Ohio Department of Mental Health
Personal Service Contract

SECTION A: CONTRACT PARTIES

This contract is entered into between the Ohio Department of Mental Health on behalf of the following:

Name of Hospital, Division, or Other Entity	Address (Street, City, State, Zip)
Central Office - Division of Program & Policy Development	30 East Broad Street, Columbus OH 43215

and

Name of Contractor	Address (Street, City, State, Zip)	OAKS Vendor ID	Add. Cd.

SECTION B: EFFECTIVE DATES

This contract is effective from October 25, 2012 through January 9, 2013

SECTION C: ODMH CODING

Bus. Unit	Fund	Account	ALI	Dept ID	Program	Grant/Project	Reporting	Agency Use
DMH01	DMH101		333609	DMH105115	4227	BRSS TACS	DMHGRNT	DMH7800

Ohio Department of Mental Health
Personal Service Contract

I. STATEMENT OF WORK

a. Contractor shall undertake the work and activities set forth in the Scope of Work, which is attached hereto as Exhibit I, and incorporated by reference as if fully written herein. Contractor shall consult with Ohio Department of Mental Health (ODMH) personnel and other appropriate persons, agencies, and instrumentalities as necessary to assure understanding of the work and satisfactory completion thereof.

b. It is fully understood and agreed that Contractor is an independent contractor and is not an agent, servant, or employee of the State of Ohio or ODMH. Contractor declares that it is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage that is required in the normal course of business.

c. Contractor shall furnish professional services performed in accordance with standards necessary for the satisfactory performance of the work hereunder. ODMH shall not be required to provide any training to the Contractor to enable it to perform services required hereunder. Contractor agrees that it does not have any authority to sign agreements, notes, and/or obligations or to make purchases and/or dispose of property for, or on behalf of, the State of Ohio or ODMH.

d. Unless stated otherwise in the Scope of Work, Contractor shall furnish its own support staff, materials, tools, equipment, and other supplies necessary for the satisfactory performance of the work hereunder. Contractor shall be responsible for and assume all office and business expenses that are incurred as a result of the performance of this contract, unless stated otherwise.

e. Any travel-related expenses incurred by the Contractor under this contract shall be at the Contractor's expense.

f. ODMH may, from time to time as it deems appropriate, communicate specific instructions and requests to Contractor concerning the performance of the work described in this contract. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this contract. The management of the work, including the exclusive right to control or direct the manner or means by which the work described herein remains with and is retained by the Contractor. ODMH retains the right to ensure that the work of the Contractor is in conformity with the terms and conditions of the contract.

g. The Contractor must receive written approval from ODMH prior to entering into any subcontract or joint venture for the delivery of services required by this contract. If the Contractor enters into any agreement with a subcontractor, the Contractor is ultimately responsible for any and all actions or omissions by the subcontractor in the delivery of services under this contract.

    i. Throughout the term of this contract, the Contractor shall provide ODMH with copies of all current licensure, certification, and/or accreditation, including any renew or re-issuance thereof, for any employee or subcontractor, providing services under this contract.

    ii. The Contractor agrees that while operating in an ODMH facility, the Contractor and/or any employee or subcontractor of the Contractor, shall follow all applicable rules and regulations for that facility.

II. TIME OF PERFORMANCE

a. This contract shall **commence** on 10/25/12 and shall **expire** on 1/9/2013.

b. In the event that the work hereunder is to be done in separate phases or tasks, each phase or task shall be completed within the time prescribed.

c. Upon the expiration of this contract, ODMH and the Contractor may renew this contract under the same terms and conditions stated herein. Such renewal shall be by written addendum executed by the both parties evidencing their agreement to renew the contract. In the event that the parties hereto do not execute an addendum evidencing the parties' agreement to renew this contract, the contract shall expire on the date set forth above and neither party to this contract shall have any further obligations hereunder.

III. COMPENSATION

a. In consideration for the promises and performance of Contractor as set forth herein, ODMH agrees: (check one)

☒ To pay to Contractor, upon completion of each deliverable or task and upon actual receipt of proper invoices, compensation at the rate(s) specified in Exhibit I; or

☐ To pay to Contractor, upon actual receipt of proper invoices, compensation at the hourly rate(s) specified in Exhibit I for services performed; or

☐ A lump sum amount of $_____ for services performed in accordance with Exhibit I.

b. It shall be mutually agreed and understood between both parties that the total amount to be paid by ODMH to the Contractor under this contract shall in no event exceed the sum of $ 3,000 unless Contractor receives prior approval from ODMH or when required, approval of the Controlling Board and is so notified of such approval by ODMH in writing.

c. In accordance with Section 126.30 of the Revised Code, and any applicable rules thereto, ODMH shall make prompt payment for any services acquired from the Contractor. Upon receipt of a proper invoice and unless otherwise stated, payment shall be made within thirty (30) calendar days. The adequacy and sufficiency of all invoices shall be determined solely by ODMH. If ODMH determines that an invoice is inadequate or insufficient, or determines that further documentation or clarification is required, the burden of proving the required information or documentation is on the Contractor. ODMH shall notify the Contractor in writing of the inadequacy or insufficiency and may provide any information necessary to correct the inadequacy or insufficiency. If such notification of inadequacy or insufficiency is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.

d. All invoices for services rendered under this contract must be submitted by the Contractor no later than sixty (60) days after the expiration of the contract term. No payment shall be issued for invoices submitted more than sixty (60) days past the expiration of the contract term.

e. It is expressly understood by the parties that none of the rights, duties, and obligations described in this contract shall be binding on either party until all statutory provisions under the Ohio Revised Code, including but not limited to Section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required, such expenditure of funds is approved by the General Assembly and the Controlling Board of the State of Ohio or, in the event that federal funds are used, until such time that ODMH gives the Contractor written notice that such funds have been made available to it, by the State's funding source.

IV. GENERAL PROVISIONS

a. ENTIRE AGREEMENT: The contract, when signed by both parties, along with any attachments, constitutes the entire agreement between the parties herein. No rights herein will be waived, unless specifically agreed upon in writing by the parties hereto. This contract supersedes any and all previous agreements, whether written, or oral, between the parties. A waiver by any party of any breach or default by the other party under this contract shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

b. AMENDMENTS: ODMH and the Contractor agree that any amendment or modification including, but not limited to a change in the rate(s) or type(s) of service shall require a written agreement signed by both parties.

c. GOVERNING LAW: This contract and any claims arising in any way out of this contract shall be governed by the laws of the State of Ohio.

d. CONTRACT CONSTRUCTION: This contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

e. HEADINGS: The headings used in this contract are for convenience only and will not affect the interpretation of any of the contract terms and conditions.

f. ORDER OF PRIORITY: If there is any inconsistency or conflict between this document and any provision incorporated by reference, this document will prevail.

g. SEVERABILITY: If any provision of this contract or the application of any provision of this contract is held to be contrary to law, the remaining provisions will remain in full force and effect.

h. ASSIGNMENT / DELEGATION: The Contractor will not assign any of its rights nor delegate any of its duties and responsibilities under this contract without prior written consent of ODMH. Any assignment or delegation not consented to may be deemed void by ODMH.

i. EQUAL EMPLOYMENT OPPORTUNITY: The Contractor will comply with all state and federal laws regarding equal employment opportunity, including Ohio Revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be completed using the Ohio Business Gateway Electronic Filing website http://business.ohio.gov/efiling/. Approved Affirmative Action Plans may be found at the Equal Opportunity Department's website: http://eodreporting.oit.ohio.gov/searAffirmativeAction.aspx

j. BUSINESS ASSOCIATE AGREEMENT: If applicable, the Contractor agrees to execute the ODMH business associate agreement relating to services rendered under this contract.

k. ACCREDITATION STANDARDS: The services to be performed under this contract shall meet standards required by the Joint Commission, Centers for Medicaid & Medicare Services or other accrediting or certifying organizations, as appropriate.

l. AUDITS and RECORDS INSPECTION: The Contractor must keep all financial records in a manner consistent with generally accepted accounting principles. Additionally, the Contractor must keep separate business records for this project, including records of disbursements and obligations incurred that must be supported by contracts, invoices, vouchers and other data as appropriate.

During the period covered by this contract and until the expiration of three (3) years after final payment under this contract, the Contractor agrees to provide the State, its duly authorized representatives or any person, agency or instrumentality providing financial support to the work undertaken hereunder, with access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this contract.

The Contractor shall, for each subcontract in excess of two thousand five hundred dollars ($2,500), require its subcontractors to agree to the same provisions. The Contractor may not artificially divide contracts with its subcontractors to avoid requiring subcontractors to agree to this provision.

The Contractor must provide access to the requested records no later than five (5) business days after the request by the State or any party with audit rights. If an audit reveals any material deviation from the contract requirements, and misrepresentations or any overcharge to the State or any other provider of funds for the contract, the State or other party will be entitled to recover damages, as well as the cost of the audit.

If this contract or the combination of all other contracts with the Contractor exceeds ten-thousand dollars ($10,000) over a twelve (12) month period, the Contractor agrees to allow federal government access to the contracts and books, documents, and records needed to verify the Contractor's and/or subcontractor's costs.

m. ANTITRUST ASSIGNMENT TO THE STATE: Contractor assigns to the State of Ohio, through the ODMH, all of its rights to any claims and causes of action the Contractor now has or may acquire under state or federal antitrust laws if the claims or causes of action relate to the services provided under this contract. Additionally, the State of Ohio will not pay excess charges resulting from antitrust violations by Contractor's suppliers and subcontractors.

n. DRUG-FREE WORKPLACE: The Contractor agrees to comply with all applicable state and federal laws regarding smoke-free and drug-free workplaces. The Contractor agrees to require that all its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

o. OWNERSHIP: ODMH shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by the Contractor, subcontractor or any person acting on behalf of the contractor pursuant to this agreement. No such documents or other materials produced (in whole or in part) with funds provided to the Contractor by ODMH shall be subject to copyright, trademark or patent by the Contractor in the United States or any other country.

p. PUBLICITY: The Contractor will not advertise that it is doing business with the State or use this contract as a marketing or sales tool without prior, written consent of the State.

q. OHIO ELECTIONS LAW: Contactor, by signature affixed on this document, hereby certifies that all applicable parties listed in Division (I)(3) or (J)(3) of ORC 3517.13 are in full compliance with divisions (I)(1) and (J)(1) of ORC 3517.13.

r. PROHIBITION OF THE PURCHASE OF OFF-SHORE SERVICES & LOCATION OF SERVICES, DATA: The Contractor affirms to have read and understands Executive Order 2011-12K issued by Ohio Governor John R. Kasich and shall abide by those requirements in the performance of this contract, and shall perform no services required under this contract outside of the United States. The Executive Order is available at the following website: (http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf).

As part of this contract, the Contractor shall disclose the following:

1. The location(s) where all services will be performed by Contractor or subcontractor(s);
2. The location(s) where any state data applicable to the contract will be accessed, tested, maintained, backed-up or stored by the Contractor or subcontractor(s); and
3. The principal location of business for the Contractor and subcontractor(s)

Neither the Contractor nor its subcontractor(s) shall, during the performance of this contract, change the location(s) of the country where the services are performed or change the location(s) of the country where the data is maintained or made available without prior written approval of the State.

s. FORCE MAJEURE: If ODMH or the Contractor is unable to perform any part of its obligations under this contract by reason of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under the contract. The term "force majeure" means without limitation: acts of God such as epidemics; lightning; earthquakes; fires; storms; hurricanes; tornadoes; floods; washouts; droughts; other severe weather; explosions; restraint of government and people; war; strikes; and other like events; or any cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

t. STRICT PERFORMANCE: The failure of either party at any time to demand strict performance by the other party of any of the terms of this contract will not be construed as a waiver of any such term, and either party may at any time demand strict and complete performance by the other party.

u. TAXES: The Contractor affirms that it is not delinquent in the payment of any applicable federal, state, and local taxes and agrees to comply with all applicable federal, state and local laws in the performance of the work hereunder.

The Contractor accepts full responsibility for payment of all taxes, including and without limitation, unemployment compensation, insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by the Contractor in the performance of the work authorized by this Contact. ODMH and the State of Ohio shall not be liable for any taxes under this contract.

v. WORKERS' COMPENSATION: The Contractor must maintain workers' compensation insurance as required by Ohio law and the laws of any other state where work is performed under this contract. The Contractor must submit proof or workers' compensation insurance upon request.

w. UNRESOLVED FINDINGS: The Contractor warrants that it is not subject to an unresolved finding for recovery as defined in O.R.C. 9.24. If the warranty is deemed to be false, this contract is void *ab initio* and the Contractor shall immediately repay the State any funds paid under this contract.

x. OHIO ETHICS: The Contractor is responsible to review and comply with all relevant provisions of O.R.C Sections 102.01 to 102.09. In addition, the Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws.

V. TERMINATION

a. UNILATERAL TERMINATION: Prior to the expiration of the term of this contract, either party may unilaterally terminate this contract with thirty (30) days written notice to the other party.

b. DEFAULT: If the Contractor fails to perform any of the requirements of this contract, or is in violation of a specific provision of this contract, ODMH may provide the Contractor written notice of the failure to perform or the violation and shall provide a thirty (30) day period to cure any and all defaults under this contract. During the thirty (30) day cure period, the Contractor shall incur only those obligations or expenditures which are necessary to enable the Contractor to continue its operation and achieve compliance as set forth in the notice. Should the Contractor fail to comply within ODMH's cure period, the Contractor shall be held in default of this contract and the contract shall terminate at the end of the thirty (30) day cure period.

c. TERMINATION OF SERVICES: In the event of termination, the Contractor shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODMH. ODMH shall not be liable for any further claims. Any payments made by ODMH in which services have not been rendered by the Contractor shall be returned to ODMH.

VI. CONTRACT REMEDIES

a. ACTUAL DAMAGES: The Contractor is liable to ODMH for all actual and direct damages cause by Contractor's default. ODMH may buy substitute services from a third party for those that were to be provided by the Contractor. ODMH may recover from the Contractor the costs associated with acquiring substitute services, less any expenses or costs saved by the Contractor's default.

b. LIQUIDATED DAMAGES: If actual or direct damages are uncertain or difficult to determine, ODMH may recover liquidated damages in the amount of one (1) percent of the value of the deliverable that is the subject of the default, for every day that the default is not cured by the Contractor.

VII. LIMITATION OF LIABILITY: ODMH's liability for damages, whether in contract or in tort, shall not exceed the total amount of compensation payable to the Contractor under this contract. In addition, the Contractor agrees that ODMH and the State of Ohio and any funding source for this contract are held harmless and immune from any and all claims for injury or damages arising from this contract which are attributable to the Contractor's own actions or omissions or those of its trustee, officers, employees, subcontractors, suppliers, and other third parties while acting under this contract. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights and trademarks. Contractor agrees to bear all costs associated with defending against any such claims or legal actions when requested by ODMH or the State to do so.

VIII. NOTICE: Except as specifically provided otherwise, all notices, consents and communications hereunder shall be given in writing, and be either hand carried or sent by certified mail, return receipt requested, to the respective addresses on the signature page of this document.

IN WITNESS WHEREOF, the parties have executed this contract as of the date and year last written below.

STATE OF OHIO
Ohio Department of Mental Health

_____ Date
Chief Executive Officer

_____ Date
ODMH Procurement Officer

Approved as to form:

_____ Date
Office of Legal Services

CONTRACTOR

_____ Date

_____ Date
Print Name