
PAY FOR SUCCESS AGREEMENT

Dated as of _____, 20__

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This Pay for Success Agreement (this “Agreement”), dated as of _____, 20__ , is among [Name of Government/Private Payor] (“[Payor]”), a [description of payor entity], and [Name of SPV acting as Intermediary], a [Delaware] [corporation/limited liability company] (“[Intermediary]”). [Payor] and [Intermediary] are referred to herein collectively as the “Parties” and each as a “Party”. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in Appendix A.

WHEREAS, [Payor] wishes to use pay-for-success as an innovative financing mechanism for evidence-based services in order to improve social outcomes and produce [public sector][Payor] savings and benefits;

[WHEREAS, [add [Payor] statutory authority for PFS contract, if applicable];

WHEREAS, [add [Payor] statutory authority to make Outcome Payments] for the Project (as defined below)];

WHEREAS, [Intermediary] will provide intermediary services to [Payor] in connection with a pay-for-success project which is intended to provide cost-effective services for [description of intervention/services], as set forth in this Agreement;

WHEREAS, the Parties wish to enter into a contract for the [Project Name] (the “Project”), on the terms and subject to the provisions of this Agreement;

WHEREAS, operating costs for the Project will be funded by the proceeds of loans to and/or investments in [Intermediary] (the “Financing”), such Financing to be repaid from Outcome Payments;

WHEREAS, [Intermediary] is a wholly owned subsidiary of Social Finance, Inc. and the directors and officers of [Intermediary] are officers and employees of Social Finance, Inc.;

WHEREAS, following the execution and delivery of this Agreement, [Intermediary] will enter into an agreement with [Name of Intervention Provider] (the “Intervention Provider”, and such contract, the “Intervention Agreement”) to provide [description of intervention] (the “Intervention”) [through Intervention Provider’s subcontractors, (such subcontractors, “Implementing Agents”)], all as more fully described in Schedule 1 (Operating Responsibilities);

WHEREAS, [Payor] will provide information and access to facilitate delivery of the Intervention by Intervention Provider; and

WHEREAS, simultaneously with the execution of this Agreement, [Intermediary] will enter into an agreement (the “Evaluator Agreement”) with [Name of Evaluator] (the “Evaluator”), an independent third party, to measure [#] different Outcomes associated with the Intervention, all as more fully described in Schedule 2 (Project Evaluation);

WHEREAS, [Intermediary] will calculate the Outcome Payments, if any, attributable to the Project, and the amount of such Outcome Payments to be paid by the [Payor], in accordance

with Schedule 3 (Calculation of Outcome Payments), and provide an invoice for such amounts to [Payor]; and

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the Parties agree as follows:

ARTICLE I. DEFINITIONS/CONSTRUCTION

Section 1.1 Defined Terms In this Agreement, capitalized terms have the meaning assigned to them in this Agreement and accompanying Schedules, and in Appendix A – Index of Defined Terms, a copy of which is attached hereto and incorporated by this reference.

Section 1.2 Schedules

The following Schedules attached hereto are hereby incorporated into this Agreement in their entirety:

Schedule 1: Operating Responsibilities

Schedule 2: Project Evaluation

Schedule 3: Calculation of Outcome Payments

Schedule 4: Governance and Reporting

Schedule 5: Publicity

ARTICLE II. TERM OF AGREEMENT; SERVICES

Section 2.1 Effective Date

This Agreement will become effective as of the date first written above (the “Effective Date”) and will remain in effect until _____, 20__ (the “Term”), unless earlier terminated pursuant to Section 8.1.

Section 2.2 Project Launch Date

The Intervention Provider will oversee the implementation of the Intervention described more fully in Schedule 1 (Operating Responsibilities), following the satisfaction of the Financing Condition on a date to be agreed to by the Management Committee (the “Service Commencement Date”). If the Financing Condition is not met by _____, 20__, this Agreement may terminate in accordance with Section 8.1, unless the Management Committee agrees to extend such date or agrees to a revised project budget, in accordance with the Project Change Request process set forth in Schedule 4 (Governance and Reporting).

ARTICLE III. REPRESENTATIONS AND WARRANTIES

Section 3.1 [Intermediary]’s Representations and Warranties

(a) Organization and Good Standing. [Intermediary] is a [corporation/limited liability company] validly existing and in good standing under the laws of the [State of Delaware], is qualified to conduct business in the [Commonwealth of Massachusetts], and has full corporate power and authority to conduct its business as presently conducted and to enter into and perform under this Agreement.

(b) Authority for Agreement. The execution, delivery and performance by [Intermediary] of this Agreement and the performance by [Intermediary] under this Agreement have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by [Intermediary] and, assuming the due authorization, execution and delivery by [Payor], and subject to the effect of applicable Laws (e.g., bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to the rights of creditors generally), constitutes a legal, valid and binding obligation of [Intermediary], enforceable against [Intermediary] in accordance with its terms. The execution and performance of this Agreement by [Intermediary] will not violate any provision of Law and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under or require a consent or waiver under, [Intermediary]’s organizational documents or any decree, judgment, order applicable to [Intermediary].

(c) No Litigation. No litigation, arbitration or administrative proceeding is presently in progress or, to [Intermediary]’s knowledge, pending or threatened against [Intermediary] or any of its assets which might reasonably be expected to materially adversely affect the ability of [Intermediary] to perform its obligations under this Agreement.

Section 3.2 [Payor] Representations and Warranties

(a) Authority for Agreement. The execution, delivery and performance by [Payor] of this Agreement and the performance by [Payor] under this Agreement have been duly authorized by all necessary [governmental/corporate] action. This Agreement has been duly executed and delivered by [Payor] and, assuming the due authorization, execution and delivery by [Intermediary], and subject to the effect of applicable Laws (e.g., bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to the rights of creditors generally), constitutes a legal, valid, and binding obligation of [Payor], enforceable against [Payor] in accordance with its terms. [The execution and performance of this Agreement by [Payor] will not violate any provision of Law and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under or require a consent or waiver under, [Payor]’s organizational documents or any decree, judgment, order applicable to [Payor].] [There is no condition, subsequent or precedent, required to be fulfilled for the authorization provided to [Payor] under the [statutory authority, if applicable] to be in full force and effect.]

(b) No Litigation. No claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to [Payor]’s knowledge, pending or threatened against [Payor] which will or might reasonably be expected to materially adversely affect the ability of [Payor] to perform under this Agreement.

(c) Governmental Consents. No consent, approval, order, or authorization of, or registration, qualification, designation, declaration or filing with, any Governmental Authority is required in connection with the execution, delivery and performance of this Agreement by [Intermediary], [Payor] or the payment of Outcome Payments hereunder.

(d) Sinking Fund. A sinking fund in connection with this Agreement (the “Sinking Fund”) has been established [by [Payor]/pursuant to the 20__ Budget], to be held [on the books of the [Name of Government Unit] or by [_____]] as a third-party trustee (the “Trustee”). Pursuant to [the 20__ Budget/applicable law], funds deposited into the Sinking Fund, and interest earned thereon, shall not revert to the unrestricted fund balance of the [Payor] at the end of any fiscal year, or at any other time, and any funds appropriated in the Sinking Fund shall be continually available without regard to fiscal year limitation.

ARTICLE IV. OBLIGATIONS AND RESPONSIBILITIES OF THE PARTIES

Section 4.1 [Intermediary]’s Obligations and Responsibilities

Without limiting the generality or effect of any other provision of this Agreement, [Intermediary] will:

(a) use reasonable efforts to perform its responsibilities and to take such actions in each case as are required to be taken by it in this Agreement and the Schedules attached hereto;

(b) promptly inform [Payor] of potential Funding Shortfalls;

(c) in rendering its services hereunder, comply with all Laws applicable to it and its subsidiaries;

(d) enter into and enforce the Intervention Agreement and the Evaluator Agreement, and without (i) the prior written consent of the Required Lenders, and (ii) the prior written consent of [Payor], which consent may not be unreasonably withheld, conditioned or delayed, subsequently not (x) amend such Intervention Agreement or Evaluator Agreement in any material respect, (y) terminate the Intervention Agreement or Evaluator Agreement or (z) enter into an Intervention Agreement or an Evaluator Agreement with a successor to the Intervention Provider or Evaluator, as applicable;

(e) promptly notify [Payor] of any Material Breach of the Intervention Agreement or Evaluator Agreement, and use reasonable efforts to (i) cause the Intervention Provider or Evaluator, as applicable, to remedy such Material Breach, or (ii) if necessary, replace the Intervention Provider or Evaluator, as directed by the Executive Committee;

(f) [comply in all material respects with the covenants set forth in Appendix B;]

(g) enter into and enforce certain agreements with the [Fiscal Agent], including a custody account agreement and entity management services agreement (together, the “Fiscal Agency Agreement”); and

(h) seek funding commitments and to enter into and enforce binding Funding Agreements with the Funding Partners in connection therewith.

Section 4.2 [Payor] Obligations and Responsibilities

Without limiting the generality or effect of any other provision of this Agreement, [Payor] will:

(a) Include in the [budget application/appropriation request] for each fiscal year beginning with 20__ and ending with 20__, the amount necessary to meet the applicable Minimum Cumulative Deposit in such fiscal year and, promptly upon passage of a budget or a continuing resolution with such an appropriation, deposit cash in the amount of such appropriation into the Sinking Fund;

(b) By each Deposit Date listed in Table 1 below, deposit the amount necessary to meet the applicable Minimum Cumulative Deposit at such Deposit Date (each such deposit, a “Deposit”) to the Sinking Fund, which amounts may be altered by unanimous approval of the Management Committee should Project funding needs decrease;

Table 1

Project Year	Deposit Date	Minimum Deposit	Minimum Cumulative Deposit

(c) keep [Intermediary] reasonably informed of the status of any relevant budget, legislative or other [Payor] or State action related to appropriations, or authorization of this Agreement and pay-for-success projects generally and maintain the Sinking Fund until this Agreement has expired or been terminated in its entirety;

(d) no later than the [5th] Business Day following the end of each quarter during the Project, provide [Intermediary] with a true and accurate report of the [current balance, deposits, withdrawals and accrued interest] of the Sinking Fund;

(e) comply with its obligations set forth in Schedule 1 (Operating Responsibilities), Schedule 2 (Project Evaluation), Schedule 3 (Calculation of Outcome Payments), Schedule 4

(Governance and Reporting) and Schedule 5 (Publicity), including, without limitation [Referrals] as more fully described in Schedule 1 (Operating Responsibilities);

(f) promptly provide data to [Intermediary] in response to a data request by [Intermediary];

(g) notify [Intermediary] upon any decision to expand the availability of other, competing services to the Intervention, and in such event, use reasonable efforts to prioritize all Eligible Cases for the Project, provided that the [Payor] retains sole discretion over any such expansion of competing services; and

(h) [Payor] acknowledges that [Intermediary] has no obligation to furnish to it any information that identifies or would reasonably be expected to identify the Funding Partners.

Section 4.3 Confidential Information

(a) Confidential Information Generally. Each Party acknowledges that, during the term of this Agreement, it may disclose (the “Disclosing Party”) to the other (the “Receiving Party”) certain confidential information and data (the “Confidential Information”). Subject at all times to applicable state law, each Party agrees to maintain all Confidential Information provided to it by another Party as confidential and to not disclose such information to any Persons other than to its representatives or as otherwise required by Law.

(b) Freedom of Information Act. [Intermediary] acknowledges that [Payor] must comply with the Freedom of Information Act, [add applicable Statutory reference] (“[Name of State FOIA]”) which requires [description of state FOIA requirements] the disclosure of documents in the possession of the State upon request of any citizen, unless the content of the document falls within certain categories of exemption, as defined by [_____]. In no event will [Payor] be liable for disclosing any information pursuant to a judicial or administrative order, or as the result of a good faith belief on the part of the [Payor] that the information in question must be disclosed pursuant to [Name of State] FOIA.

If a Person files a request under the [Name of State] FOIA or any similar applicable Law for any documentation or information related to the Project (a “Request”), [Payor] shall promptly, and in any event not more than five days following the receipt of the Request, notify [Intermediary] of the Request and allow [Intermediary] ten days within which to object to [Payor], and any relevant judicial or administrative body, to the disclosure of any of the requested information. If, following receipt of [Intermediary]’s objection to the release of the requested information, [Payor] reasonably determines that the information sought by the Request should be disclosed, [Payor] shall promptly notify [Intermediary] of such determination, and, subject to Law, shall refrain from making such disclosure for not less than five days following Notice to [Intermediary] in order to afford [Intermediary] an opportunity to seek an injunction or other appropriate remedy if [Intermediary] believes that agency’s determination is erroneous. The term “days” as used in this Section 4.4(b), shall be determined in the manner provided in [Name of State] FOIA.

(c) Notice. [Intermediary] shall endeavor to clearly mark each page of all documents which such Party wishes to designate as Confidential Information “Confidential Information” and may also include a reference to this Agreement; *provided, however*, that [Intermediary]’s failure to mark any document shall not foreclose such Party from asserting that a document should be designated as Confidential Information.

(d) Certain Required Disclosures. For purposes of this Section 4.4, “Confidential Information” does not include, and there will be no obligation hereunder with respect to, information that (i) was available or became available to the public other than as a result of a disclosure by the Receiving Party; or (ii) was available, or became available, to the Receiving Party on a non-confidential basis prior to its disclosure to the Receiving Party by the Disclosing Party or its representative, but only if such information was not made available through a breach of an obligation of confidentiality owed to the Disclosing Party; (iii) is subject to disclosure in accordance with state or federal law, including the U.S. Freedom of Information Act, or (iv) is legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil or criminal investigative demand or similar legal process) or the disclosure of which is required by a regulatory body or court, provided, that Receiving Party shall: (A) provide the Disclosing Party with prompt notice of any such request(s) so that it may seek an appropriate protective order or other appropriate remedy, and (B) provide reasonable assistance to the Disclosing Party in obtaining any such protective order. If such protective order or other remedy is not obtained or the Disclosing Party otherwise consents to disclosure, then the Receiving Party may furnish that portion (and only that portion) of the Confidential Information which, in the opinion of counsel to the Receiving Party, the Receiving Party is legally compelled to disclose.

Section 4.4 Executive Committee; Management Committee

Promptly and in any event within [thirty] days after the execution of this Agreement, the Parties will form the Executive Committee and the Management Committee, both as contemplated by Schedule 4 (Governance and Reporting), which committees will have the powers and duties set forth on Schedule 4 (Governance and Reporting). In addition to members of the Executive Committee, [up to two designees of the Funding Partners] will have the right to attend each meeting of the Executive Committee as non-voting observers.

Section 4.5 Publicity

News releases or any other similar public announcements regarding the Project or this Agreement may not be released or made by any Party prior to following the procedures outlined in Schedule 5 (Publicity); *provided, however*, that any Party may make any public announcement that its counsel advises is required by Law or legal process, in which case, to the extent practicable, it will consult with the other Party with respect to the timing and content thereof. [Payor] further acknowledges and agrees that notwithstanding anything to the contrary in this Agreement (including Schedule 5 hereto), in no event will it be entitled to receive, nor will it ask [Intermediary] to disclose, the identity of any Funding Partner or any term of the Financing without the applicable Funding Partner’s prior written consent.

Section 4.6 Books and Records; Audit Rights

[Intermediary] will establish and maintain books, records and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds in connection with the Project. [Intermediary] will retain all records, financial records, supporting documents, statistical records and any other documents (including electronic storage media) pertinent to this Agreement, if any, for a period of three years after termination of this Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of three years, the records will be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement. [Intermediary] will assure that these records will be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by [Payor]. [Payor] [and the [Name of State] State Auditor,] or any of [its/their] duly authorized representatives shall have the right to examine any directly pertinent books, documents, papers and records of [Intermediary] involving transactions related to this Agreement.

Section 4.7 Funding Shortfall

[Intermediary] will send notices to the Funding Partners or their representatives prior to the Service Commencement Date and periodically thereafter (the “Loan Funding Dates”). If one or more Funding Partners does not provide its portion of committed loan(s) within the applicable time frame (a “Funding Shortfall”), then [Intermediary] may seek additional funding to meet such Funding Shortfall. [Intermediary] shall provide (a) confirmation to [Payor] that committed capital has been provided prior to each of the Loan Funding Date and (b) information to [Payor] as promptly as practicable upon becoming aware of facts that might lead to a Funding Shortfall. [Intermediary] shall keep [Payor] apprised of the status of any actions being taken to remedy any such Funding Shortfall.

ARTICLE V. OUTCOMES AND OUTCOME PAYMENTS

Section 5.1 Calculation of Outcomes and Outcome Payments.

Outcome Payments are contingent upon the Evaluator’s determinations as to whether the Outcomes have been met in accordance with Schedule 2 (Project Evaluation). Upon such a determination that one or more of the Outcomes have been met, [Intermediary] shall calculate the applicable Outcome Payments in accordance with Schedule 3 (Calculation of Outcome Payments).

Section 5.2 Maximum Payments.

The maximum total amount payable by [Payor] to [Intermediary] for cumulative Outcome Payments is \$[_____].

Section 5.3 Outcome Payments.

[Payor] will make the Outcome Payments to [Intermediary] in accordance with Schedule 3 (Calculation of Outcome Payments). [Payor] will pay the Outcome Payment in full within [X] days of [receipt of invoice], without deduction or setoff, by electronic wire transfer or electronic funds transfer (EFT) of immediately available funds to a bank account designated reasonably in advance of the payment due date by [Intermediary]. [The [Escrow Agreement] will provide that,

upon [Payor]’s failure to timely pay pursuant to this Section 5.3, [Intermediary] may withdraw such amount directly from the Escrow Account without further action by the [Payor].]

Section 5.4 No Third Party Rights.

Except as set forth in Section 5.3 above and Section 8.1 below, the Parties agree that nothing in this Agreement shall be deemed to create or give to any third party any claim or right of action against [Payor] or any other Party, provided that the [Payor] acknowledges that the [Intermediary] may collaterally assign the right to payment set forth in this Agreement to the Funding Partners (the “Assignees”), as collateral for the obligations of [Intermediary] to the Funding Partners, and the [Payor] hereby consents to such collateral assignments. Each Assignee shall be a third party beneficiary of the Outcome Payment provisions of this Agreement and shall be entitled to enforce the payment provisions hereof.

ARTICLE VI. INTELLECTUAL PROPERTY

Section 6.1 Generally.

All materials produced, either in whole or in part, through funding provided directly by the [Payor] will belong exclusively to the [Payor].

Section 6.2 Ownership of [Payor] Intellectual Property.

[Payor] will at all times retain all rights, ownership and interest in any copyright, trademark or other intellectual property proprietary to [Payor], including without limitation, any software, methodologies, tools, specifications, techniques, documentation or data that has been purchased by or licensed to [Payor] together with any and all additions, enhancements, improvements or other modifications thereto (collectively, the “[Payor] Intellectual Property”). Nothing herein (whether by estoppel, implication or otherwise) shall be construed to grant to [Intermediary] any title to any [Payor] Intellectual Property.

Section 6.3 License of [Payor] Intellectual Property.

[Payor] hereby grants to [Intermediary], its successors and assigns a perpetual, irrevocable, royalty-free worldwide license to use any and all [Payor] Intellectual Property solely for the purposes of the Project.

Section 6.4 Ownership of Intermediary Intellectual Property.

[Intermediary] will at all times retain all rights, ownership and interest in any copyright, trademark, trade secret or other intellectual property proprietary to [Intermediary] together with any and all additions, enhancements, improvements or other modifications thereto (“Intermediary Intellectual Property”) and all Intermediary Work Product. Nothing herein (whether by estoppel, implication or otherwise) shall be construed to grant to [Payor] any title to any Intermediary Intellectual Property or Intermediary Work Product.

Section 6.5 License of Intermediary Work Product.

[Intermediary] hereby grants to the [Payor] a perpetual, irrevocable, royalty-free non-exclusive, non-assignable worldwide license to use any and all Intermediary Work Product solely for the purposes of the Project. The [Payor] shall not alter the Intermediary Work Product without the written consent of the [Intermediary], and the [Payor] shall ensure that the Intermediary Work Product retains all [Intermediary] copyright notices, logos, proprietary legends, trademarks and service marks.

“Intermediary Work Product” means any Work Product that is conceived, developed or reduced to practice, alone or jointly with others, by or on behalf of the [Intermediary], whether or not any such items are eligible for patent, copyright, trade secret or other legal protection.

“Work Product” means any designs, ideas, models, websites, software, codes, hardware, firmware, methodologies, tools, specifications, techniques, documentation data, or mobile applications or other creations; data requests; financial, operating, data and evaluation models; slide decks, written memoranda and other materials, investor lists, financing documents and other written materials related to raising capital for the Project; and evaluation, progress and investor reports produced once the Project is launched, provided, that Work Product shall not include [Payor] Intellectual Property.

ARTICLE VII. MODIFICATION

Section 7.1 Generally.

Other than as explicitly stated in this Agreement or any of the Schedules attached hereto, this Agreement or any part of it may only be modified, revised, supplemented, abrogated, extended, waived, or amended in writing agreed to and signed by all Parties, and, if applicable, approved by [Name of Additional Government Agency]. In the event of any change in Federal or state Law or regulation which affects a Party’s responsibilities, this Agreement shall be automatically amended to reflect such changes. Thereafter, the Parties mutually agree to enter into good faith negotiations to enter into a written amendment to reflect such changes.

ARTICLE VIII. TERMINATION OF AGREEMENT

Section 8.1 Termination Rights.

This Agreement may be terminated as follows and may not be terminated for any other reason or under any other theory whatsoever, provided that the Funding Partners shall consent to such termination, in accordance with the respective agreements, which consent shall not be unreasonably withheld, conditioned or delayed (except as provided in Sections 8.1(a) and 8.1(g) below):

(a) [Payment Breach by [Payor]. By [Intermediary], by delivery of written notice to [Payor] if [Payor] fails to make all or part of an Outcome Payment, including an Early Outcome Payment in accordance with Section 4.2, when due and payable.]

(b) [Appropriations Failure]: By [Intermediary], if the funds appropriated for an applicable fiscal year are less than the amount for which an appropriation was required to be

requested pursuant to Section 4.2(a) unless the available and previously appropriated funds held in the Sinking Fund are equal to or greater than the Minimum Cumulative Deposit amount for such fiscal year, as set forth in Table 1 in Section 4.2. [Payor] and [Intermediary] will have until [July 1] of the fiscal year as to which the requested appropriation has not been obtained to exercise their termination right, if any, under this Section 8.1(b).]

(c) Material Breach by [Payor]. By [Intermediary], at the written direction of the Executive Committee, by delivery of written notice to [Payor] if [Payor] is in Material Breach of its obligations under this Agreement including the Schedules hereto, and such breach is not Cured within 60 days after written notice of such breach is given by [Intermediary] to [Payor].

(d) Material Breach by [Intermediary]. By [Payor], at the written direction of the Executive Committee, by delivery of written notice to [Intermediary] if [Intermediary] is in Material Breach of its obligations under this Agreement including the Schedules hereto, and such breach is not Cured within 60 days after written notice of such breach is given by [Payor] to [Intermediary].

(e) Mutual Consent: Automatically upon the written mutual consent of the Parties, which consent may not be unreasonably withheld, conditioned, or delayed, in accordance with the terms of such written mutual consent to termination.

(f) Bankruptcy: By [Payor], if the Management Committee does not replace [Intermediary] within 60 days after the filing of a petition in bankruptcy or insolvency by or against [Intermediary] that is not withdrawn within 60 days after such filing.

(g) Force Majeure: By [Payor] or [Intermediary] by written notice to the other if Force Majeure prevents either Party from performing its material obligations under this Agreement (other than its obligation to pay) or prevents Intervention Provider from performing its material obligations under the Intervention Agreement, in each case for a period in excess of [three (3) calendar months.]

(h) Deposit Failure: By [Intermediary], if, at [5 pm] on any Deposit Date, the cumulative amount deposited to the Sinking Fund is less than the Minimum Cumulative Deposit for such Deposit Date set forth in Table 1 in Section 4.2.

(i) Termination of Intervention Agreement. By [Intermediary] upon the early termination of the Intervention Agreement in accordance with the terms thereof, and the inability of [Intermediary] to enter into an Intervention Agreement with an acceptable successor intervention provider.

(j) Financing: By [Payor] or [Intermediary], by written notice to the other, if the Financing Condition has not been met by _____, _____, provided that the Management Committee may agree to extend such date or agree to a revised project budget in accordance with the Project Change Request process set forth in Schedule 4 (Governance and Reporting).

(k) Funding Shortfall. By [Payor], by written notice to the other, if a Funding Shortfall as described in Section 4.7 is not Cured within 60 days of such written notice.

(l) Enrollment. By [Intermediary], by delivery of written notice to [Payor] if (i) on or before _____, 20__, the applicable Program Participant enrollment targets as set forth in Schedule 1, [Section _____ (Operating Responsibilities; [Enrollment])] have not been met.

For purposes of this Article VIII, “Cure” means, with respect to a particular set of facts and circumstances constituting a Material Breach, that Party has (i) taken actions such that there is no longer a Material Breach or taken all steps reasonably necessary that there is no continuing Material Breach, including by implementing appropriate procedures or controls, or (ii) in the case of a breach of Section 4.4, the breaching Party has taken prompt and satisfactory corrective action to remedy a breach of data confidentiality and restore security so as to prevent further breaches.

Section 8.2 Effect of Termination.

The remedies provided in this Section 8.2 are the exclusive and sole remedy of any Party in connection with a termination of this Agreement, provided that all such remedies are subject to the Wind-Up procedures set forth in Section 8.2(e) below.

(a) Mutual Consent; Force Majeure; Enrollment. Once a notice of termination is given pursuant to Section 8.1(e) (Mutual Consent), Section 8.1(g) (Force Majeure) or Section 8.1(l) (Enrollment), [the Management Committee shall determine whether to revise the Project, the Project budget and expected Outcome Payments accordingly, or terminate this Agreement in its entirety.] No additional Program Participants will be enrolled in the Intervention after such notice of termination is given, provided that any existing Program Participants will continue to receive Intervention services until such Program Participants shall be transferred to other comparable services, such determination to be made by the Management Committee, but in any case for not more than [90 calendar days]. [Payor] shall remain obligated to make any Outcome Payments, including Early Outcome Payments in accordance with Section 8.2(e) below.

(b) Financing. Upon issuance of a notice of termination by either [Payor] or [Intermediary] pursuant to Section 8.1(j) (Financing), this Agreement will terminate, and none of the Parties will have any further obligations hereunder.

(c) [Intermediary] Material Breach; Bankruptcy; Termination of Intervention Agreement; Funding Shortfall. Subject to Section 8.2 (c)(i) and (ii) below, upon issuance of a notice of termination by [Payor] pursuant to Section 8.1(d) ([Intermediary] Material Breach), Section 8.1(f) (Bankruptcy), Section 8.1(i) (Termination of Intervention Agreement) or Section 8.1(k) (Funding Shortfall), no additional Program Participants will be enrolled in the Intervention, provided that any existing Program Participants will continue to receive Intervention services until such Program Participants shall be transferred to other comparable services, such determination to be made by the Management Committee, but in any case for not more than [90 calendar days]. [Payor] shall remain obligated to make any Outcome Payments, including Early Outcome Payments in accordance with Section 8.2(e) below.

(i) New Intermediary. Upon issuance of a notice of termination by [Payor] pursuant to Section 8.1(d) ([Intermediary] Material Breach) or Section 8.1(f) (Bankruptcy),

the Management Committee may propose an entity or a list of entities to replace [Intermediary] as promptly as is practicable, and in any event within [30 days]. The proposed replacement(s) will be submitted to the Executive Committee for approval. Upon unanimous approval by the members of the Executive Committee not appointed by [Intermediary], such entity (the “New Intermediary”) will replace [Intermediary], and this Agreement will continue in full force and effect, and all references to [Intermediary] will be deemed to refer to the New Intermediary. [Intermediary] will promptly assign all of its rights and obligation under this Agreement to the New Intermediary. Following the assignment and assumption pursuant to this Section 8.2 (c)(i), [Intermediary] will have no further liability under this Agreement except pursuant to [_____].

(ii) Termination of Agreement. If, the Executive Committee fails to approve a New Intermediary as set forth in Section 8.2(c)(i) above [within 40 days], this Agreement will terminate, effective [at the end of such 40 days]. No additional Program Participants will be enrolled in the Intervention, provided that any existing Program Participants will continue to receive Intervention services until such Program Participants shall be transferred to other comparable services, such determination to be made by the Management Committee, but in any case for not more than [90 calendar days]. The [Payor] will remain obligated to make any Outcome Payments, including Early Outcome Payments, in accordance with Section 8.2(e) below.

(d) Payment Breach by [Payor]; Appropriations Failure; Deposit Failure; Material Breach by [Payor]. Upon issuance of a notice of termination pursuant to Section 8.1(a) (Payment Breach by [Payor]), Section 8.1(b) (Appropriations Failure), Section 8.1(f) (Deposit Failure) or Section 8.1(c) (Material Breach by Payor), (collectively, the “[Payor] Termination”), [the Management Committee, without the participation of any defaulting Payor, shall determine whether to revise the Project, the Project budget and expected Outcome Payments accordingly, or terminate this Agreement in its entirety, taking into account the potential impact on the Program Participants and the calculation and payment of Outcome Payments, and Early Outcome Payments.] Upon receipt of notice from [Intermediary] of a [Payor] Termination, no additional Program Participants will be enrolled in the Intervention; provided that any existing Program Participants will continue to receive Intervention services until such Program Participants shall be transferred to other comparable services, such determination to be made by the Management Committee, but in any case for not more than [90 calendar days]. [Payor] will remain obligated to make any Outcome Payments, including Early Outcome Payments, together with applicable amounts of the Wind-Up Budget, in accordance with Section 8.2(e) below.

(e) Wind-Up.

(i) Upon a notification of termination by one or more of the Parties pursuant to Section 8.1, [Intermediary] will prepare a wind-up budget (the “Wind-Up Budget”) consisting of any extraordinary costs incurred as a result of the termination event by the

Intervention Provider, the Evaluator or the Intermediary, up to a capped amount of [\$_____].

(ii) The Wind-Up Budget will be presented to the Management Committee for approval, and will then be forwarded to (i) the non-defaulting members of the Executive Committee for approval and [(ii) the non-defaulting Funding Partners for approval.]

(iii) Following receipt of a notice of termination from one of the Parties in accordance with this Article VIII, [Payor] will pay to [Intermediary] the amounts set forth below, solely from amounts received from the applicable Payors in payment of such obligations:

- (A) An Outcome Payment, which will consist of the following:
1. Outcome Payments owed but not yet made; and
 2. For Program Participants for whom Outcomes have not yet been calculated by the effective date of termination of this Agreement in accordance with the applicable subparagraph in Section 8.2, [Payor] shall pay an Early Outcome Payment in accordance with a timeline agreed to by the Parties, calculated as set forth in Section ___ of Schedule 3 (Calculation of Outcome Payments).
- (B) In the case of a Payor Termination, [Payor] will pay, in addition to the amounts set forth in Section 8.2(e)(iii)(A) above, the full amounts set forth in the Wind-Up Budget [and an additional payment in an amount equal to the remaining unpaid principal and interest at the rates set forth in the Funding Agreements, together with an amount equal to [2%] of the outstanding principal amount of the loan received by [Intermediary] from the Funding Partners,] solely from amounts received from the Payors in payment of such obligations, [up to the full outstanding amount of funds held by [Payor] as received from the Payors up to the date of termination.]

ARTICLE IX. SUBCONTRACTORS

Section 9.1 Generally

[Intermediary] will not subcontract any of its work or services to any subcontractor without the prior written consent of [Payor]; *provided that* such consent may not unreasonably be withheld, conditioned or delayed. Any work or service so subcontracted will be performed pursuant to [Payor]-pre-approved subcontract agreement template. Any such subcontract shall specify that [Intermediary] and the subcontractor shall be subject to every provision of this Agreement.

Notwithstanding any such subcontractor engagement approved by [Payor], [Intermediary] will remain liable to [Payor] for all of its work and services required hereunder.

Section 9.2 [Intermediary]

The Parties acknowledge and agree that Intervention Provider, any substitute provider of services, and the Evaluator are not subcontractors of [Intermediary] hereunder because this Agreement requires [Intermediary] to facilitate the obtaining of outcomes and to comply with Law, but does not contemplate that [Intermediary] will perform Intervention services or evaluation.

ARTICLE X. INDEMNIFICATION

Section 10.1 Indemnification.

(a) [Intermediary] agrees to defend, indemnify and hold harmless the [Payor], its officers, employees, members, agencies, departments, agents, affiliates, trustees, contractors, successors and assigns (collectively the “Indemnified Parties”) from and against any and all claims, losses, liabilities, damages, deficiencies, penalties, fines, forfeitures, demands, causes of action, suits, judgments, settlements, interest, awards, costs and expenses of whatever kind (including costs of enforcing any right to indemnification hereunder and defense and attorneys’ fees) (collectively, “Losses”), resulting from, arising out of, or in any way connected to activities, omissions and obligations of [Intermediary], its officers, employees, affiliates, agents, servants or contractors in connection with this Agreement, other than such Losses that result, directly or indirectly, from any Indemnified Party’s negligence or willful misconduct. In no event will the [Intermediary]’s aggregate liability under or in connection with this Agreement (regardless of the form of action giving rise to the liability, under any theory, whether in contract, tort (including general negligence, but excluding gross negligence or willful misconduct), statutory, warranty, strict liability or otherwise) exceed, in the aggregate, the aggregate amount of Outcome Payments made to [Intermediary] hereunder.

Section 10.2 Survival.

The indemnification obligations under this Article X shall survive the termination of this Agreement. The Indemnified Parties agree to give the Indemnifying Party prompt written notice of any claim of indemnity under this section; *provided that* Indemnified Parties’ failure to perform any obligations under this Section 10.2 will not relieve Indemnifying Party of its obligations hereunder, except to the extent that Indemnifying Party can demonstrate that it has been materially prejudiced as a result of such failure. Additionally, the Indemnifying Party will have the right and sole authority to control the defense or settlement of such claim; *provided that* (x) no contribution or action by the Indemnified Parties is required in connection with the settlement and (y) Indemnifying Party shall not settle any such claim in a manner that adversely affects the rights of Indemnified Party without its prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

Section 10.3 Limitations.

In no event shall [Intermediary] be liable to any Indemnified Party or any other Person for any special, exemplary, indirect, consequential or punitive damages of any kind or nature

whatsoever, including lost revenues, profits, savings or business, other than amounts due and payable to the [Payor] for loss of records or data, whether in an action based on contract, warranty, strict liability, tort (including general negligence) or otherwise, even if [Intermediary] has been informed in advance of the possibility of such damages or such damages could have been reasonably foreseen by [Intermediary.]

ARTICLE XI. FORCE MAJEURE

Section 11.1 Delays or Failures to Perform due to Force Majeure.

Neither Party will be liable or deemed to be in default for any delay or failure or omission to carry out, perform, or observe any of the terms or conditions of this Agreement to the extent such failure or omission is directly due to Force Majeure.

Section 11.2 Reasonable Efforts.

Notwithstanding the foregoing, each Party will use all reasonable efforts to continue to perform its obligations under this Agreement for the duration of such Force Majeure.

Section 11.3 Notification of Force Majeure.

If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any failure or delay on its part as described in this Article XI it will immediately notify the other Party by the most expeditious method then available and will inform the other Party of the period for which it is estimated that such failure or delay will continue.

ARTICLE XII. MISCELLANEOUS

Section 12.1 Notices.

All notices and other communications among the Parties will be in writing and will be deemed to have been duly given (a) when delivered in person, (b) five days after posting in the United States mail having been sent registered or certified mail return receipt requested, (c) when delivered by FedEx or other nationally recognized overnight delivery service, or (d) when delivered by fax or email and promptly confirmed by delivery in person or by post or overnight courier as aforesaid in each case, with postage prepaid, addressed as follows:

In the case of [Payor] to:

[Payor Full Name]

[Address]

Attention:

Email:

In the case of [Intermediary] to:

[Address]

Attention:

Email:

with a copy (which will not constitute notice) to:

or to such other address or addresses as the Parties may from time to time designate in writing.

Section 12.2 Captions.

The captions contained in this Agreement are intended for convenience and reference purposes only and do not modify or restrict any provision herein.

Section 12.3 Remedies Cumulative.

Except as otherwise expressly provided by this Agreement, all remedies available to [Intermediary] or [Payor] for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy will not exclude the exercise of any other remedy. [Intermediary] understands and agrees that all rights and remedies described herein are in addition to all remedies or actions otherwise authorized or permitted by Law. Notwithstanding any other provision of this Agreement, no Party will be entitled to recover compensation or make a claim under this Agreement in respect of any loss that it has incurred to the extent that it has already been compensated in respect of that loss pursuant to this Agreement or otherwise by the other Party.

Section 12.4 Entire Agreement.

This Agreement (including the Schedules, Exhibits and Appendices hereto, which are incorporated by reference) constitutes the entire agreement between the Parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein will be binding or valid, and this Agreement may not be changed, modified, or altered in any manner except by an instrument in writing executed by both Parties hereto. Except as provided in Section 5.4, neither this Agreement nor any interest herein may be transferred by the Parties and such transfer will be null and void and will be cause to annul this Agreement. To the extent there are any conflicts or inconsistencies between this Agreement and any Schedule or Appendix, the provisions of this Agreement shall govern and control.

Section 12.5 Non-Waiver.

The failure of either Party to exercise any right or to require strict performance of any provision will not waive or diminish such Party's right thereafter to exercise such right or to require strict performance of any provision nor will a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself. No

waiver of any of the provisions of this Agreement will be binding unless executed in writing by the Party making the waiver.

Section 12.6 Severability.

In the event that any one or more of the provisions of this Agreement shall for any reason be declared unenforceable under the Laws or regulations in force, such provision will not have any effect on the validity of the remainder of this Agreement, which will then be construed as if such unenforceable provision had never been written or was never contained in this Agreement.

Section 12.7 Survival of Covenants, Representations and Warranties.

Other than Section 4.4 (Confidential Information), Section 4.6 (Books and Records, Audit Rights), Article V (Outcomes and Outcome Payments), Article VII (Modification), Section 8.2 (Effect of Termination), Section 9.2 (Subcontractors), and Article XII (Miscellaneous), no covenant, representation or warranty of the Parties herein will survive the termination or expiration of this Agreement.

Section 12.8 Governing Law.

This Agreement will be construed and enforced in accordance with the laws of the [State of _____], without giving effect to any choice of law or conflict of law provision or rule (whether of the [State of _____] or any other jurisdiction) that would cause the application of the law of any jurisdiction other than the [State of _____].

Section 12.9 Costs.

Each Party will bear its own expenses incurred in connection with the negotiation and execution of this Agreement and each other agreement, document and instrument contemplated by this Agreement and the performance by it hereunder.

Section 12.10 Counterparts.

This Agreement may be executed in counterparts, each of which when executed and delivered will constitute an original but all counterparts together will constitute one and the same instrument.

Section 12.11 Assignment.

No Party may assign its respective rights or obligations under this Agreement without the prior written consent of the other Parties, which shall not be unreasonably withheld. This Agreement is binding upon and inures to the benefit of the Parties and their successors and assigns.

Section 12.12 Independent Contractor.

Nothing contained in this Agreement, and no action by any Party, shall be deemed to: (i) create between them an employer-employee or principal-agent relationship or partnership, joint venture, association, or syndicate; or (ii) confer on any party any right, power or authority to enter into any agreement or commitment, whether express or implied, or to incur any obligation or

liability on behalf of the other party. Neither Party shall hold itself out as the agent of the other Party, nor imply, nor fail to correct a misunderstanding, that there is an agency relationship between it and the other Party.

Section 12.13 Further Assurances.

The Parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with this Agreement or any of the Project documents (including the Intervention Agreement, the Evaluator Agreement and the Funding Agreements) and that do not involve the vesting of rights or the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and carry out the intent thereof.

Section 12.14 Time of the Essence.

Time is of the essence with respect to all provisions of this Agreement that specify a time for performance; *provided, that*, this provision shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

Section 12.15 Construction.

Unless the context of this Agreement otherwise requires, (a) words of any gender include each other gender, (b) words using the singular or plural number also include the plural or singular number, respectively, (c) the terms “hereof,” “herein,” “hereby,” “hereto” and derivative or similar words refer to this entire Agreement, (d) when a reference is made in this Agreement to an Article, Section, Schedule, Exhibit or Appendix, such reference is to an Article or Section of, or a Schedule, Exhibit or Appendix to, this Agreement, (e) the word “including,” “include” or “includes” means “including, without limitation,” (f) the words “Person” or “Persons” refers to a natural person and/or an entity of any type, and (g) the word “or” will be disjunctive but not exclusive. The word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends, and such phrase will not mean simply “if.” References to agreements and other documents will be deemed to include all subsequent amendments and other modifications thereto. References to statutes will include all regulations promulgated thereunder, and references to statutes or regulations will be construed to include all statutory and regulatory provisions consolidating, amending or replacing the statute or regulation. The language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent and no rule of strict construction will be applied against any Party. Whenever this Agreement refers to a number of days, such number will refer to calendar days unless otherwise specified. All accounting terms used herein and not expressly defined herein will have the meanings given to them under United States generally accepted accounting principles.

Section 12.16 Electronic Signatures and Electronic Records.

Each Party consents to the use of electronic signatures by each other Party. This Agreement and any other documents requiring a signature under this Agreement, may be signed electronically by the Parties. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in formation.

[Signature Page to follow]

By execution of this Agreement, the Parties agree to the terms and conditions of this Agreement.

[PAYOR FULL]

By: _____
Name:
Title:

[INTERMEDIARY FULL]

By: _____
Name:
Title:

APPENDIX A – INDEX OF DEFINED TERMS

Capitalized terms used in the Agreement have the meaning set forth below or in the attached Schedules.

“Agreement” has the meaning given to such term in the preamble of the Agreement.

“Confidential Information” has the meaning given such term in Section 4.4 of the Agreement.

“Cured” has the meaning set forth in Section 8.1.

“Disclosing Party” has the meaning set forth in Section 4.4 of the Agreement.

“Effective Date” has the meaning set forth in Section 2.1 of the Agreement.

“Eligible Cases” means any case which satisfies the eligibility criteria as described in Schedule 1 (Operating Responsibilities).

“Enforceable” means the legal, valid and binding obligation of the Person in question, enforceable against such Person in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other Laws affecting creditors’ rights generally and general principles of equity (whether considered in a proceeding at Law or in equity).

“Evaluator” has the meaning given to such term in the recitals of the Agreement.

“Evaluator Agreement” has the meaning given to such term in the recitals of the Agreement.

“Executive Committee” is described in Schedule 4 (Governance and Reporting).

“Early [First] Outcome Payment” has the meaning set forth in Schedule 3 (Calculation of Outcome Payments).

“Early [Fourth] Outcome Payment” has the meaning set forth in Schedule 3 (Calculation of Outcome Payments).

“Early Outcome Payment” has the meaning set forth in Schedule 3 (Calculation of Outcome Payments).

“Early [Second] Outcome” has the meaning set forth in Schedule 3 (Calculation of Outcome Payments).

“Early [Third] Outcome” has the meaning set forth in Schedule 3 (Calculation of Outcome Payments).

“[First] Outcome” has the meaning set forth in Schedule 2 (Project Evaluation).

“[First] Outcome Payment” has the meaning set forth in Schedule 2 (Project Evaluation).

“Financing” has the meaning given to such term in the recitals of the Agreement.

“Financing Condition” means the execution of Funding Agreements in the aggregate amount required for the Project.

“Fiscal Agency Agreement” has the meaning given such term in Section 4.2(c) of this Agreement.

“Force Majeure” means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; lightning, violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; acts of God or any other disaster natural or man-made, fluctuations in market forces (including labor markets) and union strikes, and political developments which prevent any access to data or Payor funding, or similar cause beyond the reasonable control of the Party affected thereby.

“[Fourth] Outcome” has the meaning set forth in Schedule 2 (Project Evaluation).

“[Fourth] Outcome Payment” has the meaning set forth in Schedule 2 (Project Evaluation).

“Funding Agreement(s)” means [_____].

“Funding Partners” means the individuals and entities that have provided or are possible sources of funding to [Intermediary] for the Project, and which, if such funding is provided, will be entitled to receive their respective portions of the Outcome Payment pursuant to their agreements with and rights with respect to [Intermediary].

“Funding Shortfall” has the meaning given such term in Section 4.8 of the Agreement.

“Governmental Authority” means any (i) federal, state, local or municipal governmental authority, quasi-governmental authority of any nature or any political subdivision thereof (including any taxing authority, agency, branch, board, commission, bureau, official, or entity and any court, arbitral body or other tribunal); or (ii) body entitles to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority.

“[Intermediary]” has the meaning given to such term in the preamble of the Agreement.

“Intervention Provider” has the meaning set forth in the recitals to this Agreement.

“Intervention(s)” means Permanent Supportive Housing wrap-around services being provided to Program Participants as more fully described in Schedule 1 (Operating Responsibilities).

“Intervention Agreement” means the agreement dated as of the date set forth therein between Intervention Provider and [Intermediary], as such agreement may be amended from time to time.

“Law(s)” means any written law, statute, constitutional provision, treaty, code, ordinance, rule or regulation or other similar requirement of any Governmental Authority and any directive, policy or binding guideline of the applicable state or federal Governmental Authority.

“Loan Funding Dates” has the meaning given such term in Section 4.8 of the Agreement.

“Management Committee” is described in Schedule 4 (Governance and Reporting).

“Outcomes” means (a) [First] Outcome, (b) [Second] Outcome, (c) [Third] Outcome, and (d) [Fourth] Outcome.

“Outcome Payment(s)” means (a) [First] Outcome Payment, (b) [Second] Outcome Payment, (c) [Third] Outcome Payment, and (d) [Fourth] Outcome Payment.

“Outcome Payment Invoice” has the meaning set forth in Schedule 3 (Calculation of Outcomes Payments).

“Outcomes Report” has the meaning set forth in Schedule 3 (Calculation of Outcomes Payments).

“Parties” or “Party” have the meaning given to such terms in the preamble of the Agreement.

“Payor” has the meaning given to such term in the preamble of the Agreement.

“Payor Termination” has the meaning set forth in Section 8.2(d) of the Agreement.

“Person” or “Persons” have meaning given to such terms in Section 12.15 of the Agreement.

“Personally Identifying Information” refers to information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

“Program Participant(s)” has the meaning set forth in Schedule 1 (Operating Responsibilities).

“Project” has the meaning given to such term in the recitals of the Agreement.

“Receiving Party” has the meaning set forth in Section 4.4 of the Agreement.

“Request” has the meaning given to such term in Section 4.4 of the Agreement.

“Required Lenders” has the meaning as set forth in the Funding Agreements.

“[Second] Outcome” has the meaning set forth in Schedule 2 (Project Evaluation).

“[Second] Outcome Payment” has the meaning set forth in Schedule 2 (Project Evaluation).

“Service Commencement Date” has the meaning given to such term in Section 2.2 of the Agreement.

“Term” has the meaning given to such term in Section 2.2 of the Agreement.

“[Third] Outcome” has the meaning set forth in Schedule 2 (Project Evaluation).

“[Third] Outcome Payment” has the meaning set forth in Schedule 2 (Project Evaluation).

“Wind-Up Budget” has the meaning set forth in Section 8.2(e) of the Agreement.