

## **MENTAL HEALTH SERVICES AGREEMENT**

THIS AGREEMENT, made and entered into this of 14<sup>th</sup> day of January, 2020 between the **School Board of Gilchrist County**, hereinafter referred to as "**DISTRICT**"; whose address is 310 NW 11th Avenue, Trenton Florida and **Nina Mydek**, whose address is **910 N.W. 107 Terrace, Gainesville, FL 32606**, hereinafter referred to as the "**THERAPIST**".

### **WITNESSETH:**

**THERAPIST** agrees to provide services for and on behalf of the DISTRICT in accordance with the Scope of Services.

### **SCOPE OF SERVICES**

- Complete Mental Health Evaluations
- Facilitate social and emotional therapeutic groups
- Provide identified students direct mental health treatment
- Perform behavior coaching to identified students
- Facilitate skill building groups
- Ensure that appropriate forms, including but not limited to mental health evaluations and progress notes, are maintained with the Director of Mental Health Services.
- Complete documentation for Medicaid reimbursement when required.
- Contracted Vendors must sign in and out at each location in real time.

**TERM:** This Agreement shall be for a period beginning January 14, 2020, terminating on June 30, 2020.

**REPRESENTATIVE:** The DISTRICT'S representative in matters related to this Agreement is Terri Crawford, LMFT, hereinafter referred to as "Director".

**SCHEDULING**: Monday through Friday, school days only. Hours will not exceed 20 hours per week and can be less depending on the Mental Health Department's needs and contractors schedule.

**PAYMENT**: THERAPIST to submit monthly billing, to the "Director" in the following manner:

Monthly invoices must include the following documentation for the hours/time billed, date, time, school and services(s) provided.

Billing will be submitted monthly, no later the 10<sup>th</sup> of each month, based at a rate of \$30.00 per hour.

**INSURANCE**: During the entire term of this Agreement, THERAPIST shall procure, maintain in full force and effect a policy or policies of insurance at its own cost and expense as outlined below:

**General liability** coverage of at least one million dollars (\$1,000,000) for each occurrence and two million dollars (\$2,000,000) general aggregate.

**Automobile liability** coverage of at least of one million dollars (\$1,000,000) combined single limit (CSL) each accident including hired and non-owned vehicles used in relation to the performance of service(s) by THERAPIST, if THERAPIST is transporting students.

**Workers' Compensation**, Schedule A - as prescribed by Florida Statute 440. Schedule B - Provider shall provide Employer's Liability coverage in the amount of \$500,000 / \$5000,000 / \$500,000. Exempt employers are required to provide a letter of exempt status from the Division of Workers' Compensation.

**Errors and Omissions** Liability coverage with minimum limits of one million dollars (\$1,000,000) for each occurrence and two million dollars (\$2,000,000) general aggregate.

Said insurance shall be effective until the last day of the present school year. Not later than the effective date of this Agreement, THERAPIST shall provide DISTRICT with satisfactory evidence of insurance, naming DISTRICT as Additional Insured on the General

Liability policy and the Automobile Liability policy, including a provision for a thirty (30) calendar day written notice to DISTRICT before cancellation or material change, evidencing the above-specific coverage.

DISTRICT reserves the right to revise the requirements of this provision at any time. If DISTRICT determines that additional insurance coverage is necessary, DISTRICT will reopen negotiations with THERAPIST to modify the terms of the Agreement.

**LEVEL II BACKGROUND SCREENING:** Therapist represents and warrants to the School Board that the Therapist has read and is familiar with Florida Statute Sections 1012.32, 1012.321, 1012.465, 1012.467, and 1012.468 regarding background investigations. Therapist covenants to comply with all requirements of the above cited statutes and shall provide School Board with proof of compliance upon request. Therapist agrees to indemnify and hold harmless the School Board, its officers, agents and employees from any liability in the form of physical injury, death, or property damage resulting from the Therapist's failure to comply with the requirements of this paragraph or Florida Statute Sections 1012.32, 1012.321, 1012.465, 1012.467 and 1012.468.

**INDEPENDENT CONTRACTOR.** It is mutually agreed and understood that the services provided by Therapist to School Board pursuant to this Agreement are rendered by the Therapist to School Board as an independent contractor, and nothing contained in this Agreement shall be construed as creating an employer/employee, partnership, joint venture, or principal/agent relationship between School Board and Therapist. In this regard, neither the Therapist nor any of Therapist's agents, representatives, employees or independent contractors shall be deemed to be employed by School Board for purposes of any tax or contribution levied by, under or in accordance with any federal, state or local laws with respect to employment or compensation for employment, or for any purpose whatsoever. In addition, neither Therapist nor any of its employees, agents, representatives, or independent contractors shall be entitled to any fringe benefits, including participation in any health insurance, dental, retirement, or any other defined benefit or deferred compensation plans established or offered by School Board to or

for the benefit of any of the School Board's employees. Therapist shall render services hereunder as an independent contractor on behalf of the School Board, and any duties of Therapist arising out of this Agreement shall be owed solely to School Board (or its Affiliates) and not for the benefit of any third parties. Therapist shall not have any right or authority during the Term to assume or create any obligations or responsibility, expressed or implied, on behalf of or in the name of School Board (or any of its Affiliates) in any way. Therapist covenants and agrees with School Board that Therapist shall pay when due all taxes or contributions levied by, or in accordance with, any federal, state or local law due with respect to any of Therapist's employees, agents or independent contractors for all purposes whatsoever.

**INDEMNIFICATION (BY OTHER PARTY):** Therapist for itself and its officers, employees, agents, representatives, contractors, or sub-contractors, shall fully indemnify and hold the SCHOOL BOARD and its officers and employees harmless for any from any claim, loss, damage or liability caused by negligence, misfeasance or malfeasance by the Therapist, its employees, appointees or agents, in the performance of or relating to the performance of the duties imposed upon the Therapist by this Agreement and any covenant or provision hereof, including but not limited to defending the SCHOOL BOARD and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SCHOOL BOARD, or payment of any and all cost(s), damage(s), judgment(s), or loss(es) incurred by or imposed upon the SCHOOL BOARD. The Therapist shall indemnify and hold the SCHOOL BOARD harmless from any claim, loss, damage or liability caused by negligence, misfeasance or malfeasance by the Therapist, its employees, appointees or agents, in the performance of or relating to the performance of the duties imposed by this Agreement. The Therapist shall immediately give the SCHOOL BOARD written notice of all claims asserted against the Therapist and the SCHOOL BOARD shall have the right but not the obligation to participate in any defense.

**REPORTING:** THERAPIST shall submit reports as defined in the Scope of Services and at the direction of the DIRECTOR.

**NON-APPROPRIATION CLAUSE:** The School Board's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the School Board and the availability of funds to pay for the goods and services in this Agreement. The School Board shall be the final authority as to what constitutes an annual appropriation and the availability of funds necessary to continue funding this Agreement. If such funds are not appropriated or available for this Agreement and this Agreement is terminated, such action will not constitute a default by the School Board. Therapist will be provided reasonable notice if funds are not appropriated or available. Notwithstanding any such termination, the School Board shall remain obligated to pay for all purchase orders for products or services fulfilled by Therapist prior to the termination notice.

**STUDENT RECORDS:** Notwithstanding any provision to the contrary contained in this agreement between Therapist and The School Board of Gilchrist County, Florida; Therapist and its officers, employees, agents, representatives, contractors, and sub-contractors shall fully comply with the requirements of the Family Education Rights and Privacy Act, § 1002.22 and §1002.221, Fla. Stat. or any other law or regulation, either federal or State of Florida, regarding confidentiality of student information and records. Further, Therapist for itself and its officers, employees, agents, representatives, contractors, or sub-contractors, shall fully indemnify and hold The School Board of Gilchrist County, Florida and its officers and employees harmless for any violation of this covenant, including but not limited to defending The School Board of Gilchrist County, Florida and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon The School Board of Gilchrist County, Florida, or payment of any and all cost(s), damage(s), judgment(s), or loss(es) incurred by or imposed upon The School Board of Gilchrist County, Florida arising out of the breach of this covenant by the vendor, or an officer, employee, agent, representative, contractor, or sub-contractor of the vendor to the extent and only to the extent that the vendor or an officer, employee, agent, representative, contractor, or sub-contractors of the vendor shall either intentionally or negligently violate the provisions of this covenant or the Family Education Rights and Privacy Act, § 1002.22 and §1002.221, Fla. Stats.

In the performance of its duties under this contract the Therapist will:

- a) Keep and maintain Student records required by the School Board to perform the services.
- b) Upon request from the School Board's custodian of Student records, provide the School Board with the originals of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in the Chapter 119, Florida Statutes or as otherwise provided by law.
- c) Ensure that Student records that are exempt or confidential and exempt from Student records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement, if the Therapist does not transfer the records to the School Board pursuant to this contract.
- d) Upon completion of the contact, Therapist shall transfer, at no cost, to the School Board all Student records in possession of Therapist. With the express written consent of the School Board, Therapist may be authorized to destroy all such duplicate Student records required by the School Board to perform the services and certify in writing the destruction of all such Student records to the School Board. All Student records stored electronically must be provided to the School Board, upon request of the School Board's custodian of Student records, in a format that is compatible with the information technology systems of the School Board.
- e) The failure of the Therapist to comply with the provisions set forth herein shall constitute a default and material breach of this Agreement, which may result in immediate termination, with no penalty to the School Board.
- f) This provision shall survive the termination of or completion of all performance or obligations under this agreement and shall be fully binding upon Therapist until such time as any proceeding brought on account of this covenant is barred by any applicable statute of limitations.

**CONFIDENTIAL INFORMATION:** Notwithstanding the foregoing, the Parties recognize that the School Board is subject to the provisions of the Florida Public Records Law, as codified in Chapter 119, Florida Statutes. In the event that the School Board is served with a request to disclose any or all of Therapist Confidential Information pursuant to the requirements of applicable law, a judicial or governmental request, requirement or order or otherwise, the School Board will promptly notify Therapist in order to provide Therapist sufficient time to object to such request and pursue a court order protecting the disclosure of such information at Therapist's sole costs and expense. Therapist shall notify the School Board, in writing, of its intent to seek protection of the Confidential Information within 10 days of receipt of the School Board's notification. Therapist's failure to notify the School Board of its intent to seek protection shall authorize the disclosure of the requested information and shall authorize the School Board to comply with the disclosure request. If Therapist notifies the School Board of its intent to seek a court order protecting the disclosure of the information, then the School Board will take reasonable steps to cooperate with Therapist in contesting such request, requirement or order or in otherwise protecting Therapist rights prior to disclosure.

**NON-DISPARAGEMENT:** Therapist, on its behalf and on behalf of its employees, officers, members, managers, and agents, covenants and agrees that such party shall not make any disparaging, impugning, negative or otherwise damaging statements or remarks about School Board or any of its Affiliates, representatives, partners, agents, officers, directors or employees or otherwise take any action or fail to take any action with the primary intent of impugning or damaging the reputation or business of School Board or of any its Affiliates, representatives, agents, officers, directors or employees. The provisions of this section shall survive the termination of this Agreement

**SOVEREIGN IMMUNITY:** Notwithstanding the foregoing, the School Board intends to avail itself of the benefits of Section 768.28 and of other statutes and common law governing sovereign immunity to the fullest extent possible. However, in no event will the School Board's liability under this provision exceed the sum of \$200,000 per person or \$300,000 per occurrence. Nothing in this Agreement is

intended to inure to the benefit of any third party for allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

**GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without regard to any choice of law provisions. The Parties agree that the Circuit Court for the Third Judicial Circuit, Gilchrist County, Florida (hereinafter the "Court"), shall have sole and exclusive jurisdiction to enforce the terms of this Agreement, and agree that they will present any disputes under this Agreement, including, without limitation, any claims for breach or enforcement of this Agreement, exclusively to the Court. Each of the Parties consents to the jurisdiction of the Court, acknowledges that the Court has jurisdiction over this Agreement, and that the Court shall retain jurisdiction for the purposes of implementing and enforcing the terms of this Agreement.

**TERMINATION CLAUSE:** This Agreement may be terminated by (i) either party without cause upon delivery of written notice of such intent to terminate this Agreement not less than 30 days' prior to the effective date of such termination; (ii) written agreement executed by both the Therapist and School Board; or (iii) School Board, at any time, if Therapist fails to perform Therapist's duties hereunder or breaches any of Therapist's covenants contained herein.

**DISPUTE RESOLUTION PROCEDURE:** Any dispute or controversy arising out of or relating to this Agreement, or breach thereof, shall be settled by the following procedure. The parties agree that upon any party entering this Dispute Resolution Procedure, any applicable statute of limitations shall be tolled until resolution of said dispute or controversy.

**Level 1:** Before entering Level 2 or Level 3 of this Dispute Resolution Procedure (DRP), Therapist and BOARD shall enter into a series of meetings for the purpose of resolving the dispute or controversy. The series of meetings shall consist of not less than two face-to-face meetings, the first of which shall be between the Therapist and BOARD Designees. If no resolution is accomplished, the second meeting shall



be between the Therapist and the Superintendent of Schools. Both parties agree to put forth their best efforts in these meetings. All meetings shall be held at the School Board's Administrative Complex, located at 310 NW 11th Avenue, Trenton, Florida unless otherwise mutually agreed upon by the parties. The Level 1 period shall begin when one party gives notice in accordance with Section [on Notices] that it is entering this Level 1 procedure to resolve the dispute.

**Level 2:** Only after the parties have completed Level 1 of the DRP without resolving the dispute or controversy and before entering Level 3 of the DRP, Therapist and BOARD shall enter a mediation process. Each party shall bear its own costs in preparing for and conducting mediation, except that the joint costs, if any, of the actual mediation proceeding shall be shared equally by the parties. The mediation process is defined as follows:

The parties shall select a mutually agreeable mediator to aid the parties in resolving the dispute or controversy. The mediator shall not be an employee or former employee of either party. The mediation shall be held School Board's Administrative offices located at 310 NW 11th Avenue, Trenton Florida unless mutually agreed upon by the parties. The parties stipulate and agree that the mediation shall be subject to the confidentiality requirements of Mediation Proceedings in Chapter 44.401-44.406, Florida Statutes.

**Level 3:** Only after the completion of both Levels 1 and 2 above without a satisfactory resolution of the dispute or controversy, either party may sue in the Third Judicial Circuit Court located in Gilchrist County, Florida. If a party initiates a Level 3 action, the parties hereby unconditionally waive their respective rights to a jury trial.

### **STUDENT RECORDS**

Therapist is required to comply with the Florida Public Records Law, Chapter 119, Florida Statutes, in the performance of its duties under this contract and will specifically:

- a) Keep and maintain public records required by the School Board to perform the service.
- b) Upon request from the School Board's custodian of public records, provide the School Board with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in the Chapter 119, Florida Statutes or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement if the Therapist does not transfer the records to the School Board.
- d) Upon completion of the contact, transfer, at no cost, to the School Board all public records in possession of Therapist or keep and maintain public records required by the School Board to perform the service. If Therapist transfers all public records to the School Board upon completion of the contract, Therapist shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Therapist keeps and maintains public records upon completion of the contract, Therapist shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the School Board, upon request of the School Board's custodian of public records, in a format that is compatible with the information technology systems of the School Board.
- e) The failure of the Therapist to comply with the provisions set forth herein shall constitute a default and material breach of this Agreement, which may result in immediate termination, with no penalty to the School Board.

**THE PARTIES REPRESENT THAT THEY HAVE THOROUGHLY DISCUSSED ALL ASPECTS OF THIS AGREEMENT WITH THEIR RESPECTIVE ATTORNEY(S), THAT THEY FULLY UNDERSTAND ALL OF ITS PROVISIONS, AND THAT THEY ARE VOLUNTARILY ENTERING INTO THIS AGREEMENT WITH THE FULL KNOWLEDGE OF ITS LEGAL SIGNIFICANCE AND WITH THE INTENT TO BE LEGALLY BOUND BY ITS TERMS.**

**ENTIRE AGREEMENT:** This Agreement constitutes and contains the entire agreement and understanding between the Parties with respect to the subject matter herein and supersedes and replaces all prior negotiations and proposed agreements, written or oral. The Parties acknowledge that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements embodied in this written Agreement. Any amendment or modification of this Agreement, or any waiver of its terms, to be binding, must be written and signed by the Parties hereto.

**OPPORTUNITY TO CONSULT WITH COUNSEL:** The Parties acknowledge that they have had an opportunity to consult with counsel of their own choice, that they have read this Agreement, that they are fully aware of the contents of this Agreement and of its legal effect and fully understand and agree to each and every provision hereof without reservation, and that they have executed this Agreement in reliance on their own judgment and free from any coercion, duress or undue influence.

**NOTICES:** All notices, consents, demands, or other communications required or permitted to be given pursuant to this Agreement shall be in writing by e-mail and hard copy, and shall be deemed sufficiently given and received on: (i) the day on which delivered personally or via facsimile transfer during a business day to the appropriate location(s) listed below; (ii) one (1) business day after delivered to a nationally recognized overnight delivery service such as Federal Express or Airborne Express for overnight delivery to the appropriate location(s) listed below; or (iii) three (3) business days after the posting thereof by United States registered or certified first class mail, return receipt requested with postage and fees prepaid and addressed as follows:

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT the day and year first written above.

**THE GILCHRIST COUNTY SCHOOL DISTRICT**

BY:

\_\_\_\_\_  
Christie McElroy, Chair

ATTEST:

\_\_\_\_\_  
Robert Rankin, Superintendent of Schools

\_\_\_\_\_  
Nina Mydek, MSW

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness