shall report to the Department of Health and Human Services Office of the Inspector General, any providers, identified during the credentialing process, who are on the excluded lists to include List of Excluded Individuals (LEIE) and Excluded Parties List System (EPLS) also known as SAM(System for Award Management).
- e. Participating Provider credentialing and contracting staff education including provisions addressing the non-employment of sanctioned individuals by Vendor and its Subcontractors;
- f. Corrective Action Plans to prevent potential Fraud and Abuse activities, including systems to respond promptly to allegations of improper or illegal activities and enforcement of appropriate disciplinary actions against employees or Subcontractors who have violated internal Fraud and Abuse policies or applicable statutes, regulations, federal or State health care requirements;
- g. Designation of a chief compliance officer who reports directly to the CEO and the governing body, and submitting that information annually to the OHA Contract Administrator and other appropriate bodies charged with the responsibility of operating and monitoring the Fraud and Abuse program;
- h. Effective lines of communication between OHA's compliance office and Vendor's employees;
- i. Participating Providers and staff education: effective education and training programs will be provided to the compliance officer and all affected employees and Subcontractors;
- j. Education and training will be supported by enforcement of standards through well publicized disciplinary guidelines and provisions for internal monitoring and auditing; and
- k. The establishment of a Regulatory Compliance Committee on the Board of Directors or senior management level charged with overseeing the Vendor's compliance program and its compliance with the requirements under this

Agreement.

Vendor shall include in the employee handbook for the Vendor's employees and in written policies for its Subcontractors, a specific discussion of the applicable Fraud and Abuse Federal and State laws, the rights of employees to be protected as whistleblowers, and the Vendor's policies and procedures for detecting and preventing Fraud, waste and Abuse.

2.8.2 Review of Fraud and Abuse Policies. Vendor shall review its Fraud and Abuse policies annually and submit a written copy to OHA Contract Administration Unit as follows:

- a. To the OHA Contract Administration Unit annually, no later than January 31st. Or attest to no changes since last submission using the Attestation form located on the CCO forms page.
- b. To the OHA Contract Administration Unit upon any significant changes, prior to formal adoption of the policy. OHA will notify Vendor within 30 days of the compliance status of the policy.
- c. To the OHA Contract Administration Unit anytime upon OHA request. OHA will notify Vendor within 30 days of the compliance status of the policy.

2.8.3 Referral Policy. Vendor shall promptly refer all suspected cases of Fraud and Abuse, including Fraud, in accordance with 42 CFR 455.23, by its employees and Subcontractors to the Medicaid Fraud Control Unit (MFCU) and OHA/DHS Provider Audit Unit (PAU). Vendor may also refer cases of suspected Fraud and Abuse to the MFCU or to the OHA/DHS Provider Audit Unit prior to verification. Vendor shall notify OHA/DHS Provider Audit Unit of all referrals to MFCU. Vendor shall ensure Member handbook reflects information on how to report fraud, waste and abuse.

- a. If Vendor is made aware of a credible allegation of Fraud for which an investigation by MFCU is pending against a Provider, Vendor shall, upon notification of an investigation by MFCU, suspend payments to the Provider unless MFCU determines there is good cause not to suspend payments or to suspend payments in part. If the act does not meet the good cause criteria, the Vendor shall work with the MFCU and OHA/DHS to determine if any Participating Provider contract should be terminated.
- b. Fraud and Abuse Referral Characteristics of a Case that should be referred.
 1. Examples of Fraud and Abuse within Vendor's network:
 - (i) Providers who consistently demonstrate a pattern of intentionally reporting encounters or services that did not occur. A pattern would be evident in any case where 20% or more of sampled or audited services are not supported by documentation in the Clinical Records. This would include any suspected case where it appears that the Provider knowingly or intentionally did not deliver the service or goods billed;
 - (ii) Providers who consistently demonstrate a pattern of intentionally reporting overstated or up coded levels of service. A pattern would be

evident by 20% or more of sampled or audited services that are billed at a higher-level procedure code than is documented in the Clinical Records;

(iii) Any suspected case where the Provider intentionally or recklessly billed Vendor more than the usual charge to non-Medicaid recipients or other insurance programs;

(iv) Any suspected case where the Provider purposefully altered, falsified, or destroyed Clinical Record documentation for the purpose of artificially inflating or obscuring his or her compliance rating or collecting Medicaid payments otherwise not due. This includes any deliberate misrepresentation or omission of fact that is material to the determination of benefits payable or services which are covered or should be rendered, including dates of service, charges or reimbursements from other sources, or the identity of the patient or Provider;

(v) Providers who intentionally or recklessly make false statements about the credentials of persons rendering care to Members;

(vi) Primary care physicians who intentionally misrepresent medical information to justify referrals to other networks or out-of-network Providers when they are obligated to provide the care themselves;

(vii) Providers who intentionally fail to render Medically Appropriate Covered Services that they are obligated to provide to Members under their Subcontracts with the Vendor and under OHP regulations;

(viii) Providers who knowingly charge Members for services that are Covered Services or intentionally balance-bill a Member the difference between the total fee-for-service charge and Vendor's payment to the Provider, in violation of OHA rules;

(ix) Any suspected case where the Provider intentionally submitted a claim for payment that already has been paid by OHA or Vendor, or upon which payment has been made by another source without the amount paid by the other source clearly entered on the claim form, and receipt of payment is known to the Provider; and

(x) Any case of theft, embezzlement or misappropriation of Title XIX or Title XXI program money.

2. Examples of Fraud and Abuse in the administration of the OHP program:

(i) Evidence of corruption in the Enrollment and Disenrollment process, including efforts of State employees or Vendors to skew the risk of

unhealthy patients toward or away from one of the Vendors; and

(ii) Attempts by any individual, including employees and elected officials of the State, to solicit kickbacks or bribes, such as a bribe or kickback in connection with placing a Member into a carved out program, or for performing any service that the agent or employee is required to provide under the terms of his employment.

2.8.4 When to Report Fraud and Abuse.

- a. Vendor shall report to the MFCU an incident with any of the referral characteristics listed in Subsection c, above. Vendor shall report to the MFCU and OHA/DHS PAU any other incident found to have characteristics which indicate Fraud or Abuse which Vendor has verified. Vendor shall comply with all patient abuse reporting requirements and fully cooperate with the State for purposes of ORS 124.060 et seq., ORS 419B.010 et seq., ORS 430.735 et seq., et seq., ORS 441.630 et seq., and all applicable Administrative Rules. Vendor shall ensure that all Subcontractors comply with this provision.
- b. Vendor must report the following to the Authority:
 1. Number of complaints of Fraud and Abuse made to the OHA/DHS PAU or the Medicaid Fraud Unit that warrant preliminary investigation; and
 2. For each matter that warrants investigation, the following:
 - (i) Name, and Member ID number
 - (ii) Source of complaint
 - (iii) Type of Provider
 - (iv) Nature of complaint
 - (v) Approximate dollars involved
 - (vi) Legal and administrative disposition of the case

2.8.5 How to Refer a Case of Fraud or Abuse by a Provider. The Department of Justice Medicaid Fraud Control Unit (MFCU) phone number is (971) 673-1880, address 1515 SW 5th Avenue, Suite 410, Portland, Oregon 97201, and fax is (971)-673- 1890. The OHA/DHS Provider Audit Unit phone number is (888) 372-8301, address is PO Box 14152, 3406 Cherry Ave NE, Salem, Oregon 97309-9965, and fax is (503) 378-2577.

2.8.6 Obligations to Assist the MFCU and OHA.

- a. Vendor shall permit the MFCU or OHA/DHS PAU or both to inspect, evaluate, or audit books, records, documents, files, accounts, and facilities maintained by or on behalf of Vendor or by or on behalf of any Subcontractor, as required to investigate an incident of Fraud and Abuse.
- b. Vendor shall cooperate, and requires its Subcontractors to cooperate, with the MFCU and OHA/DHS PAU investigator during any investigation of Fraud or Abuse.
- c. In the event that Vendor reports suspected Fraud or Abuse, or learns of an MFCU or OHA/DHS PAU investigation, Vendor should not notify or

otherwise advise its Subcontractors of the investigation. Doing so may compromise the investigation.

- d. Vendor shall provide copies of reports or other documentation, including those requested from the Subcontractors regarding the suspected Fraud or Abuse at no cost to MFCU or OHA/DHS PAU during an investigation.

2.8.7 How to Refer a Case of Fraud or Abuse by a Member. Vendor, if made aware of suspected Fraud or Abuse by a Member (e.g. a Provider reporting Member Fraud and Abuse) shall report the incident to the OHA/DHS PAU. Vendor shall address suspected Member Fraud and Abuse reports to OHA/DHS Fraud Investigation P.O. Box 14150 Salem, Oregon 97309-5027, phone number 1-888-FRAUD01 (888-372-8301), facsimile number 503-373-1525 ATTN: HOTLINE

2.9 Safeguarding of Client Information. Vendor shall maintain the confidentiality of client records as required by applicable state and federal law. Without limiting the generality of the preceding sentence, Vendor shall comply with the following confidentiality laws, as applicable: ORS 433.045, 433.075, 433.008, 433.017, 433.092, 433.096, 433.098, 42 CFR Part 2 and, including without limitation, ORS 179.495 to 179.507, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by the Oregon Health Authority, implementing the foregoing laws, and any written policies made available to Vendor by Clinic or by the Oregon Health Authority. Vendor shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to Clinic and the Oregon Health Authority for review and inspection as reasonably requested by Clinic or the Oregon Health Authority.

2.10 Information Privacy/Security/Access. If the Services performed under this Agreement requires Vendor to have access to or use of any OHA, Clinic or third-party administrators, Performance Health Technology (PH Tech), computer systems or other OHA, Clinic or third-party administrators Information Assets for which OHA, Clinic or third-party administrators impose security requirements, and OHA, Clinic or third-party administrators grant Vendor access to such OHA, Clinic or third-party administrators Information Assets or Network and Information Systems, Vendor shall comply with OAR 943-014-0300 through 943-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.

2.11 Financial Audit. If a financial audit of Vendor concerning this Agreement is conducted by a certified public accountant, Vendor shall furnish Clinic a copy of the audit within ninety (90) days following the termination of the Agreement.

2.12 Application. Vendor prepared its application related to this Agreement, if any, independently from all other applicants, and without collusion, Fraud, or other dishonesty.

2.13 False Claims. Vendor understands that Vendor may be prosecuted under applicable federal and state criminal and civil laws for submitting false claims, concealing material facts, misrepresentation, falsifying data system input, other acts of misrepresentation, or conspiracy to engage therein.

2.14 Authorized Transactions Only. Vendor shall only conduct transactions that are authorized by the Clinic for transactions with the Oregon Health Authority that involve Clinic funds directly related to this Agreement.

2.15 Abuse Reporting and Protective Services. Vendor shall comply with all protective services, investigation and reporting requirements described in OAR 943-045-0250 through 943-045-0370 and ORS 430.735 through 430.765.

3. CLINIC'S DUTIES

3.1 Facilities. During the term of this Agreement, Clinic shall provide the premises, equipment, supplies, and all other support services necessary under State and Federal law to operate Clinic's Program, including the offer of Telepsychiatry Services.

3.2 EMR Licenses.

3.2.1. Telepsychiatry Providers. Clinic shall, at its own expense, provide Telepsychiatry Providers with any EMR and e-prescribing licenses and tokens required to document and prescribe all medications from Clinic's EMR and e-prescribing software.

3.2.2. Vendor. Clinic shall provide Vendor with quarterly reports of Telepsychiatry Provider's utilization, appointment durations, and client satisfaction scores, within 1 month after the end of each quarter, in such a way that does not share any Protected Health Information (PHI).

3.3 Personnel. Clinic shall employ, terminate, and when it deems appropriate, reinstate such support personnel as it deems necessary to operate the Clinic's Program. Clinic shall provide Vendor with quarterly reports of Telepsychiatry Provider's utilization, actual appointment durations, and any client satisfaction scores within 1 month after the end of each quarter.

3.4 Telepsychiatry Providers. Once Vendor has identified Telepsychiatry Providers to provide Services and Provider Services to Clinic, Clinic shall be responsible for vetting all Telepsychiatry Providers, and, if Clinic maintains a formal medical staff or requires credentialing and privileging of providers on the medical staff of a related institution, credentialing and privileging such Telepsychiatry Providers according to standards adopted by the Clinic (or such related institution) or required pursuant to applicable Medicare/Medicaid conditions of participation, other federal or state laws, rules and regulations, local standards of care, and standards adopted by accreditation agencies. Clinic acknowledges and agrees that Vendor is not a provider of health care services. Clinic's sole recourse against Vendor in the event that Clinic does not wish to credential any Telepsychiatry Provider for any reason is to request that Vendor identify another Telepsychiatry Provider for its consideration.

3.5 Supervision of Provider Services. Notwithstanding anything herein to the contrary, Clinic shall be solely responsible for directing and supervising Provider Services.

3.6 Alternative Formats of Written Materials. In connection with the delivery of Services, Clinic shall make available to client, without charge, upon the client's reasonable

request:

- a. All written materials related to the services provided to the client in alternate formats.
- b. All written materials related to the services provided to the client in the client's language.
- c. Oral interpretation services related to the services provided to the client to the client in the client's language.
- d. Sign language interpretation services and telephone communications access services related to the services provided to the client.

For purposes of the foregoing, "written materials" means materials created by Clinic, in connection with the Service being provided to the requestor. The Clinic may develop its own forms and materials and with such forms and materials the Clinic shall be responsible for making them available to a Clinic Client, without charge to the Clinic client in the prevalent non-English language(s) within the Clinic service area. OHA shall be responsible for making its forms and materials available, without charge to the Clinic Client or Clinic, in the prevalent non-English language(s) within the Clinic service area.

4. FINANCIAL ARRANGEMENTS

4.1 Compensation. In consideration of the provision of the Telepsychiatry Program, Services and Provider Services pursuant to this Agreement, Clinic shall pay Vendor the fees incurred as set forth on Schedule 1.1. Vendor agrees that all compensation payments made pursuant to this Agreement constitutes payment in full for Vendor's provision of the Telepsychiatry Program, Services and Provider Services hereunder and that Clinic shall not be responsible for separate compensation.

4.2 Billing and Collections. The parties specifically acknowledge that Vendor has no responsibility for billings or collecting from Clinic's clients, Medicare, Medicaid, or any other third-party payor for the Telepsychiatry Program, Services or Provider Services provided hereunder. Vendor will cooperate with Clinic to effectuate the billing and collecting for the Telepsychiatry Program, Services and Provider Services hereunder, including but not limited to, signing all forms necessary and appropriate for Clinic to complete such tasks.

- a. **Excluded Services.** Where Vendor is providing services under some other contract or funding source, Vendor shall not be compensated under this Agreement for such services to individuals even though they might otherwise be eligible for Oregon Health Plan (OHP).
- b. Vendor shall not bill Yamhill CCO members for services that are not covered under the Yamhill CCO contract with OHA unless there is a full written disclosure or waiver on file signed by the Member, in advance of the service being provided, in accordance with OAR 410-141-420.

5. INDEMNIFICATION

5.1 Vendor Indemnification of Clinic. Vendor shall indemnify and hold harmless Clinic and its affiliates, and their respective employees, officers, and directors/trustees from and against any and all claims, liabilities, losses, costs, expenses and damages (including, without limitation, reasonable court costs and attorney fees) (collectively, "Losses") which arise out of Vendor's negligence, willful misconduct or breach of this Agreement, except to the extent that any such Losses arise out of or are related to the negligence, willful misconduct or breach of this Agreement by Clinic or its agents, employees, officers, directors/trustees or affiliates. CLINIC ACKNOWLEDGES AND AGREES THAT VENDOR'S INDEMNIFICATION OF CLINIC SHALL NOT EXTEND TO, AND VENDOR SHALL NOT BE LIABLE FOR, LOSSES RESULTING FROM ACTS OR OMISSIONS OF TELEPSYCHIATRY PROVIDERS PROVIDING PROVIDER SERVICES OR PROVIDING ANY OTHER SERVICES TO CLINIC'S CLIENTS OR STAFF UNDER ANY CIRCUMSTANCES.

5.2 Clinic Indemnification of Vendor. Clinic shall indemnify and hold harmless Vendor and its affiliates, and their respective employees, officers, directors/trustees from and against any and all Losses which arise out of Clinic's negligence, willful misconduct or breach of this Agreement, except to the extent that any such Losses arise out of or are related to the negligence, willful misconduct or breach of this Agreement by Vendor or its agents, employees, officers, directors/trustees or affiliates. VENDOR ACKNOWLEDGES AND AGREES THAT CLINIC'S INDEMNIFICATION OF VENDOR SHALL NOT EXTEND TO, AND CLINIC SHALL NOT BE LIABLE FOR, LOSSES RESULTING FROM ACTS OR OMISSIONS OF TELEPSYCHIATRY PROVIDERS PROVIDING PROVIDER SERVICES OR PROVIDING ANY OTHER SERVICES TO CLINIC'S CLIENTS OR STAFF UNDER ANY CIRCUMSTANCES.

This indemnification obligation shall survive the expiration or termination of this Agreement. **Vendor acknowledges and agrees that Clinic's indemnification obligations herein are subject to Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act.**

6. TERM AND TERMINATION

6.1 Term. This Agreement shall commence as of the effective Date and continue for a period of one year ("Initial Term"). Thereafter, this Agreement shall automatically renew for successive one (1) year periods ("Renewal Term") (each annual period may be generally referred to as a "Term") unless sooner terminated as provided below. It is understood by both parties that no commitments have been or are made by either party beyond the termination of this Agreement:

6.2 Termination. Notwithstanding the provisions of Subsection 6.1, this Agreement may be terminated as follows:

6.2.1 Voluntary and Involuntary Termination.

- a. Involuntary Termination. This Agreement may be terminated by either party upon prior written notice in the event that the other party is in

material breach of any provision of this Agreement and fails to cure such breach on or before the expiration of a thirty (30) day cure period.

- b. Voluntary Termination. This Agreement may be terminated by either party without cause by providing the other party with thirty (30) days advance written notice prior to the termination date where notice shall specify the service being terminated.

6.2.2 Termination Due to Change in Law. In the event that any law or regulation enacted, promulgated or amended after the date of this Agreement, or any interpretation of law or regulation by a court or regulatory authority of competent jurisdiction after the date of this Agreement (collectively "Change in Law") materially affects or materially impacts upon the reasonable expectations of either party under this Agreement, renders any provision of this Agreement illegal or enforceable, or materially affects the ability of either party to perform its obligations under this Agreement, then either party may request renegotiation of the applicable terms of this Agreement by written notice to the other party. Both parties agree to negotiate in good faith an amendment which preserves the original reasonable expectation of the parties to the extent possible in a manner consistent with the Change in Law. If no such amendment can be agreed upon in the reasonable opinion of either party within sixty (60) days of receipt of such notice, then Clinic or Vendor may terminate this Agreement upon an additional thirty (30) days written notice.

6.2.3 In addition, in the event Clinic no longer receives funds adequate to enable it to continue this Agreement; if Vendor engages in any act that would subject either Clinic or Vendor to criminal liability; upon dissolution of Clinic or Vendor; if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that Clinic no longer has the authority to meet its obligations under this Agreement; or upon any of the following: (i) the insolvency of the Vendor, (ii) the filing of a voluntary or involuntary petition by or on behalf of Vendor under federal bankruptcy law, (iii) upon a party entering into an agreement with creditors for the liquidation of its assets, or (iv) upon the appointment of a receiver or trustee to take charge of all the assets of Vendor, Clinic will provide written notice of termination of this Agreement to Vendor. Upon issuance of notice, this Agreement is immediately terminated. However, any obligations existing at the time of termination will survive termination.

7. NONCOMPETITION

7.1 Vendor. In consideration of the mutual covenants herein contained, it is understood and agreed that Clinic shall not, without written consent, during the Term and for a period of 2 years from the expiration or termination of its obligations under this Agreement ("Restricted Period"), attempt to recruit or in any way solicit employment of Vendor staff, including, without limitation, Telepsychiatry Providers.

7.2 Clinic. In consideration of the mutual covenants herein contained, it is understood and agreed that Vendor shall not, without written consent, during the Term and for a period of 2

years from the expiration or termination of its obligations under this Agreement (“Restricted Period”), attempt to recruit or in any way solicit employment of Clinic staff.

7.3 Provider. Clinic may not utilize the professional services of a supplied Telepsychiatry Provider through contract with another telepsychiatry service provider or staffing agency for 2 years following termination of this Agreement. Clinic shall notify Vendor of any agency that attempts to sell telepsychiatry services with a Telepsychiatry Provider assigned to Clinic during the Term as its provider.

8. MISCELLANEOUS

8.1 Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, nor be construed to be, a waiver of any subsequent breach of the same or any other provision thereof. A waiver shall only be effective if in writing and signed by the Party against whom such waiver is asserted. The waiver by any of the Parties of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach. Clinic and Vendor 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.

8.2 Entire Agreement. This Agreement, together with its exhibits and Attachments, supersedes all previous agreements between the parties relating to the subject matter of this Agreement, and constitutes the entire understanding between the parties relating to the subject matter of this Agreement. No amendments or variation thereof shall be valid unless evidenced by a writing signed by both parties. All recitals set forth above and exhibits attached hereto shall be deemed incorporated into, and made a part of, this Agreement.

8.3 Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Oregon without regard to its conflicts of law rules. Any claim, action, suit or proceeding between Clinic and Vendor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Oregon for Yamhill County; provided, however, if a claim must be brought in a federal forum, then it shall be conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver of the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any claim whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise. VENDOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVES ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THIS FORUM IS AN INCONVENIENT FORUM.

8.4 Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, unenforceability thereof shall not affect the remainder of this

Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.

8.5 Notices. All notices given pursuant to this Agreement shall be deemed effectively given when personally delivered, sent by telefacsimile with confirmation of receipt or sent by certified mail, postage fully paid, to the party's last known address or such other address as the parties may designate in writing. All notifications made regarding the performance of this contract may be made according to Exhibit A.

8.6 Compliance With Reimbursement Laws. The parties expressly acknowledge that the compensation provided for in this Agreement has resulted from an arm's length negotiation between Vendor and Clinic, has not been determined in a manner that takes in to account the volume or value of referrals or business otherwise generated between the parties, and, to the best knowledge of each party, is consistent with the fair market value of the amounts to be paid by Clinic to the Vendor hereunder. The parties further acknowledge that it has been and continues to be their intent to comply fully with all federal, state and local laws, rules, and regulations, including without limitation 42 U.S.C. § 1320-7(b) and 42 U.S.C. § 1395nn. It is not a purpose, nor is it a requirement, of this Agreement or of any other agreements between the parties, to offer to receive any remuneration nor benefit of any nature to solicit, require, induce, or encourage the referral of any patient, payment of which may be made in whole or in part by Medicare, Medicaid, or any other federal health care program. No payment made or received under this Agreement is in return for the referral of patients or in return for the purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, or ordering of any good, service, item or product for which payment may be made in whole or in part under Medicare, Medicaid, or any other federal health care program. Neither party shall make nor receive any payment that would be prohibited under federal, state or local law.

8.7 General Compliance. Clinic and Vendor shall comply with all applicable local, state and federal regulations, executive orders and ordinances and all provisions of federal and state law relating to Vendor's performance of Services under this Agreement as they may be adopted, amended or repealed from time to time, including but not limited to the following: (i) ORS Chapter 659A.142, 659A.145, 659A.400 to 659A.409 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities and in the conduct of all programs, services and training associated with the delivery of Services under this Agreement; (ii) all state laws related to client rights, OAR 943-005-000 through 943-005-0070, prohibiting discrimination against Individuals with disabilities, including compliance with Section 1557 of the Patient Protection and Affordable Care Act of 2010 prohibiting discrimination in the delivery of services in health care programs or activities based on race, color, national origin, sex, sex stereotypes, gender identity, age or disability; (iii) Oregon Health Authority (OHA) rules pertaining to the provision of integrated and coordinated care and services, OAR Chapter 410, Division 141; (iv) all other OHA Rules in OAR Chapter 410; (v) rules in OAR Chapter 309 Divisions 012, 014, 015, 018, 019, 022, 032 and 040, pertaining to the provisions of mental health services; (vi) rules in OAR Chapter 415 pertaining to the provision of Substance Use Disorders services; (vii) state law establishing requirements for Declaration for Mental Health Treatment in ORS 127.700 through 127.737; (viii) 42 CFR 438.6 and 42 CFR 438 E; (ix) ORS 279B.200 through 279B.270; (x) Article XI, Section 10, of the

Oregon Constitution; (xi) all state laws requiring reporting of client abuse; and (xii) all other applicable requirements of State civil rights and rehabilitation statutes, rules and regulations, and (xiii) to the extent not already specifically set forth herein, Vendor shall comply with all applicable requirements in Exhibit H "Required Subcontract Provisions", and any other provisions that must be included to comply with applicable law, or that are required to be included in a provider contract or that are necessary to implement Service delivery in accordance with the applicable Service Descriptions, Specialized Service Requirements and Special Conditions as defined in and under that certain 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Substance Use Disorders and Problem Gambling Services, by and between Clinic and the Oregon Health Authority dated as of July 1, 2017 ("2019-2021 IGA") which Exhibit H and 2019-2021 IGA (as applicable) are incorporated herein by this reference. In addition, all applicable nondiscrimination, worker's compensation, occupational disease, and occupational health and safety laws, statutes, regulations, and ordinances, including, without limitation, the federal Occupational Safety and Health Act, the Americans with Disabilities Act, the Social Security Act, and any laws relating to the environment or to hazardous materials or substances as defined in such laws, as any or all of the same may be amended or supplemented from time to time (and with any and all laws enacted to replace or succeed such laws). Vendor will provide Vendor Services to Clinic patients without regard for race, color, creed, religion or national origin in compliance with Title IV, Civil Rights Act, 1954. Further, Vendor certifies compliance with the tax laws of the State of Oregon or a political subdivision of the state, including ORS 305.620 and ORS Chapters 316, 317 and 318. To the extent applicable Vendor certifies it shall comply with all applicable Public Contract Laws to include ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.545 and 279C.580 (3) and (4). ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.545 and ORS 279C.580(3) and (4) are incorporated into this Agreement by reference.

These laws, regulations, executive orders and ordinances are incorporated by reference herein to the extent that they are applicable to this Agreement and required by law to be so incorporated. Vendor agrees that Vendor has complied with the tax laws of the state of Oregon or a political subdivision of the state of Oregon, including ORS 305.620, 305.380(4) and ORS Chapters 316, 317 and 318.

8.7.1 Vendor shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

8.7.2 Vendor agrees to comply with all laws, rules, regulations, reporting requirements, policies and procedures of Medicare/Medicaid and officially made known by the Centers for Medicare & Medicaid Services and OHA as they pertain to the performance of Services under this Agreement.

8.7.3 In compliance with the Americans with Disabilities Act, any written material that is generated and provided by Vendor under this Agreement to Clients or Members, including Medicaid-Eligible Individuals, shall, at the request of such Clients or Members, be reproduced in alternate formats of communication, to include Braille, large

print, audiotape, oral presentation, and electronic format. OHA shall not reimburse Vendor for costs incurred in complying with this provision. Vendor shall cause all Subcontractors under this Agreement to comply with the requirements of this provision.

8.7.4 All employers, including Vendor, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.

In addition, Vendor shall comply, as if it were Clinic thereunder, with the federal requirements set forth in Exhibit G "Required Federal Terms and Conditions," to the certain 2019-2021 IGA, which Exhibit G and the 2019-2021 IGA (as applicable) is incorporated herein by this reference. These laws, regulations, executive orders and ordinances are incorporated by reference herein to the extent that they are applicable to this Agreement and required by law to be so incorporated.

8.8 Counterparts; Email or Facsimile Signature. This Agreement may be signed by the parties in one or more counterparts, all of which shall be considered one and the same agreement, binding on all parties hereto, notwithstanding that both parties are not signatories to the same counterpart. All documents delivered by email or facsimile shall be binding as though an original thereof had been delivered.

8.9 Assignment and Subcontracting. The purpose of this Agreement is to secure the Services, Provider Services and Telepsychiatry Services of Vendor in the performance of Services, Provider Services and Telepsychiatry Services hereunder. Accordingly, Vendor may neither assign its rights or obligations under this Agreement nor otherwise subcontract for, or delegate, the performance of its obligations under this Agreement to any other person or entity. Clinic may, without the prior consent of Vendor, assign its rights and obligations under this Agreement to another legal entity owned or controlled by, under common control or affiliated with, Clinic. Notwithstanding anything herein to the contrary, Vendor shall not assign or transfer its interest in this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or in any other manner, without the prior written consent of Clinic. No approval by Clinic of any assignment or transfer of interest shall be deemed to create any obligation of Clinic in addition to those set forth in this Agreement. Consent to subcontract shall not relieve obligations/duties under this Agreement. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.

8.10 Settlement of Disputes. Differences between Vendor and Clinic will be resolved when possible at appropriate management levels, followed by consultation between boards, if necessary.

8.11 Attorneys' Fees. In the event of legal suit or action, including any appeals therefrom, brought by either party against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions under this Agreement, each party shall pay their own attorney's fees and costs incurred in the suit or action, including investigation costs, expert witness fees and all costs of depositions.

8.12 Prohibition of Discrimination. In hiring employees or subcontractors for performance of Vendor Services under this Agreement neither Vendor, any subcontractor or any other person acting on their behalf shall by reason of race, religion, age, color, creed, physical handicap or sex discriminate against a person who is qualified and available to perform Services to which employment relates. Vendor agrees that no person shall, on the grounds of race, color, religion, national origin, sex, marital status, age, or other category protected by Oregon or federal law suffer discrimination in the performance of this Agreement when employed by Vendor.

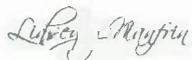
8.13 Business Associate Clause - HIPAA restrictions. Vendor acknowledges that Clinic is subject to the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996, (HIPAA), Pub. Law No. 104-191 and subject to the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, "Part 2"). Clinic and Vendor hereby agree to the respective obligations in the attached Exhibit B, "Business Associate/Qualified Service Organization Agreement" which is incorporated herein by this reference.

8.14 Amendment. This Agreement may be amended or modified only by a written agreement signed by the parties or their duly authorized representatives

IN WITNESS WHEREOF, each person, signing below represents and warrants that he is fully authorized to execute and deliver this Agreement in the capacity set forth beneath his or her signature and the parties hereto have executed this Agreement as of the date and year first written above:

CLINIC:

**Yamhill County, acting by and through its
Department of Health and Human Services**

By: 

Name: Lindsey Manfrin

Title: Public Health Administrator

VENDOR:

Genoa Healthcare, LLC

By: 

Name: Mariam Malik

**Title: VP of Operations, Community
Based Care**

Accepted by Yamhill County
Board of Commissioners on
11/12/2020 by Board Order
20-404

EXHIBIT A
CONTACT INFORMATION FOR EFFECTIVE NOTICE

CLINIC

**Yamhill County Health and Human
Services**

VENDOR:

Genoa Healthcare, LLC

627 NE Evans Street McMinnville, OR 97128 Attention: Lindsey Manfrin	1115 Broadway Suite 1070 New York, NY 10011 Attention: Mariam Malik
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SCHEDULE 1.1

Vendor shall receive compensation for the Services at the rates set forth below provided.

Compensation for Clinical Services

Clinic will compensate Vendor at the following rates for telemedicine, other Provider Services, or on-site treatment provided for average of 16 or more hours per week:

- **\$210** per hour by a Psychiatrist (MD or DO)
- **\$140** per hour by an APRN (PMHNP or FNP)

If the hours for a given type of provider (e.g. not combined across provider types) reaches 40 or more per week, the price decreases to \$ 195/hr for MD or DO and \$ 130/hr for PMHNP or FNP. Note there is a \$10/hr premium for APRN and \$15/hr premium for MD providers seeing children or geriatric adults, seeing individuals with IDD, speaking other languages, providing Medication Assisted Treatment, seeing individuals at an inpatient facility, in Assertive Community Treatment
or

B.O. 20-404
Exhibit "A" pg 1 of 3

Personalized Recovery Oriented Services, or supervising/collaborating with other providers.

Clinic shall be responsible for determining the number of Telepsychiatry hours to be utilized each week. Clinic shall provide the schedule of Telepsychiatry hours to the Vendor for any particular week eight (8) weeks in advance of the first day of the week ("Required Notice").

Furthermore, Clinic acknowledges and agrees that Clinic shall be responsible for paying for Telepsychiatry hours not otherwise properly changed, including, without limitation, whether: (i) the Clinic fails to schedule its clients to receive Provider Services during such Telepsychiatry hours; (ii) Clinic's clients fail to keep their appointments for Provider Services to be provided during such Telepsychiatry hours; or (iii) Provider Services are provided during such Telepsychiatry hours, but the Clinic is not paid by its clients, third-party payors or other responsible parties; however, Clinic shall not be responsible for paying fees pursuant to Section 4.1 of the Agreement and this Schedule 1.1 with respect to any Telepsychiatry hours for which Telepsychiatry Provider fails to be available to provide scheduled Provider Services.

Additional Compensation:

If a Telepsychiatry Provider is using Clinic's Electronic Medical Record (EMR), Clinic agrees to compensate Vendor at the above hourly rates for all Telepsychiatry Provider training time on Clinic's EMR.

Additionally, if Clinic determines that a Telepsychiatry Provider is required to travel on-site for training or workflow development, Clinic agrees to compensate Vendor:

- a) At the above hourly rate for all time spent on-site by Telepsychiatry Provider, and
- b) For all lodging, transportation, and meal costs incurred by Telepsychiatry Provider while in transit to and from Clinic

Implementation and Program Management Services:

9

The following implementation and program management services are offered and will be provided upon request:

- **On-Site Implementation:** Up to 1 day optional on-site implementation provided that:
 - a) Clinic will be receiving 32+ hours of telepsychiatry per week from a provider, and
 - b) Clinic has Genoa Healthcare pharmacy staff on-site
- **On-Site Visit:** Up to 1 on-site visit per year from a Genoa Healthcare Account Manager
- **Payor Enrollment:** Vendor will work with the telepsychiatry provider to complete any applications and provide all documents necessary for Medicare and non-Managed Medicaid enrollments and reassignments. For Managed Medicaid and private payor enrollments, Genoa will only provide the relevant documents and will not complete any enrollment or reassignment applications
- **Genoa Video Software Training:** Up to 60 minutes of training on the Genoa

Telepsychiatry platform during implementation and 30 minutes of re-training per year

- **Technology Support:** In the event that Vendor is notified of a technology issue we will provide an acknowledgement of any technology issue and initiate a plan of action within 15 minutes. Technology issues are defined as a Genoa Telepsychiatry platform-related problem that directly impedes appointments, including audio, video and connection issues
- **Executive Business Reviews:** Up to quarterly review of telepsychiatry program with Clinic's executive leadership
- **Operational Business Reviews:** Up to monthly review of telepsychiatry program with Clinic's telepsychiatry operations staff
- **Huddles:** Up to quarterly Clinical huddles. The huddle is an integrated care model that seeks to improve telepsychiatry care coordination between the telepsychiatrist, the pharmacist, and the Clinic's care team

B.O. 20-404
Exhibit "A" pg. 3 of 3

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; and
- B. County operates a drug and alcohol treatment program 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 it also must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information with respect to the performance of its obligations under the Agreement; and
- 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 its obligations under the Agreement pursuant to this Business Associate/Qualified Service Organization Agreement (“BAA”); 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, in consideration of mutual and valuable consideration which the parties hereby acknowledge as received, 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 of this BAA. Capitalized terms used, but not otherwise defined in this BAA, 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 BAA, 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.

B.O. 20-404
Exhibit "A" pg 1 of 8

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 (as amended by this BAA), and as permitted by Part 2, the Privacy Rule, the Security Rule or as required by Law. Notwithstanding any other language in this BAA, 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 BAA, 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 BAA.

(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 BAA, 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 BAA, 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 BAA, 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 BAA, 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 BAA, 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 BAA, 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 BAA, 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 BAA, 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 BAA. 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 CONTRACTOR to 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 BAA 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 BAA 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 BAA shall be effective on the date on which all parties have executed it and all necessary approvals, if any, have been granted. This BAA shall terminate on the earlier of (i) the date of termination of the Agreement, or (ii) the date on which termination of the BAA is effective under Section 6(b).

(b) Termination for Cause. In addition to any other rights or remedies provided in this BAA, upon either the COUNTY's or CONTRACTOR's knowledge of a material breach by the other party of that party's obligations under this BAA, 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 BAA if the party in breach does not cure the breach of the terms of this BAA or end the violation within the time specified;

(2) Immediately terminate the Agreement and this BAA if the party in breach has breached a material term of this BAA 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 BAA are in addition to any rights and remedies provided in the Agreement.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this Section 6(c), upon termination of the Agreement and this BAA, 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 BAA 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 BAA 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 BAA 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 BAA 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 BAA.

(c) Survival. The respective rights and obligations of CONTRACTOR under Section 6(c), this Section 7(c), and Section 7(e) of this BAA shall survive the termination of the Agreement and this BAA.

(d) Interpretation ; Order of Precedence. Any ambiguity in this BAA or the Agreement shall be resolved to permit COUNTY to comply with Part 2, the Privacy Rule, Security Rule and the HITECH Act. The terms of this BAA amend and supplement the terms of the Agreement, and whenever possible, all terms and conditions in this BAA and the Agreement are to be harmonized. In the event of a conflict between the terms of this BAA and the terms of the Agreement, the terms of this BAA shall control; provided, however, that this BAA 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 BAA) 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 BAA and are the only parties entitled to enforce its terms. Nothing in this BAA 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 BAA.

(f) Successors and Assigns. The provisions of this BAA and the 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 BAA, all terms and conditions of the Agreement shall remain in full force and effect.

(signature page follows)

8. SIGNATURES.

By signing this BAA, the parties certify that they have read and understood this BAA, that they agree to be bound by the terms of this BAA and the Agreement, as amended, and that they have the authority to sign this BAA.

COUNTY:

By: *Lindsey Manfrin*

Name: Lindsey Manfrin

Title: Public Health Administrator

CONTRACTOR:

By: *Mariam Malik*

Name: Mariam Malik

Title: VP of Operations, Community Based Care

*BD. 20-404
Exhibit "B" pg 8 of 8*