AMENDATORY AGREEMENT

This **AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City") and **FAMILY TREE INC.**, with an address of 3805 Marshall Street, Wheat Ridge, Colorado 80033 (the "Contractor"), jointly "the Parties."

The Parties entered into an Agreement dated May 31, 2018 (the "Agreement") to provide the services described in the scope of work.

The Parties wish to amend the Agreement to extend the term, increase compensation to the Contractor, and revise the scope of work.

In consideration of the promises and the mutual covenants and obligations herein set forth, the Parties agree as follows:

1. All references to "Exhibit A" in the existing Agreement shall be amended to read "Exhibit A and A-1, as applicable." The scope of work marked as Exhibit A-1 is attached and incorporated by reference.

2. Article 3 of the Agreement entitled "**TERM**" is amended to read as follows:

    "**3.   TERM:** The Term of this Agreement ("Term") shall commence on **May 1, 2018**, and expire, unless sooner terminated, on **June 30, 2020**. Subject to the Executive Director's prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director."

3. Article 4. D. (1) of the Agreement entitled "**Maximum Contract Amount**" is amended to read as follows:

    "**D.   Maximum Contract Amount:**

    (1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **Five Hundred Ninety-Two Thousand Seven Hundred Fifteen Dollars and Zero Cents**

Amendatory Agreement
Jaggaer No. 201950137; Alfresco No. 201841755-01

($592,715.00) (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by the Contractor beyond that specifically described in **Exhibit A**. Any services performed beyond those in Exhibit A are performed at the Contractor's risk and without authorization under the Agreement."

4. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

5. This Amendatory Agreement is not effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

[SIGNATURE PAGES FOLLOW]

2

Contract Control Number: SOCSV-201950137
Contractor Name: FAMILY TREE INC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL   **CITY AND COUNTY OF DENVER:**

ATTEST: By:

                                                  _____

_____

APPROVED AS TO FORM: **REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By: By:

_____   _____

                                                  By:

                                                  _____

Contract Control Number: SOCSV-201950137
Contractor Name: FAMILY TREE INC

By: _____

DocuSigned by:

Scott Shields

BFBABEB4F82E430...

Name: Scott Shields
      _____
      (please print)

Title: CEO
     _____
     (please print)

ATTEST: [if required]

By: _____

Name: _____
      (please print)

Title: _____
     (please print)

DENVER
HUMAN SERVICES

Family Tree, Inc.
SCOPE OF WORK
SOCSV2018-41755-01

I.   **Purpose of Agreement**
The purpose of the contract is to establish an agreement and Scope of Work between Denver Human Services (DHS) and Family Tree, Inc. as part of the Kinship Payment Strategic Initiative to ensure stability and permanency of children in the kinship care and divert children from the foster care system.

II.   **Services**
- Marketing, outreach and engagement with TANF/Colorado Works families as they become eligible for cash assistance and periodically while receiving assistance.
- Thorough assessment of family and child(ren)'s short and longer term needs not addressed by the monthly TANF/Colorado Works monthly child only payment.
- Development of community-based referral sources and strategies for effective supportive service, monetary payments that help to address child and family stability, child care and school readiness/achievement, mental and other health needs not covered by Medicaid and other sources, including legal clinics.
- Crisis intervention and assistance during normal business hours to kinship families referred by DHS and direct them to resources and/or external agencies that provide assistance.
- Help families navigate systems such as; Food Assistance, Medicaid, TANF, Child Welfare, Social Security, and the judicial system.
- Home Visits based on each client's individualized needs.
- Case Management Services to families, which includes an in-person assessment of needs and a service plan based on those needs that includes monetary and/or non-monetary services.
- Support Services for children.
- Referrals to community resources to increase family stability.
- Referrals to legal services on issues such as custody, guardianship and adoption.
- Access CBMS to request monetary assistance for eligible participants.

III.   **Process and Outcome Measures**

A.   **Process Measures**
DHS will refer up to 400 families to Family Tree. Family Tree will provide services to a total of 200 kinship families over the course of the year –for 30 to 90 days, serving 50 families at any given time. The average monthly Home Visitation Assessments completed by Family Tree will be for 16-17 families.

B.   **Outcome Measures**
Provide marketing, outreach and engagement to families referred for services. Assist a total of 200 families in the contract year. Family Tree shall collect and report monthly on the following measures:
- Number of referrals
- Number and mode of outreach to each family

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

Family Tree, Inc.
SCOPE OF WORK
SOCSV2018-41755-01

🕐 Number of assessments performed
🕐 Average payment made
🕐 Description of services provided
🕐 Number of referrals made and to which agencies
🕐 Additional recommended long term supports identified
🕐 Other information that would be of use in determining efficacy of   programming

IV.   Performance Management and Reporting

A. Performance Management
Monitoring will be performed by the program area and other designated DHS staff throughout the term of the agreement. Contractor may be reviewed for:

1. **Program or Managerial Monitoring:** The quality of the services being provided and the effectiveness of those services addressing the needs of the program.
2. **Contract Monitoring:** Review and analysis of current program information to determine the extent to which contractors are achieving established contractual goals. Financial Services, in conjunction with the DHS program area and other designated DHS staff, will provide performance monitoring and reporting reviews. DHS staff will manage any performance issues and will develop interventions to resolve concerns.
3. **Compliance Monitoring:** Will ensure that the terms of the contract document are met, as well as Federal, State and City legal requirements, standards and policies.
4. **Financial Monitoring:** Will ensure that contracts are allocated and expended in accordance with the terms of the agreement. Contractor is required to provide all invoicing documents for the satisfaction of Financial Services. Financial Services will review the quality of the submitted invoice monthly. Financial Services will manage invoicing issues through site visits and review of invoicing procedures.

B. Reporting
The following reports shall be developed and delivered to the City as stated in this section.

Report Name	Description	Frequency	Reports to be sent to:
1. Monthly Report	Measures noted in Section III, Part B	Monthly	FAAD Program Administrator dhs_contracting_services_documents@denvergov.org

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

V.   DHS funding information:
    A.   Program Name: _Kinship_____
    B.   Funding Source: _TANF_____

VI.   Budget

Invoices and reports shall be completed and submitted on or before the 15th of each month following the month services were rendered 100% of the time. Contractor shall use DHS' preferred invoice template, if requested. Invoicing supporting documents must meet DHS requirements.

Invoices shall be submitted to: DHS_Contractor_Invoices@denvergov.org or by US Mail to:

>   Attn: Financial Services
>   Denver Human Services
>   1200 Federal Boulevard
>   Denver, Colorado 80204

Contractor Name: Family Tree, Inc.			
Contract Number: SOCSV 2018-41755-01			
Contract Term: 7/1/2019 – 6/30/2020			
Project Name: Kinship Payment Strategic Initiative			
Key Deliverable	**Fee**	**Total**	**Narrative**
Completion of a Home Visitation Assessment	$1382 per family	$276,400	Fee for this deliverable is payable upon completion and documentation submitted and approved by the Program Manager. Documentation includes Case Name, CBMS#, and completed Home Visitation Assessment.
Total Budget		**$276,400**	

Contract Summary of Amounts:

Contract Version	Term	Previous Amount	Additional Amount	New Contract Total
Base	5/1/2018-6/30/2019			$316,315
1st Amendment	7/1/2019-6/30/2020	$316,315	$276,400	$592,715

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

Family Tree, Inc.
SCOPE OF WORK
SOCSV2018-41755-01

VII. **Data Sharing**

1. **SCOPE OF ACCESS TO, AND ANTICIPATED USE OF, CITY DATA**

   1.1. The Contractors desires access to, and use of, City Data for the purpose of outreach and engagement to families for services identified in IIIB. To facilitate the Contractor's intended use of City Data, the City will provide the following data as it exists in its systems: Household demographics, child custody information, income and expenses, and a current needs assessment. "City Data" means any and all data, confidential information, user credentials, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA that is exchanged or shared under this Agreement.

   1.2. The City's obligation to provide data and City Data to the Contractor is contingent upon the availability of the requested information within the City's computer systems.

   1.3. The Contractor is not allowed to create materials or studies in any manner using identifying data from City Data outside the delineated purposes set forth in **§1.1**, above. The Contractor agrees that all information from the City's systems is the sole property of the City.

2. **OBLIGATIONS CONCERNING ACCESS TO, AND USE OF, CITY DATA**

   2.1. Only use and access City Data as authorized in **§1.1**, above. Only those employees of the Contractor who are directly responsible for the use specified in **§1.1** above shall have access to, or use of, City Data. Prior to allowing any employee of the Contractor to access or use any City Data, the Contractor shall require any such employee to review and agree to the usage and access terms outlined in this Agreement.

   2.2. Take all necessary precautions, including, but not limited to: safeguarding the storage of City Data, restricting which employees are given access to City Data, and protecting City Data from unauthorized access, usage, or release. The Contractor recognizes that it alone is responsible for the use of information provided to it pursuant to the terms of this Agreement, and the Contractor shall comply with all security and access procedures established by the City.

   2.3. Incident Notice and Remediation: If the Contractor becomes aware of any Incident, it shall notify the City immediately and cooperate with the City regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the City. Unless the Contractor can establish that none of the Contractor or any of its agents, employees, assigns or subcontractors are the cause or source of the Incident, the Contractor shall be

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, the Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the City, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the City at no additional cost to the City.

3. **CONFIDENTIAL INFORMATION AND DATA**:

   3.1. City Data: The Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, the Contractor may have access to proprietary data or City Confidential Information making up City Data that may be owned or controlled by the City, and that the disclosure of such City Data or information may be damaging to the City or third parties. The Contractor agrees that all City Data, City Confidential Information or any other data or information provided or otherwise disclosed by the City to the Contractor shall be held in confidence and used only in the performance of its obligations under this Agreement. The Contractor shall exercise the highest standard of care to protect City Data and information as a reasonably prudent consultant would to protect its own proprietary or confidential data.

   3.2. Data Protection: Except as expressly provided by the terms of this Agreement, the Contractor agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available any data, including City Data or City Confidential Information or any part thereof to any other person, party or entity in any form of media for any purpose other than performing its obligations under this Agreement. The Contractor further acknowledges that by providing data, City Data or City Confidential Information, the City is not granting to the Contractor any right or license to use such data except as provided in this Agreement. The Contractor further agrees not to disclose or distribute to any other party, in whole or in part, the data, City Data or City Confidential Information without written authorization from the Executive Director and will immediately notify the City if any information of the City is requested from the Contractor from a third party. The Contractor shall provide for the security of all City Data in accordance with all policies promulgated by Denver Technology Services and all applicable laws, rules, policies, publications, and guidelines including, without limitation: (i) the most recently promulgated IRS Publication 1075 for all Tax Information, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, (iv) the Colorado Consumer Protection Act, (v) the Children's Online Privacy

Protection Act (COPPA), (vi) the Family Education Rights and Privacy Act (FERPA), and (vi) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Addendum attached to this Contract, if applicable. The Contractor shall submit to the Executive Director, within fifteen (15) days of the Executive Director's written request, copies of the Contractor's policies and procedures to maintain the confidentiality of protected health information to which the Contractor has access, and if applicable, the Contractor shall comply with all requirements contained in section VII.HIPAA/HITECH (Business Associate Terms).

3.3. **Use, Security, Transmission, and Retention**: The Contractor shall use, hold and maintain City Data in compliance with all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all City Data wherever located. The Contractor shall provide the City with access, subject to the Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of City Data and evaluating security control effectiveness. The City shall distribute or electronically transmit City Data to the Contractor using a secured method chosen by the City in its sole discretion.

3.4. The Contractor agrees, with respect to City Data and City Confidential Information, that: (i) the Contractor shall not copy, recreate, reverse engineer or decompile such data, in whole or in part, unless authorized in writing by the Executive Director; (ii) the Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; and (iii) the Contractor shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City as directed by the City.

3.5. The Contractor shall develop, implement, maintain and use appropriate administrative policies, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted data received from, or on behalf of City. It is the responsibility of the Contractor to ensure that all possible measures have been taken to secure the computers or any other storage devices used for City Data. This includes industry accepted firewalls, up-to-date anti-virus software, controlled access to the physical location of the hardware itself.

3.6. Notwithstanding any other provision of this Agreement, the City is furnishing City Data and information on an "as is" basis, without any support whatsoever, and without representation, warranty or guarantee, including but not in any manner limited to, fitness, merchantability or the accuracy and completeness of City Data or City Confidential Information. The Contractor is hereby advised to verify its work and use of City Data. The City assumes no liability for any errors or omissions herein. Specifically, the

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute program, claims by third parties, or for similar costs. If data discrepancies or irregulates are found, the Contractor agrees to contact the City immediately.

VIII. HIPAA/HITECH (Business Associate Terms)

1. GENERAL PROVISIONS AND RECITALS

1.01   The parties agree that the terms used, but not otherwise defined below, shall have the same meaning given to such terms under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and their implementing regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") as they e x i s t or may hereafter be amended.

1.02   The parties agree that a business associate relationship (as described in 45 CFR §160.103) under HIPAA, the HITECH Act, and the HIPAA regulations arises between the CONTRACTOR and the CITY to the extent that CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of CITY.

1.03   CITY wishes to disclose to CONTRACTOR certain information, some of which may constitute Protected Health Information ("PHI") as defined below, to be used or disclosed in the course of providing services and activities.

1.04   The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they exist or may hereafter be amended.

1.05   The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA regulations do not pre-empt any state statutes, rules, or regulations that impose more stringent requirements with respect to privacy of PHI.

1.06   The parties understand that the HIPAA Privacy and Security rules apply to the CONTRACTOR in the same manner as they apply to a covered entity. CONTRACTOR agrees to comply at all times with the terms of this Agreement and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they exist or may hereafter be amended, with respect to PHI.

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

2. <u>DEFINITIONS.</u>

2.01   "<u>Administrative Safeguards</u>" are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection of that information.

2.02   "<u>Agreement</u>" means the attached Agreement and its exhibits to which these additional terms are incorporated by reference.

2.03   "<u>Breach</u>" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

    2.03.1 Breach excludes:

        1. any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of CONTRACTOR or CITY, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

        2. any inadvertent disclosure by a person who is authorized to access PHI to another person authorized to access PHI, or organized health care arrangement in which CITY participates, and the information received as a result of such disclosure is not further used or disclosed in a manner disallowed under the HIPAA Privacy Rule.

        3. a disclosure of PHI where CONTRACTOR or CITY has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

    2.03.2 Except as provided in paragraph (a) of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

        a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

        b. The unauthorized person who used the PHI or to whom the disclosure was made;

   c. Whether the PHI was actually acquired or viewed; and

   d. The extent to which the risk to the PHI has been mitigated.

2.04 "<u>CONTRACTOR</u>" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.

2.05 "<u>CITY</u>" shall have the same meaning as in the attached Agreement, to which these Business Associate terms are incorporated by reference.

2.06 "<u>Data Aggregation</u>" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.07 "<u>Designated Record Set</u>" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.08 "<u>Disclosure</u>" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §160.103.

2.09 "<u>Health Care Operations</u>" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §164.501.

2.10 "<u>Immediately</u>" where used here shall mean within 24 hours of discovery.

2.11 "<u>Individual</u>" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR §160.l03 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

2.12 "Parties" shall mean "CONTRACTOR" and "CITY", collectively.

2.13 "<u>Physical Safeguards</u>" are physical measures, policies, and procedures to protect CONTRACTOR's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

2.14 "<u>The HIPAA Privacy Rule</u>" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

2.15 "<u>Protected Health Information</u>" or "<u>PHI</u>" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

2.16 "<u>Required by Law</u>" shall have the meaning given to such term under the HIPAA Privacy Rule at 45 CFR §164.103.

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

2.17   "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

2.18   "Security Incident" means attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by CONTRACTOR.

2.19   "The HIPAA Security Rule" shall mean the Security Standards for the Protection of electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

2.20   "Subcontractor" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

2.21   "Technical safeguards" means the technology and the policy and procedures for its use that protect electronic PHI and control access to it.

2.22   "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of Health and Human Services ("HHS") in the guidance issued on the HHS Web site.

2.23   "Use" shall have the meaning given to such term under the HIPAA regulations at 45 CFR §160.103.

3. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE.

3.01   CONTRACTOR agrees not to use or further disclose PHI that CITY discloses to CONTRACTOR except as permitted or required by this Agreement or by law.

3.02   CONTRACTOR agrees to use appropriate safeguards, as provided for in this Agreement, to prevent use or disclosure of PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits, on behalf of CITY, except as provided for by this Contract.

3.03   CONTRACTOR agrees to comply with the HIPAA Security Rule, at Subpart C of 45 CFR Part 164, with respect to electronic PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits, on behalf of CITY.

3.04   CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of PHI by CONTRACTOR in violation of the requirements of this Agreement that becomes known to CONTRACTOR.

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

3.05 CONTRACTOR agrees to immediately report to CITY any Use or Disclosure of PHI not provided for by this Agreement that CONTRACTOR becomes aware of. CONTRACTOR must report Breaches of Unsecured PHI in accordance with 45 CFR §164.410.

3.06 CONTRACTOR agrees to ensure that any of its subcontractors that create, receive, maintain, or transmit, PHI on behalf of CONTRACTOR agree to comply with the applicable requirements of Section 164 Part C by entering into a contract or other arrangement.

3.07 To comply with the requirements of 45 CFR §164.524, CONTRACTOR agrees to provide access to CITY, or to an individual as directed by CITY, to PHI in a Designated Record Set within fifteen (15) calendar days of receipt of a written request by CITY.

3.08 CONTRACTOR agrees to make amendment(s) to PHI in a Designated Record Set that CITY directs or agrees to, pursuant to 45 CFR §164.526, at the request of CITY or an Individual, within thirty (30) calendar days of receipt of the request by CITY. CONTRACTOR agrees to notify CITY in writing no later than ten (10) calendar days after the amendment is completed.

3.09 CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by CONTRACTOR on behalf of CITY, available to CITY and the Secretary in a time and manner as determined by CITY, or as designated by the Secretary, for purposes of the Secretary determining CITY'S compliance with the HIPAA Privacy Rule.

3.10 CONTRACTOR agrees to document any Disclosures of PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits on behalf of CITY, and to make information related to such Disclosures available as would be required for CITY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528.

3.11 CONTRACTOR agrees to provide CITY information in a time and manner to be determined by CITY in order to permit CITY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR §164.528.

3.12 CONTRACTOR agrees that, to the extent CONTRACTOR carries out CITY's obligation(s) under the HIPAA Privacy and/or Security rules, CONTRACTOR will comply with the requirements of 45 CFR Part 164 that apply to CITY in the performance of such obligation(s).

3.13 CONTRACTOR shall work with CITY upon notification by CONTRACTOR to CITY of a Breach to properly determine if any Breach exclusions exist as defined below.

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

4. SECURITY RULE.

4.01   CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR §164.308, §164.310, §164.312, §164.314 and §164.316 with respect to electronic PHI that CITY discloses to CONTRACTOR or that CONTRACTOR creates, receives, maintains, or transmits on behalf of CITY. CONTRACTOR shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

4.02   CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same restrictions and requirements contained here.

4.03   CONTRACTOR shall immediately report to CITY any Security Incident of which it becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI as described in 5. BREACH DISCOVERY AND NOTIFICATION below and as required by 45 CFR §164.410.

5. BREACH DISCOVERY AND NOTIFICATION.

5.01   Following the discovery of a Breach of Unsecured PHI, CONTRACTOR shall notify CITY of such Breach, however, both parties may agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR §164.412.

5.01.1 A Breach shall be treated as discovered by CONTRACTOR as of the first day on which such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been known to CONTRACTOR.

5.01.2 CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have been known, to any person who is an employee, officer, or other agent of CONTRACTOR, as determined by the federal common law of agency.

5.02   CONTRACTOR shall provide the notification of the Breach immediately to the CITY DHS Executive Director or other designee.

5.02.1 CONTRACTOR'S initial notification may be oral, but shall be followed by written notification within 24 hours of the oral notification.

5.03   CONTRACTOR'S notification shall include, to the extent possible:

5.03.l The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by CONTRACTOR to have been, accessed, acquired,

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

Family Tree, Inc.
SCOPE OF WORK
SOCSV2018-41755-01

used, or disclosed during the Breach;

5.03.2 Any other information that CITY is required to include in the notification to each Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify CITY, or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR §164.410 (b) has elapsed, including:

a.   A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

b.   A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

c.   Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;

d.   A brief description of what CONTRACTOR is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and

e.   Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

5.04   CITY may require CONTRACTOR to provide notice to the Individual as required in 45 CFR §164.404, if at the sole discretion of the CITY, it is reasonable to do so under the circumstances.

5.05   In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that CONTRACTOR made all required notifications to CITY, and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

5.06   CONTRACTOR shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR §164.402 to demonstrate that a Breach did not occur.

5.07   CONTRACTOR shall provide to CITY all specific and pertinent information about the Breach, including the information listed above, if not yet provided, to permit CITY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of the Breach to CITY.

5.08 CONTRACTOR shall continue to provide all additional pertinent information about the Breach to CITY as it becomes available, in reporting increments of five (5) business days after the prior report to CITY. CONTRACTOR shall also respond in good faith to all reasonable requests for further information, or follow-up information, after report to CITY, when such request is made by CITY.

5.09 In addition to the provisions in the body of the Agreement, CONTRACTOR shall also bear all expense or other costs associated with the Breach and shall reimburse CITY for all expenses CITY incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs or expenses associated with addressing the Breach.

6. **PERMITTED USES AND DISCLOSURES BY CONTRACTOR.**

6.01 CONTRACTOR may use or further disclose PHI that CITY discloses to CONTRACTOR as necessary to perform functions, activities, or services for, or on behalf of, CITY as specified in the Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by CITY.

6.02 CONTRACTOR may use PHI that CITY discloses to CONTRACTOR, if necessary, for the proper management and administration of the Agreement.

6.03 CONTRACTOR may disclose PHI that CITY discloses to CONTRACTOR to carry out the legal responsibilities of CONTRACTOR, if:

6.03.1 The Disclosure is required by law; or

6.03.2 CONTRACTOR obtains reasonable assurances from the person or entity to whom/which the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person or entity and the person or entity immediately notifies CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has been breached.

6.04 CONTRACTOR may use or further disclose PHI that CITY discloses to CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of CONTRACTOR.

6.05 CONTRACTOR may use and disclose PHI that CITY discloses to CONTRACTOR consistent with the minimum necessary policies and procedures of CITY.

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

7. <u>OBLIGATIONS OF CITY.</u>

7.01   CITY shall notify CONTRACTOR of any limitation(s) in CITY'S notice of privacy practices in accordance with 45 CFR §164.520, to the extent that such limitation may affect CONTRACTOR'S Use or Disclosure of PHI.

7.02   CITY shall notify CONTRACTOR of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect CONTRACTOR'S Use or Disclosure of PHI.

7.03   CITY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI that CITY has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect CONTRACTOR'S use or disclosure of PHI.

7.04   CITY shall not request CONTRACTOR to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by CITY.

8. <u>BUSINESS ASSOCIATE TERMINATION.</u>

8.01   Upon CITY'S knowledge of a material breach or violation by CONTRACTOR of the requirements of this Contract, CITY shall:

8.01.1 Provide an opportunity for CONTRACTOR to cure the material breach or end the violation within thirty (30) business days; or

8.01.2 Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to cure the material breach or end the violation within (30) days, provided termination of the Agreement is feasible.

8.02   Upon termination of the Agreement, CONTRACTOR shall either destroy or return to CITY all PHI CONTRACTOR received from CITY and any and all PHI that CONTRACTOR created, maintained, or received on behalf of CITY in conformity with the HIPAA Privacy Rule.

8.02.1 This provision shall apply to all PHI that is in the possession of subcontractors or agents of CONTRACTOR.

8.02.2 CONTRACTOR shall retain no copies of the PHI.

8.02.3 In the event that CONTRACTOR determines that returning or destroying the PHI is not feasible, CONTRACTOR shall provide to CITY notification of the conditions that make return or destruction infeasible. Upon determination by CITY that return or destruction of PHI is infeasible, CONTRACTOR shall extend the protections of this Agreement to the PHI and limit further Uses and

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137

Disclosures of the PHI to those purposes that make the return or destruction infeasible, for as long as CONTRACTOR maintains the PHI.

8.03   The obligations of this Agreement shall survive the termination of the Agreement.

9   SUBSTANCE ABUSE (42 C.F.R., Part 2)

Provider will also comply with all provisions of 42 C.F.R., Part 2 relating to substance abuse treatment and records.

EXHIBIT A-1
Jaggaer No. SOCSV2019-50137