

## SERVICES AND LICENSE AGREEMENT

**THIS SERVICES AND LICENSE AGREEMENT** ("Agreement") pertains to the implementation and operation of the American Foundation for Suicide Prevention's ("AFSP") Interactive Screening Program and related support services (the "ISP") at Natividad Hospital ("NATIVIDAD"). This Agreement will begin upon the completion of a fully executed Agreement on March 1, 2019 ("Effective Date"), and remain in effect until five years from program launch date.

In consideration of the promises and mutual agreements set forth below, NATIVIDAD and the AFSP (the "Parties") hereby agree as follows:

### 1. SERVICES

AFSP hereby grants to NATIVIDAD for the term of this contract an unlimited, nonexclusive right and license to use the ISP website and all related intellectual property, including but not limited to a screening questionnaire ("Licensed Materials").

AFSP agrees to provide services in accordance with the terms and conditions of this Agreement ("Services"). Such Services shall be performed pursuant to the Statement of Work mutually agreed upon and executed by both Parties under this Agreement ("SOW"). Both Parties shall complete their obligations as described in the SOW attached hereto as Exhibit A.

### 2. TERM

**(a) Initial Term.** This Agreement shall become effective on the Effective Date noted above, and shall remain in effect for the Initial Term of five year(s) or until terminated pursuant to the terms of this Agreement in accordance with 2 (b) below. This Agreement is of no force or effect until signed by both AFSP and NATIVIDAD and with NATIVIDAD signing last. AFSP may not commence work before NATIVIDAD signs this Agreement.

**(b) Termination for Cause.** Either of the Parties may terminate this Agreement if the other party breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice specifying the nature of the breach.

### 3. COMPENSATION

All Services shall be paid for in accordance with Exhibit B (Cost and Payment Requirements) and the applicable SOW. Except as authorized and ordered by a fully-executed SOW, NATIVIDAD shall not be obligated to compensate AFSP for work performed, items delivered, or costs incurred, and AFSP shall not be obligated to perform or deliver work, or otherwise incur costs.

**(a) Payment.** Payments for services performed by AFSP under the Initial Term of this Agreement are specified in Exhibit B. If the contract is extended beyond the Initial Term, the Parties will agree upon services to be delivered and the payment terms, and these agreements will be incorporated into a SOW.

- a. Program prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided herein. NATIVIDAD (Monterey County) does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- b. Negotiations for rate changes shall be commenced, by AFSP, a minimum of ninety (90) days prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by NATIVIDAD (Monterey County) and AFSP.

- c. AFSP shall submit to the Contract Administrator an invoice on a form acceptable to NATIVIDAD. If not otherwise specified, AFSP may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by AFSP for the previous period, together with an itemized basis for Administrator or his or her designee shall certify the invoice, either in the requested amount or in such other amount as NATIVIDAD approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

#### 4. CONFIDENTIALITY & PROPRIETARY RIGHTS

(a) **Ownership of Work Product; License.** AFSP will retain ownership of the Work Product as defined in (c) below. NATIVIDAD will receive a license to the Work Product as provided in the SOW.

(b) **Ownership of NATIVIDAD Elements.** NATIVIDAD will retain all ownership of any materials that it furnishes to AFSP for use in performing the Services, including logos or design elements, and all intellectual property rights in them ("NATIVIDAD Elements"). AFSP will only use the NATIVIDAD Elements as specifically required to perform Services under this Agreement.

(c) **Work Product.** For purposes of this Agreement, the term "Work Product" shall mean (i) ISP software, manuals, training materials, forms, and any other materials originated or prepared by AFSP in the performance of the Services; (ii) all deliverables created, issued or delivered to NATIVIDAD under any SOW, including any work in progress; (iii) any discoveries, inventions and innovations resulting from performance of the Services.

(d) **Rights to Information.** Each Party acknowledges and agrees that all Information of the other Party shall remain the property of that Party, and no license to use any of the other Party's Information or other intellectual property is granted under this Agreement, except as specifically required by AFSP to perform the Services under this Agreement. NATIVIDAD has the right to independently use, analyze and publish data collected from its Program participants via the ISP website.

#### 5. REPRESENTATIONS & WARRANTIES

AFSP represents and warrants that: (i) AFSP is either the sole and exclusive owner of the Licensed Materials and other related rights or holds sufficient license to such Licensed Materials to grant the rights and licenses in this Agreement without violating any rights of any third party; and (ii) the Licensed Materials, and NATIVIDAD's use of the Licensed Materials as permitted under this Agreement, does not and will not infringe on, misappropriate or violate any intellectual property rights, rights of publicity or privacy, moral rights or any other third party rights.

#### 6. INSURANCE & MUTUAL INDEMNIFICATION

(a) **Insurance.** AFSP shall maintain at all times during the term of this Agreement: (i) employer's liability insurance with limits of at least \$1,000,000 for each occurrence; (ii) Workers' compensation insurance in accordance with all state and local requirements of the state(s) in which Services will be performed, which shall include employer's liability insurance with limits of at least \$1,000,000 for each occurrence; (iii) Commercial General Liability ("CGL") insurance, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with limits of at least \$1,000,000 per occurrence; \$2,000,000 general aggregate; \$1,000,000 products and completed operations aggregate; and

\$50,000 on any one fire; (iv) Cyber Liability/Network & Information Security Liability with aggregate minimum liability coverage limits of at least \$1,000,000 covering at least claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional or unintentional release of private information, alteration of electronic information, extortion and network security. All insurance as listed above shall be primary with respect to AFSP's activities and NATIVIDAD's insurance policies will be non-contributing. AFSP shall notify NATIVIDAD at least 45 days prior to cancellation or non-renewal of the required insurance coverage.

(b) **Mutual Indemnification.** Each party agrees to indemnify and hold harmless the other party against all liability and expense, including reasonable attorney's fees arising from or in connection with any third party claim, action or proceeding instituted against the other party based upon bodily injury or death or an individual or damages or destruction of tangible personal property in such cases to the extent caused by the negligence, willful misconduct or intentional misconduct of the indemnifying party, its employees or agents in connection with this Agreement.

**7. REPRESENTATIVES AND NOTICES**

The individuals identified below are the designated representatives of the Parties. All notices required to be given hereunder shall be sent by certified or registered mail to such Party's designated representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent via (i) e-mail to the e-mail addresses, or (ii) fax to the Party's fax number, if any, set forth below. Either Party may from time to time designate substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

CONTRACTOR:	NATIVIDAD:
<u>American Foundation for Suicide Prevention</u>	_____
Name: <u>Maggie G. Mortali, MPH</u>	Name: _____
Title: <u>Director, ISP</u>	Title: _____
Address 1: <u>120 Wall Street</u>	Address 1: _____
Address 2: <u>Floor 29</u>	Address 2: _____
City/State/Zip: <u>New York, NY 10005</u>	City/State/Zip: _____
Email: <u>mmortali@afsp.org</u>	Email: _____
Phone: <u>(212) 363-3500, ext. 2034</u>	Phone: _____

**8. MISCELLANEOUS**

- (a) **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.
- (b) **Compliance with Applicable Law.** The Parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.

**9. EXHIBITS**


- Exhibit A:** Statement of Work
- Exhibit B:** Cost and Payment Requirements
- Exhibit C:** Business Associate Agreement

**5.12 Audit or Investigations.** Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any audit, compliant review, or complaint investigation by the Secretary or other state or federal agency related to compliance with HIPAA, the HITECH Act, or the California Confidentiality Laws.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf as of the Effective Date.

**BUSINESS ASSOCIATE**


**COVERED ENTITY**

By:   
Print Name Maggie G. Mortali  
Print Title Program Director  
Date: 11-30-2018

By: \_\_\_\_\_  
Print Name: Gary R. Gray  
Print Title: Chief Executive Officer  
Date: \_\_\_\_\_


**IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT**

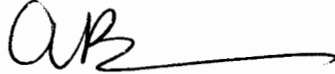
**\*Persons signing for NATIVIDAD hereby swear and affirm that they are authorized to act on NATIVIDAD's behalf and acknowledge that AFSP is relying on their representations to that effect and accept personal responsibility for any and all damages AFSP may incur for any errors in such representation.**

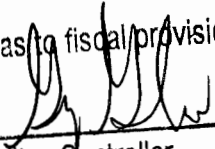
CONTRACTOR:	NATIVIDAD:
<u>American Foundation for Suicide Prevention</u>	_____
By: <u></u> *Signature	By: _____ *Signature
Name: <u>Maggie G. Mortali, MPH</u>	Name: _____
Title: <u>Director, ISP</u>	Title: _____
Date: <u>11-30-2018</u>	Date: _____

**IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT**

**\*Persons signing for NATIVIDAD hereby swear and affirm that they are authorized to act on NATIVIDAD's behalf and acknowledge that AFSP is relying on their representations to that effect and accept personal responsibility for any and all damages AFSP may incur for any errors in such representation.**

CONTRACTOR:	NATIVIDAD:
<u>American Foundation for Suicide Prevention</u>	
By: _____	By: _____
*Signature	*Signature
Name: <u>Maggie G. Mortali, MPH</u>	Name: <u>Cory R Gray</u>
Title: <u>Director, ISP</u>	Title: <u>CEO</u>
Date: _____	Date: <u>12/3/18</u>

  
A Brereton  
Dep COCO  
12-13-18

Reviewed as to fiscal provisions  
  
\_\_\_\_\_  
Auditor-Controller  
County of Monterey  
12-14-18

**EXHIBIT A**  
**STATEMENT OF WORK**

Pursuant to the Services and License Agreement (the "Agreement") in effect between NATIVIDAD and the American Foundation for Suicide Prevention (AFSP), this Statement of Work ("SOW") sets forth the services to be performed by AFSP as follows:

- Develop an ISP website that is customized for NATIVIDAD and protected by a Secure Sockets Layer (SSL) certificate. This website will give users designated by NATIVIDAD online access to a stress and depression questionnaire, and to a personalized assessment of their questionnaire by a Program Counselor provided by NATIVIDAD. The website also will allow users to exchange anonymous online messages with the Program Counselor, and will record all data exchanged on the website for monitoring and reporting purposes. The website will automatically assign each user a 5-digit ID number that will be used as the sole user identification in the recorded data.
- Develop and provide remote Counselor Training in use of all program functions, including data reports to Program Counselors and related personnel, as identified by NATIVIDAD.
- In accordance with the License granted to the NATIVIDAD by AFSP:
  - Provide unlimited access to the ISP website by NATIVIDAD through the Program Term
  - Provide on-going technical support and assistance with website functioning throughout the Program Term
  - Provide ISP website hosting services including the domain registration and renewal and the SSL certificate registration and renewal
  - Monitor the ISP website to ensure user access and smooth functioning throughout the Program Term.

These services will be provided with the understanding that NATIVIDAD will:

- Provide or secure payment of the annual fees for the Program pursuant to the attached Exhibit B.
- Provide the services of one or more Program Counselor(s) whose functions will be as follows:
  - Review questionnaires and write individualized assessments of users' questionnaires within the following timeframes: (i) Tier 1A and 1B, within 24 hours; (ii) Tier 2, within 36 hours; and (iii) Tier 3, within 48 hours.
  - Communicate with users through the online dialogues
  - Conduct in-person evaluations of users who agree to come in, and complete written evaluation reports
  - Provide initial counseling sessions to users, as necessary, to transition them to appropriate treatment providers
  - Monitor Program Counselor(s)' responses to, and online communications with, users to assure that they comply with NATIVIDAD's guidelines for timeliness and standards related to quality of content.
- Provide the necessary back-up staff to perform the above functions in the absence of the regular Program Counselor(s) due to vacation or illness.

**EXHIBIT B**  
**COST AND PAYMENT REQUIREMENTS**

<b>SERVICES</b>	<b>SERVICE DESCRIPTION</b>	<b>SERVICE FEE</b>	<b>PAYMENT PROVIDER</b>
ISP platform design and development (One-time fee: Year 1)	<ul style="list-style-type: none"> <li>• Designated AFSP program staff develop the ISP website that is customized for NATIVIDAD and protected by a Secure Sockets Layer (SSL) certificate.</li> <li>• AFSP program staff provide remote Counselor Training in use of all program functions, including data reports to Program Counselors and related personnel, as identified by NATIVIDAD.</li> </ul>	<b>\$2,500</b>	<b>NATIVIDAD</b>
Annual ISP License (Annual Fee: Years 1-5)	<ul style="list-style-type: none"> <li>▪ Unlimited access to the ISP website by NATIVIDAD through the Program Term</li> <li>▪ On-going technical support and assistance with website functioning throughout the Program Term</li> <li>▪ ISP website hosting services including the domain registration and renewal and the SSL certificate registration and renewal</li> <li>▪ Monitor the ISP website to ensure user access and smooth functioning throughout the Program Term.</li> </ul>	<b>\$2,500</b>	<b>NATIVIDAD</b>

**ACCOUNTING AND PAYMENT:**

**(a) Invoices / Payments.**

**Invoices shall be sent to:**

(Name and Mailing Address of NATIVIDAD Representatives)

Natividad (County of Monterey)  
Account Payable Department  
1441 Constitution Blvd.  
Salinas CA, 93906

**Payments shall be sent to:**

American Foundation for Suicide Prevention  
Interactive Screening Program  
ATTN: MAGGIE MORTALI  
120 Wall Street, Floor 29  
New York, NY 10005  
Phone: (212) 363-3500