

AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 20__, by and between the County of Cuyahoga, Ohio (the “**COUNTY**”) and the Cuyahoga County Department of Senior and Adult Services, with principal offices located at 1701 East 12 Street, Reserve Square, Lower Level Cleveland, OH 44114, (the “**PROVIDER**”) for the provision Home Health Care Services and Home and Community-based Health Services.

WITNESSETH THAT:

WHEREAS, the **COUNTY** as the grantee and Chief Elected Official for the Part A transitional grant area consisting of Cuyahoga, Ashtabula, Geauga, Lake, Lorain, and Medina counties has established the Council as a planning body for person living with HIV/AIDS; and

WHEREAS, the Cuyahoga Regional HIV Services Planning Council, (“**COUNCIL**”) is responsible for identifying the needs of individuals and families affected by HIV/AIDS; and

WHEREAS, the **COUNCIL** has determined that home health care services and home and community-based health services are needed for persons living with HIV/AIDS within the Part A six county transitional grant area (TGA) for the 2011 fiscal year; and

WHEREAS, it has been determined that the **PROVIDER** has the necessary experience and expertise to administer the services; and

WHEREAS, the **PROVIDER** provides home health care services and home and community-based health services for persons living in the six county Part A TGA as identified above.

NOW, THEREFORE, the **COUNTY** and the **PROVIDER** hereto agree as follows:

ARTICLE I SCOPE OF SERVICES

The **PROVIDER** accepts the relationship of trust and confidence from the **COUNTY**, and by this Agreement asserts that it shall provide home health care services and home and community-based health services for persons living with HIV/AIDS within the Part A six county transitional grant area (TGA) for the 2011 fiscal year (March 1, 2011 – February 29, 2012), with an option to extend for one year through February 28, 2013 .

ARTICLE 2 FINANCIAL

2.1 Direct Compensation. For the provision of all services and the delivery of all products required under this Agreement, the **COUNTY** shall reimburse the **PROVIDER** at a unit rate not to exceed \$69.44 per hour and a total amount not to exceed \$ 10,000.00 for home health care services and a unit rate not to exceed \$32.36 per hour and a total amount not to exceed \$ 60,000.00 for home and community-based health services.

2.2 Documentation and Reimbursement Process.

- a. The **PROVIDER** shall invoice the **COUNTY** for up to \$ 70,000.00 for the cost of services outlined in 2.1.
- b. The invoices must include client's Ryan White ID number, date(s) of service, type of service, units of service and unit cost for each service invoiced.
- c. The **PROVIDER** shall identify errors in payment and notify the **COUNTY**, in writing, within thirty (30) calendar days of receipt of payment.
- d. The **PROVIDER** shall maintain all required documentation on site in the clients' case record/file so as to verify services provided and services billed and make such records available to the **COUNTY** as requested during provider audits.
- e. The **PROVIDER** shall identify all approved RW Act equipment purchases as property of the Ryan White program.
- f. The **PROVIDER** shall maintain original documentation, such as time sheets, payroll journals, tax records, travel vouchers, vendor invoices, lease agreements, canceled checks, logs and receipts in a manner that will expedite an on-site fiscal audit of program costs.
- g. On those occasions where fiscal and management reports are not submitted by the **PROVIDER** on a timely basis, the following two phase warning procedure will be activated:
 - 1. Invoices and/or participant status reports which are 30 calendar days or more late, will place a **PROVIDER** on probation for further adverse action after written notification by the **COUNTY**.
 - 2. Invoices and/or participant status reports which are 60 calendar days or more late will place a hold on future invoice reimbursements after written notification by the **COUNTY**.
- h. The final request for payment reimbursement by the **PROVIDER** for any services delivered during the contract period (including amended charges for services denied by the **COUNTY**) must be received by the **COUNTY** within forty-five (45) calendar days after the end of this contract. Any request for payment received after this date may not be honored for payment.

ARTICLE 3 PROVIDER RESPONSIBILITY

The **PROVIDER** accepts the relationship of trust and confidence between the **COUNTY** and the **PROVIDER**, and by this Agreement agrees that it shall provide resources and service in connection with the Council, including but not limited to the following:

3.1 Certification of Client Eligibility. It is the responsibility of the **PROVIDER** to determine and document Ryan White Part A eligibility status, including residency, HIV status, income, insurance status and eligibility for Medicaid coverage before serving clients. If a client is eligible for other third party reimbursement, it is the responsibility of the **PROVIDER** to bill the appropriate third party for services or refer the client to an appropriate provider that can accept that reimbursement.

The **PROVIDER** is required to maintain an individual case record or medical record for each client served. The record shall contain:

1. A copy of the Ryan White Part A Intake Form (with a copy sent to the program office).
2. Verification of eligibility to receive Ryan White funded services.
3. Verification of HIV Status
4. Verification of insurance status, including eligibility for Medicaid.
5. Verification of income
6. Verification of residency
7. A signed copy of a client release of information form.
8. A signed client rights/responsibilities statement.
9. Original and revised need assessments specific to service standards and protocols.
10. Treatment or service plans specific to service standards and protocols.
11. Any required medical or other referral or certification required to receive specific services.
12. Appropriate documentation or verification of appointment(s), attendance or receipts for services.
13. Other documentation required by the agency or accrediting or certifying entity.
14. Notations of all client contact/treatment as required by service standards and documentation for invoicing.
15. Additional information may be required specific to standards of care or the Part A program.

3.2 Program Review and Provider Audits. The **PROVIDER** shall participate in no fewer than one (1) and no greater than four (4) site visits per funded program year. Audits will include an administrative review of fiscal and programmatic components and a service review of quality of care standards and health outcomes. Key personnel involved in service delivery and direct supervision of RW Act services and all appropriate agency and client records should be available for site visits. **PROVIDERS**

whose audit results show significant non-compliance with fiscal and/or program standards will be required to prepare a corrective action plan and are subject to a second audit to review improvement. Organizations whose performance continues below compliance standards are subject to additional sanctions including a reduction in current funding, the termination of the service contract or payback of reimbursement for services determined to be ineligible or undocumented.

3.3 Program Performance Reporting. The **PROVIDER** agrees to provide to the **COUNTY** reports relative to the effective operation of the program. The **PROVIDER** shall ensure accountability for the services identified in this contract by submitting service and fiscal reports.

- a. Semi-Annual Program Reports are required from each provider for each funded service.
- b. Annual Administrative Reports, the Ryan White HIV/AIDS Data Report (RDR) and Ryan White HIV/AIDS Program Services Report (RSR), are required by The U.S. Department of Health and Human Services, HIV/AIDS Resources Services Administration. The format will be provided to each service **PROVIDER** with instructions on completion and submission requirements.
- c. Comply with data entry requirements for reporting into required systems (i.e., CAREWare, HRSA reporting systems)
- d. Other additional information may be requested at any time by the **COUNTY**. The **COUNTY** may provide specific formats for submitting reports which the **PROVIDER** will be required to follow.

3.4. Maintenance Of Effort. The **PROVIDER** certifies that the services being reimbursed by Part A are not available from the **PROVIDER** on a non-reimbursable basis or for less than the unit cost negotiated with Part A, or reimbursable in part or in full by any other third party. The **PROVIDER** certifies that they will not use Part A funds to supplant non-federal funds for services.

3.5. Funding Exclusions And Restrictions.

- a. Pursuant to Section 2605 (a)(6) of the RW Act, funds cannot be used to pay for any item or service that can reasonably be expected to be paid under any State compensation program, insurance policy, Federal or State health benefits program, or by any entity that provides health services on a prepaid basis. The Ryan White Part A Program is the "payer of last resort." This means providers must make reasonable efforts to identify and secure other funding sources outside of Ryan White legislation funds, whenever possible. Part A funds are intended to be "the payer of last resort" for the provision of care. Providers are responsible for verifying an individual's eligibility by investigating and eliminating all other potential billing sources for each service, including public insurance programs, or private insurance. RW Act funds may not be used to supplant partial reimbursements from other sources to make up any un-

reimbursed portion of the cost of such services.

- b. If the **PROVIDER** elects to use RW Act funds for services, which are eligible for both third party reimbursement and grant funding, the **PROVIDER** must have a system in place to bill and collect from the appropriate third party payer. Only if the client has been determined to not be eligible for reimbursement from Medicaid or other third party payers, may the grantee use grant funds to provide these services. The **PROVIDER** may use RW Act funds while a Medicaid eligibility determination is pending, but must back bill Medicaid during the retroactive period of enrollment. The **COUNTY** reserves the right to audit records and or require proof that grant funds are not being used to support clients enrolled in third party reimbursement programs. Under Section 2604 (e), the grantee can only contract with Medicaid certified providers if the service is covered under Medicaid.
- c. The **PROVIDER** warrants that payments received from the **COUNTY** for services under this contract shall be considered payment in full for such services and that no additional claims or payments shall be sought or received by another payor source for any part or all of such services.
- d. The **PROVIDER** shall not use RW Act funds in order to:
 - 1. Support the costs of operating clinical trials of investigational agents or treatments;
 - 2. Cover the costs of funeral, burial, cremation or other related expenses;
 - 3. Purchase clothing;
 - 4. Make payments directly to recipients of services,
 - 5. Support legal services for criminal defense;
 - 6. Provide direct maintenance expenses of privately owned vehicles or any other costs associated with a vehicle, such as lease or loan payments, vehicle insurance, or license registration fees;
 - 7. Purchase or improve land, or to purchase, construct, or make permanent improvement to any building, except for minor remodeling;
 - 8. Pay property taxes.
- e. **Program Income** - The RW Act legislation requires grantees to collect and periodic report information on program income. The program income is to be returned to the respective Ryan White HIV/AIDS Program and used to provide eligible services to eligible clients. "Program income is gross income—earned by a recipient, sub-recipient, or a contractor under a grant—directly generated by the grant-supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed (e.g., direct payment, or reimbursements received from Medicaid, Medicare and third-party insurance); and income a recipient or sub-recipient earns as the result of a benefit made possible by receipt of a grant or grant funds, e.g., income as a result of drug sales when a recipient is eligible to buy the drugs because it has received a Federal grant." As specified on the Part A notice of grant award (NGA), program income must be added to funds committed to the project or program and used to further

eligible project or program objectives.” Grantees are responsible for ensuring that sub-recipients have systems in place to account for program income, and for monitoring to ensure that sub-recipients are tracking and using program income consistent with grant requirements. All program income must be reported monthly as a part of the request for payment process.

- 3.6. Financial Systems, Records, and Audit.** The **PROVIDER** agrees to adhere to the requirements pursuant to Office of Budget and Management (OBM) Circular Numbers A-87, A-122, A-21 for cost principles, A-102 , A-110 for administrative requirements and A-133 for audit requirements. The **PROVIDER** shall submit to the **COUNTY** and Annual Compliance OBM Circular A-133 if the annual expenditure exceeds \$500,000.00. **PROVIDER** with annual expenditures under \$500,000 must submit the most recent independent auditor’s report.
- 3.7. Availability and Retention of Records.** **PROVIDER** shall maintain and preserve all records related to this agreement and the administration of the program for a period of three (3) years from the ending date of this contract. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three (3) year period, the **PROVIDER** shall retain the records until completion of the action and all issues which arise from it or until the end of the three (3) year period, whichever is later.
- 3.8. Safeguarding of Client and Client Records.**
- a. **PROVIDER** agrees that the use or disclosure by any party of any information concerning service recipients for any purpose not directly related with the administration of the **COUNTY** or **PROVIDER’S** responsibilities with respect to purchased services is prohibited except upon the expressed written consent of the individual being served.
 - b. **PROVIDER** agrees to comply with the Health Insurance Portability and Accountability Act (HIPAA) and all its relevant provisions in relation to the delivery, recording and billing of client health care and other applicable related clinical social services reimbursed by RW Act funds.
 - c. **PROVIDER** agrees to comply with all federal and state laws applicable to the **COUNTY** and/or consumers of RW Act funded services concerning the confidentiality of the consumers. The **PROVIDER** understands that Ohio law prohibits anyone from soliciting, disclosing, receiving, using, or knowingly permitting, or participating in the use of any information regarding a public assistance recipient for any purpose not directly connected with the administration of a public assistance program. R.C. 5101.27(A). See also Ohio Administrative Code 5101:1-1-03. Under R.C. 5101.00(B), whoever violates R.C. 5101.27(A) is guilty of a misdemeanor of the first degree.

ARTICLE 4 COUNTY RESPONSIBILITY

The **COUNTY** accepts the relationship of trust and confidence between the **PROVIDER** and the **COUNTY**, and by this Agreement agrees that it shall provide resources and service in connection with the Council, including but not limited to the following:

- 4.1 Review.** The **COUNTY** shall review the invoices provided to it by the **PROVIDER** and shall approve or comment with specificity within fifteen (15) business days of the report's receipt unless other arrangements are reached between the **COUNTY** and the **PROVIDER**.
- 4.2 Provider Audits.** The **COUNTY** will submit a report of audit findings to the **PROVIDER** within four (4) weeks of the review.

ARTICLE 5 TERM OF AGREEMENT

- 5.1 Period of Agreement.** The terms and conditions of this Agreement shall go into effect March 1, 2011 and shall remain in effect through February 29, 2012 for services rendered during the same period.
- 5.2 Amendment.** The terms of this contract including total reimbursement amount to reimburse for additional services rendered, can and may be amended at any time during the term of this agreement based upon service utilization and availability of funds after appropriate allocation by the **COUNCIL** and the signature of both parties. The **PROVIDER** must submit a written request that includes the reason for a line-item transfer. The amount requested to be reduced or increased from any one service cannot exceed 20% of the total allocation for that service. Any change in specific service unit reimbursement amounts or changes in total award amounts requires an amendment to this contract signed by both parties as outline in article 6 8 of this agreement.

ARTICLE 6 GENERAL PROVISIONS

- 6.1 Publicity.** In any publicity release or other public reference, including a media release, information pamphlets, etc., on the services provided under this agreement, it will be clearly stated that the project is administered by the **COUNTY** and funded by the U.S. Department of Health and Human Services. Copies of any such materials should be sent to the **COUNTY**.
- 6.2. Civil Rights.**

- a. **PROVIDER** agrees to comply with the provisions of Title VI and Title VIII of the Civil Rights Act (42 USC 2000d and 2000e), the Age Discrimination in Employment Act (29 USC 620 et seq.), the Equal Pay Act (29 USC 206 (d)), the Rehabilitation Act (29 USC 794), Title IX of the Education Amendments Act 1972 (20 USC 1618), the Age Discrimination Act (42 USC 6101), the Americans Disabilities Act (Public Law 101 - 336), and other applicable nondiscrimination regulations (29 CFR 34.20). The **PROVIDER** assures further that no portion of its program will in any way discriminate against, deny benefits to, deny employment to, or exclude from participation any person on the ground of race, color, national origin, religion, age, sex, handicap, or political affiliation or belief. Efforts shall be made to make programs and facilities accessible to eligible qualified handicapped and disabled persons; and
- b. The **PROVIDER** covenants that this Agreement is subject to the Equal Employment Opportunity Resolution No. 1985, adopted by Cuyahoga County on July 24, 1975, and the rules and regulations issued there under, which resolution, rules, and regulations are incorporated by this reference as if fully rewritten.

- 6.3. **Subcontract Authority and Subcontracting.** The **PROVIDER** may enter into subcontract agreements with other agencies, however, all subcontract agreements must be approved by the **COUNTY**. Subcontractor records must be available for review as described in Section 18. Sub-contracts that change the services, service definitions, service delivery locations or service rates are not permitted under any circumstances.

All subcontracting agencies are subject to the same terms, conditions, and covenants contained herein. The subcontractor shall comply with those rules set forth in the RW Act. No such subcontracts shall in any case release the **PROVIDER** of his liability under this contract.

- 6.4. **Suspension or Debarment Clause.** **PROVIDER** hereby represents and certifies that it, any partner, officer, or director, has not been excluded by suspension or debarment from entering into any contract with this public entity whereby federal funds will be paid, or suspended or debarred from contracting with this public entity for any other reason. It is acknowledged that any such suspension or debarment will result in voiding this contract, and **COUNTY** will not be liable for any damages whatsoever.
- 6.5. **Insurance.** The **PROVIDER** shall maintain a standard form policy or policies of insurance covering its officers, employees and agents as their interests may appear against claims of personal injury, or death and property damage.
- 6.6. **Grievance Procedures.** The **PROVIDER** shall provide the **COUNTY** with written notification of any perceived deviation as noted in the grievance procedures. Where complaints cannot be resolved, the **PROVIDER** may initiate the grievance process which shall consist of mediation and, if necessary, binding arbitration. Notification

should be sent to:

Rick Werner, Project Director
Office of Health & Human Services
310 W. Lakeside Avenue, Suite 500
Cleveland, OH 44113

- 6.7. Violation/Breach of Agreement.** This contract is subject to administrative, contractual or legal remedies for violation or breach of contract terms caused by the **PROVIDER**.
- 6.8. Termination.** Upon thirty (30) calendar days written notice to the other party, either party may terminate this agreement.
- 6.9. Amendment of Contract.** The terms of this agreement including dates, services, reimbursement rates and unit costs, total reimbursable amounts and other provisions may be amended at any time upon amendment signed by both parties.
- 6.10. Law.** This agreement is subject to and will be interpreted in accordance with all applicable Federal, State and Local laws.
- 6.11. Notice.** All notices and communications provided or hereunder shall be in writing and sent via the United States Postal Services, first class prepaid, to the following or to such other addresses as may be furnished in writing by either party to the others:

If to the COUNTY:	Laureen Atkins, Grant Manager Ryan White Part A Program Office of the County Administrator - Health & Human Services 4261 Fulton Parkway Cleveland, OH 44144 (216) 635-2938
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If to the PROVIDER:	<u>David S. Dombrosky</u> Department of Senior and Adult Services 1701 East 12 Street, Reserve Square, Lower Level Cleveland, OH 44114 (216)
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Any such notice or communication shall be deemed effective as of the date of mailing, provided, however, that all notices or other communications shall be given verbally at the earliest practical time to the parties entitled to such notice.

6.12. Electronic Signature (s). By entering into this Contract the **PROVIDER**, its officers, employees, subcontractors, sub-grantees and agents agree to conduct this transaction by electronic means by agreeing that all documents requiring **COUNTY** signatures may be executed by electronic means, and that the electronic signatures affixed by the **COUNTY** to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. The **PROVIDER** also agrees on behalf of the aforementioned entities and persons, to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the date first written above.

County of Cuyahoga, Ohio

Edward FitzGerald, County Executive

By:

Ed FitzGerald/arc
2011-10-17 11:13:07
Edward FitzGerald, County Executive

Department of Senior and Adult Services

By:

[Signature]
Signature

David S. Dombrosky
Printed Name

Interim Director
Title