

AGREEMENT

This Agreement sets forth the agreed upon terms and conditions surrounding ComPsych Corporation's (hereinafter referred to as "ComPsych") delivery of a GuidanceResources Program (a "Program") to employees of the City of Durham, North Carolina (hereinafter referred to as "Client") to begin July 1, 2013 ("Commencement Date"). The terms and conditions are as follows:

- 1. Term:** Initial term of one (1) year and two (2) months for the delivery of a Program to approximately 2,640 employees located in the United States. After the expiration of the initial term (August 31, 2014), this Agreement may be renewed by mutual written agreement of the parties.

- 2. Fees:**
 - (A) Client agrees to pay ComPsych a fee of \$2.46 per employee per month. Client agrees to provide ComPsych with quarterly updated employee counts. Fees to be paid by Client to ComPsych shall be adjusted to reflect the updated employee counts. Payment for services is due on a quarterly basis beginning thirty (30) days after the Commencement Date and thereafter within thirty (30) days after each three (3) month anniversary of the Commencement Date. In the event that any payment due ComPsych hereunder is not received by ComPsych from Client when due, a delinquency charge shall be assessed on each installment assessed in default for not less than five (5) days in an amount not to exceed five percent (5%) for each month the installment remains unpaid or the maximum amount allowed by law, in addition to attorney's fees and other costs and expenses incurred by ComPsych to collect any amounts due hereunder.

 - (B) Pre-approved travel expenses (associated with, for example, training, CISDs, Account Management, etc.) are billed separately and are due ten (10) days after receipt of invoice by Client.

 - (C) Critical incident stress debriefing ("CISD") services will be provided at no charge until such time as the block of hours described in the Training/CISD bullet on Schedule I is exhausted. Once such block of hours is exhausted, any critical incident debriefing time and travel time will be billed at a rate of \$225.00 per hour plus related expenses. ComPsych shall invoice Client and Client agrees to pay ComPsych within ten (10) days after its receipt of each invoice.

 - (D) Client must give ComPsych at least five (5) days advance notice if it wishes to cancel any scheduled training, on-site intervention or other on-site service or else charges will apply. Similarly, ComPsych must give Client at least five (5) days advance notice if it wishes to cancel any on-site service.

- 3. Exclusivity:** During the term of this Agreement, Client warrants that ComPsych shall be the exclusive provider of EAP services under this Agreement to all employees of Client and that all such employees shall be covered under this Agreement. However, nothing contained in this contract shall be deemed or construed so as to in any way estop, limit or impair the City from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions.

- 4. Services:** Services shall include those services described on Schedule I attached hereto. Services shall be provided to employees and family members covered by the City of Durham's health insurance plans including employee, spouse and domestic partner, and dependent children, and former City employees from the date that the employee separates from City employment up to a maximum of six months after the separation date. Client agrees that any and all communications disseminated by Client to employees and their family members regarding the Services to be rendered by ComPsych hereunder shall: (a) if written, be subject to ComPsych's prior written approval, which approval shall not be unreasonably withheld; and (b) if oral, accurately reflect the terms hereof and comply with such guidelines as may be established, from time to time, by ComPsych. Frequency and method of distribution of promotional communications shall be mutually agreed upon by the parties.

5. **Plan Administration:** Client, as the Plan Administrator, shall retain all final authority for benefit eligibility under any and all applicable insurance and claim administration contracts and shall be fully responsible for its compliance with all applicable laws. Client will, at its cost, distribute all notices required by the Health Insurance Portability and Accountability Act (HIPAA).
6. **Force Majeure:** No failure, delay or default in performance of any obligation of ComPsych shall constitute an event of default or breach of the Agreement to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the control and without negligence of ComPsych, including, but not limited to: action or inaction of governmental, civil or military authority; fire, strike, lockout or other labor dispute; flood, war; terrorism; riot; theft; earthquake and other natural disaster.
7. **Taxes:** All fees quoted and payable under this Agreement exclude taxes. Client will pay or reimburse ComPsych for all applicable sales, services and other taxes (excluding taxes on ComPsych's net income) that may be levied upon the performance of services under this Agreement.
8. **Notices:** Any notice required hereunder will not be effective, unless in writing, signed by an authorized officer of the party delivering such notice, and sent by certified mail or recognized overnight carrier to the signatories below. Authorized officer for notice and delivery of notice for the City is Benefits Manager 101 City Hall Plaza Durham, NC 27701. Fax # is 919-560-4969. Authorized officer and address for COMPSYCH is CEO, 455 N. Cityfront Plaza Drive, 13th Floor, Chicago, IL 60611.
9. **Insurance:** COMPSYCH shall maintain insurance coverage as set forth below:
 - A. Commercial General Liability, covering:
 - i. Broad Form Coverage and in particular, coverage for personal injury
 - ii. Contractual liability
 - iii. Combined single limit not less than \$1,000,000 per occurrence
 - B. Workers' Compensation Insurance covering
 - i. Statutory benefits
 - ii. Employee
 - iii. Employers' liability
 - C. Insurance shall be provided by
 - i. Companies authorized to do business in the State of North Carolina, or through a program of self insurance
 - ii. Companies with Best rating of A or better
 - D. Insurance shall be evidenced by a certificate or a verification of insurance letter:
 - i. Providing notice to Client not less than 30 days prior to cancellation or reduction of insurance
 - ii. Addressed to: City of Durham, North Carolina, Department of Human Resources, Attn: Benefits Manager, 101 City Hall Plaza, Durham NC, 27701.
 - iii. Evidence of coverage must be originals and must be approved by the City's Finance Director before ComPsych can begin work under this contract.
10. **City of Durham Business license:** COMPSYCH shall maintain a current City of Durham Business license during the term of this contract and shall supply a copy of such license to the City of Durham Human Resources Department at the beginning of the contract term.

- 11.** ComPsych agrees to adhere to and comply with the City of Durham EEO policies and provisions. During the performance of this Agreement ComPsych agrees as follows: (1) ComPsych shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. ComPsych shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. ComPsych shall post in conspicuous places, available to employees and applicants for employment, notices setting forth these EEO provisions. (2) ComPsych shall in all solicitations or advertisement for employees placed by or on behalf of ComPsych, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. (3) ComPsych shall send a copy of the EEO provisions to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding. (4) In the event of ComPsych's noncompliance with these EEO provisions, Client may cancel, terminate, or suspend this contract, in whole or in part, and Client may declare ComPsych ineligible for further Client contracts. (5) Unless exempted by the City Council of the City of Durham, ComPsych shall include these EEO provisions in every purchase order for goods to be used in performing this contract and in every subcontract related to this contract so that these EEO provisions will be binding upon such subcontractors and vendors.
- 12. Amendment:** Any changes, additions, or deletions to this Agreement will not be considered binding or agreed upon unless the modifications have been initialed or otherwise approved in writing by an authorized representative of the other party.
- 13. Facsimile or Scan/Counterparts:** Facsimile or electronically scanned transmission of an executed copy of this Agreement or any amendments hereto shall be accepted as evidence of a party's execution of the Agreement or amendment. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.
- 14. Severability:** If and to the extent any provision of this Agreement is held illegal, invalid or unenforceable in whole or in part under applicable law, such provision or such portion thereof will be ineffective as to the jurisdiction in which it is illegal, invalid or unenforceable to the extent of its illegality, invalidity or unenforceability and will be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity or unenforceability of such provision in that jurisdiction will not affect the legality, validity or enforceability of such provision or any other provisions of this Agreement in any other jurisdiction.
- 15. Governing Law:** This Agreement shall be interpreted under and governed by the laws of the State of North Carolina, without regard to its conflict of laws rules.
- 16. Clause Headings:** The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the clauses to which they appertain.
- 17. Entire Agreement:** This Agreement, together with the Schedules attached hereto, shall constitute the entire Agreement by and between the parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein and, this Agreement shall supersede all prior and contemporaneous communications, representations or agreements, either verbal or written, by and between the parties hereto, all of which are merged herein.

In witness whereof, the Client and ComPsych have caused this contract to be executed under seal themselves or by their respective duly authorized agents or officers.

ATTEST:

Signature
Dr. Richard A. Chaifetz
Chairman and CEO
Date:

ATTEST: City of Durham, North Carolina CITY CLERK

By: _____
Signature

By: _____
Print Name

Title: _____

Date: _____

SCHEDULE I
GUIDANCERESOURCES®
COVERED SERVICES

- **Account Management:** Client will be assigned an account manager who will serve as the contact person and provide Client with reports and feedback on the program.

- **Training/CISD:** Provide Client with up to twenty (20) hours of a combination of the following types of services per year; 1) employee/supervisor orientation sessions (in-person or via Webinar), 2) personal development workshops, 3) health/enrollment fairs, and 4) critical incident stress debriefing services. Each training session will be a minimum of thirty (30) minutes in length and same-day training sessions must run consecutively, unless otherwise mutually agreed upon. Training must be scheduled thirty days in advance. ComPsych will provide CISD services as and when determined necessary by Client. The date and time of the on-site intervention shall be mutually agreed upon by Client and ComPsych.
In the event Client's employee population decreases by 10% or more, the number of allotted training/CISD hours shall decrease proportionately.

- **Promotional Materials:** ComPsych will provide customary promotional materials announcing and explaining the program to Client employees at no additional cost. Materials shall be provided on an annual basis.

- **Assessment, Counseling and Referral:** Assess the presenting problem of each participant requesting services and provide a maximum of twelve (12) sessions per presenting problem if such problem is determined by ComPsych to be resolvable within the above number of sessions. If the participant's presenting problem is determined not to be resolvable in the above number of sessions, the participant will be referred for alternative services after assessment.

- **Supervisor Consultation:** ComPsych professionals are available to provide technical support and policy-based information to supervisors and managers of Client.

- **Management Report:** ComPsych will prepare and provide to Client customary statistical management reports, without disclosure of the identity of any Participant utilizing the program services.

- **Service Access:** Toll free telephone line access to guidance coordinators 24 hours per day, 7 days per week, 365 days per year.

- **GuidanceResources Online®:** Online (via www.guidanceresources.com) information, resources, tools and other features on topics such as health & wellness, law & regulations, family & relationships, work & education, money & investments, consumer & leisure and home & auto.