



2017 Service Agreement

This Service Agreement (hereinafter "Agreement") is made on this ____ day of _____, 20____ by and between **Peel & Holland, Inc., (d/b/a Well-score®)** (hereinafter "COORDINATOR") a Kentucky Corporation located at 1120 Main Street, Benton, Kentucky 42025, and **Marshall County Fiscal Court** (hereinafter "CLIENT"), located at 1101 Main St., Benton, KY 42025. The herein named parties are entering into this Agreement for the purpose of utilizing COORDINATOR's expertise and experience to design a Wellness Program for CLIENT. Accordingly, the CLIENT and COORDINATOR agree as follows:

1. **SERVICES.** COORDINATOR agrees to undertake the assignments, duties and tasks and to deliver the activities as set forth in this Agreement, including the attached Exhibit "A," and further agrees to complete such services and activities in accordance with the scheduled time frames established in Exhibit "A."
2. **COMPENSATION.** CLIENT shall pay COORDINATOR a fee as outline in Exhibit "A". Fees not received within 30 days of the due date will bear interest at 18% per annum.
3. **EXPENSES.** COORDINATOR shall be responsible for all expenses related to activities referred to in Exhibit A unless otherwise noted herein.
4. **RELATIONSHIP OF PARTIES.** Notwithstanding any provision herein and for all purposes of this Agreement, CLIENT acknowledges and agrees that the COORDINATOR is to be retained solely as an Independent Contractor and the herein named parties are not partners, engaged in a joint venture, or agents of the other and shall not bind nor attempt to bind the other in contract; unless otherwise agreed to in a separate agreement. As an independent contractor, COORDINATOR shall be solely responsible for all taxes, withholdings, and any other statutory or contractual obligations of any sort as it relates to the operating and performing of the herein specified duties as an independent contractor, including, but not limited to workers' compensation insurance and professional liability insurance for its employees.

To the fullest extent permitted by law, each party agrees to defend, indemnify and hold harmless the other party, their agents and employees from and against all claims, damages, loss and expenses, including but not limited to, attorney's fees arising out of or resulting from the performance of the terms of this Service Agreement attributable to bodily injury, death, damage or destruction of tangible property to the extend caused primarily or solely, directly or indirectly, by the other party to this Service Agreement that is not otherwise covered by insurance.

5. **INTELLECTUAL PROPERTY.** COORDINATOR and CLIENT agree that all right, title and interest in and to all original works of authorship which COORDINATOR or COORDINATOR's independent contractors produce or compose in connection with the services to be performed hereunder for CLIENT or any of its affiliates as outlined in Exhibit "A" shall be considered as the property of the COORDINATOR and COORDINATOR shall have sole control over all deliverables hereunder but shall give rights to CLIENT to use the property as agreed to by COORDINATOR and CLIENT.

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6. **CONFIDENTIALITY.** COORDINATOR shall not disclose any Confidential Information (defined below) to any person or use or assist any person to use any Confidential Information, excepting only disclosures or uses: (a) required by applicable law, (b) made in connection with the performance of the COORDINATOR's services pursuant to this agreement; or (c) made on a confidential basis to the COORDINATOR's professional advisors.

For purposes of this agreement, "Confidential Information" shall mean all trade and professional secrets, proprietary data, Protected Health Information of CLIENT's employees or dependents, and other confidential information of the CLIENT provided that Confidential Information shall not include information which: (i) is then or becomes generally available to or obtainable by the public and which did not become so available or obtainable through the breach or any provision of this agreement by COORDINATOR, or (ii) is obtained by the COORDINATOR on a non-confidential basis from a source other than the CLIENT or any agent or other representative of the CLIENT and such source had the right to disclose such Confidential Information to COORDINATOR without violating any legal, contractual, fiduciary, or other obligation. Upon termination and as otherwise requested by the CLIENT, COORDINATOR will promptly return to the CLIENT all items whether in written or electronic form and copies containing or embodying Confidential Information, except that COORDINATOR may retain personal copies of compensation records and this Agreement.

7. **WARRANTY.** COORDINATOR warrants that the herein defined services will be performed in a professional, workmanlike manner; and that none of such services or any part of this Agreement is or will be inconsistent with any obligations COORDINATOR may have to others, subject to the limitations as set forth in paragraph five (5). All of the work under this Agreement shall be the COORDINATOR's original work and none of the services or inventions or any development, use, production, distribution or exploitation thereof will infringe, misappropriate or violate any intellectual property or other right of any person or entity unless otherwise limited or excepted to in the within Agreement.

8. **TERM AND TERMINATION.**

- a) This Agreement will begin January 1, 2018 and will terminate on December 31, 2018.
- b) This Agreement may only be terminated early by agreement of the parties or due to a material breach. If either party breaches a material provision of this Agreement, the other party may terminate this Agreement upon thirty (30) days written notice specifically setting out the breach complained of, unless the breach is cured within the notice period. If CLIENT terminates the Agreement pursuant to COORDINATOR's breach of this Agreement, then CLIENT shall have no further obligation to COORDINATOR, including no further obligation to pay COORDINATOR any compensation. If COORDINATOR terminates the Agreement pursuant to CLIENT's breach of this Agreement, then COORDINATOR shall have no further obligation to CLIENT and CLIENT shall pay COORDINATOR the total remaining annual fees due under this agreement.

9. **NOTICE.** All notices, requests, demands and other communications herein shall be in writing and shall be deemed received and shall be effective three (3) business days after mailing, if mailed, certified U.S. Mail, postage prepaid to the parties at the address set forth herein unless another address shall be furnished to the other party in writing, or in the alternative, by facsimile or e-mail.

10. **ASSIGNMENT.** This Agreement and the services contemplated hereunder are personal to the COORDINATOR and COORDINATOR shall not have the right or ability to assign, transfer or subcontract any obligations under this Agreement without the expressed written consent of the CLIENT. Any attempt to assign, transfer, subcontract or delegate any obligations under this Agreement shall be void unless otherwise approved in writing by the CLIENT. The CLIENT shall not have the right or ability to assign or transfer this agreement to a third party without the prior written consent of the COORDINATOR. Any attempt to assign or transfer any obligation under this Agreement shall be void unless otherwise approved in writing by the COORDINATOR.

11. **CONFIRMATION OF AGREEMENT.** The CLIENT and COORDINATOR acknowledge and agree each with the other, that this Agreement constitutes the entire agreement of the parties as it relates to the services to be provided by COORDINATOR as set forth herein, and may not be modified except in writing signed by all of the herein named parties. The failure of either party to enforce its rights under this Agreement at any time or for any period, shall not be construed as a waiver of such rights. No changes, modifications or waivers will be effective unless in writing signed by the herein named parties. In the event that any provision in this Agreement shall be determined to be illegal or unenforceable, that provision will be limited or eliminated to the extent necessary so that this Agreement shall otherwise remain in full force and effect. All terms, provisions and stipulations set forth in this Agreement are intended to apply and bind the heirs, executors, administrators, successors and/or assigns of the respective parties.

12. **EXECUTION OF AGREEMENT.** The parties may execute this Agreement in two (2) or more counterparts and each counterpart shall be deemed an original; facsimile signatures are acceptable and enforceable as originals.

13. **ATTORNEY'S FEES.** In the event an arbitration, suit or action is brought by any party under this Agreement to enforce any of its terms, or any appeal therefrom, it is agreed that the prevailing party is entitled to recover all legal fees and costs incurred in such action.

14. **JURISDICTION.** This agreement shall be governed by the laws of the State of Kentucky and the parties agree that the venue of any action under this agreement shall be in the courts of Marshall County, Kentucky.

15. **ARBITRATION.** All claims, disputes and matters in question arising out of, or relating to, this Service Agreement or the breach thereof, shall be decided by arbitration in accordance with the rules of the American Arbitration Association then in effect unless the parties mutually agree in writing otherwise. If a dispute arises out of or relates to this Service Agreement, or breach thereof, the parties may endeavor to settle the dispute first through direct discussions. If the dispute cannot be settled through direct discussion, the parties may endeavor to settle the dispute by mediation or under the rules of the American Arbitration Association. Notice of demand for arbitration shall be filed in writing with the other party and the parties shall then agree on the procedure for arbitration or it shall be under the rules of the American Arbitration Association. The location of the arbitration proceedings shall be in Marshall County, Kentucky. The award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in accordance with the applicable law in the court having jurisdiction as set out in Paragraph 14 above. Each party shall be responsible for one-half (1/2) of the cost of the arbitration with attorney's fees being awarded pursuant to Paragraph 13 above. Arbitration shall be binding on both parties to resolve any dispute related to fact or law.

- 16. **JUDICIAL INTERPRETATION.** Should any provision of this agreement require judicial interpretation, the parties hereto agree that the court or arbitrator interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by the reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agents prepared the same.

- 17. **SEVERABILITY.** Any provision of this Agreement that is determined unenforceable shall be reduced to the greatest extent enforceable and any provision that is determined totally enforceable shall be severed and the validity and enforceability of the other provisions hereto shall remain in full force and effect.

- 18. **MERGER AND AMENDMENT.** All of the oral agreements between the parties are merged in this written agreement and it may only be amended in writing properly executed by all parties.

IN WITNESS WHEREOF, the undersigned due hereunto affix their hands and seals on this the date above first written.

CLIENT NAME Marshall County Fiscal Court

Signature _____

Print/Type Name _____

Date _____

Witness _____

Peel & Holland, Inc., d/b/a Well-Score™

Signature _____

Print/Type Name _____

Date _____

Witness _____



Proposed Service Schedule and Fee Agreement

Client:	Marshall County Fiscal Court
Plan Dates for Coordination and Services:	01/01/2018-12/31/2018
Eligible Employees:	163

Fees - (calculated based on the number of eligible employees)

Well Score Fee*:	\$12,345
Coaching (\$75 per hour):	Available upon request
Incentives and Items for Wellness Activities	\$2,000
Total Fee:	\$14,345

Equivalent PP/PM - \$7.33 Equivalent PP/PY - \$88.00

Note: All participant incentives and biometric fees incurred by the client for the wellness program will be paid by the client. Biometric screening fees generally average \$30-\$50/participant depending on provider.

**Health Risk Assessments completed on paper will be charged at the rate of \$5/assessment.*

General Deliverables

The deliverables of this wellness program include consultation with Well-Score staff regarding the design of your program and incentives. Participants will complete one online Health Risk Assessment. Well-Score will provide individual reports to each participant and a report with aggregate data for the Client. Well-Score will assist with tracking of wellness activities, coordination of health screenings and processing of biometric data. Pricing includes the cost of the services listed above. Any incentives awarded to employees will be at the cost of the employer.

Online Wellness Resources

All clients will be integrated into an online tracking and reporting system. Participants' lab results will be uploaded into the portal. Participants will report their wellness activities in the system.

Additional Program Add-On Components

Well-Score will coordinate educational sessions for the client with regional health care partners. Any fees charged by these providers will be passed directly to the client. Well-Score also offers individual coaching with our health consultant for participants via face to face or SKYPE. This service has an additional cost. *Disease management, case management, and other similar carrier-provided services may be integrated into the wellness plan through the carrier or third-party administrator through a separate contract.*

Special Items Ordered & Notes

Wellness materials will be delivered electronically and will be the responsibility of the client to reproduce and distribute to their employees. Well-Score will not be responsible for providing refreshments for any programs or activities.

Accepted by Client: _____ Date: _____

Please indicate your preferred billing method: Annual Semi-Annual Quarterly

