



**MASTER CONTRACT  
MA-063-13010738  
WITH  
THE CENTER TO PROMOTE HEALTHCARE ACCESS, INC.  
DBA SOCIAL INTEREST SOLUTIONS  
FOR  
ONE-E-APP MAINTENANCE**

This Master Contract **MA-063-13010738** (hereinafter referred to as "Contract") is made and entered into upon execution of all necessary signatures between The Center to Promote Healthcare Access, Inc. dba Social Interest Solutions, having a place of business at 1333 Broadway, Suite 1020, Oakland, CA 94612; (hereinafter referred to as "Contractor"), and the County of Orange, Social Services Agency (SSA) a political subdivision of the State of California, with a place of business at 1505 E. Warner Ave., Santa Ana, CA 92705 (hereinafter referred to as "County") which are sometimes individually referred to as "Party" or collectively referred to as "Parties".

**ATTACHMENTS**

This Contract is entered into pursuant to the One-E-App maintenance agreement terms, conditions, pricing and County Supplement which are attached herein and incorporated by this reference:

**Attachment A** –One-E-App Maintenance Agreement

**RECITALS**

WHEREAS, County, SSA desires to enter into a Contract for One-E-App maintenance; and

WHEREAS, Contractor is willing to provide the One-E-App maintenance specified in this Contract to SSA;

NOW, THEREFORE, the parties mutually agree:

1. **Scope of Contract:** This Contract specifies the terms and conditions by which SSA will procure One-E-App maintenance from the Contractor, hereinafter referred to as "Services" as more fully detailed in the Attachment A/Exhibit A Scope of Services.
2. **Term of Contract:** This Contract shall commence on February 1, 2013 and continue through and including January 31, 2016 unless otherwise terminated by the County.
3. **Compensation & Payment:** Contractor agrees to provide One-E-App maintenance as set forth in the Attachment A/Exhibit A Orange County Maintenance Fees. The total cost of this Agreement shall not to exceed \$765,408.00

**Invoicing:** Invoices are to be submitted to:  
SSA/Procurement Services  
Attn: Payment Processing Desk (MA)  
1505 E. Warner Ave.  
Santa Ana, CA 92705

Payment will be net 30 days after receipt of an invoice in a format acceptable to the County and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the contractor. SSA/IT department shall monitor the contract expenditure to ensure the monetary limit is not exceeded.

**MASTER CONTRACT  
MA-063-13010738**

An acceptable invoice format shall minimally include:

- A. Contractor's name and address;
- B. Invoice number and date;
- C. Name of County agency/department ordering services/goods;
- D. Description of services/goods and date ordered;
- E. Contract MA-063-13010738;
- F. Total Invoice Amount;
  - 1. Contractor's federal taxpayer's ID number and
  - 2. Contractor's remittance address (if different from line A)

4. **NOTICES:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

**FOR COUNTY:**

County of Orange  
SSA/Procurement Services  
Attn: Angie Villalpando  
1505 E. Warner Ave.  
Santa Ana, CA 92705  
Telephone: (714) 825-8640  
Fax: (714) 825-3201

**FOR COUNTY:**

County of Orange  
SSA/IT  
Attn: Merilyn Inigo  
888 N. Main St.  
Santa Ana, CA 92701

**FOR CONTRACTOR:**

The Center to Promote HealthCare Access, Inc., dba Social Interest Solutions  
Attn: Claudia Page  
1333 Broadway, Suite 1020  
Oakland, CA 94612

**MASTER CONTRACT  
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**COUNTY OF ORANGE SUPPLEMENT**

- A. Definitions: The following terms shall be given the meaning shown unless context requires otherwise or a unique meaning is otherwise specified.
- a. "Contract" means the Master Agreement and contract by whatever name known or in whatever format used.
  - b. "Contractor" means the business entity with which the County enters into a contract. Contractor shall be synonymous with "supplier", "vendor", or other similar terms.
  - c. "County" means the County of Orange, its agents, employees and authorized representatives.
- B. Applicable Laws: This contract shall be governed by and shall be interpreted in accordance with the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this contract. *This provision is added by the County of Orange to The Center to Promote Healthcare Access, Inc. Agreement.*
- C. Contingency of Funds: Contractor acknowledges that funding or portions of funding for this contract may be contingent upon state budget approval, receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this contract. If such approval funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this contract without penalty. *This provision is added by the County of Orange to The Center to Promote Healthcare Access, Inc. Agreement.*
- D. News/Information Release: The contractor agrees that it will not issue any news release in connection with either the award of this contract or any subsequently amendment of or effort under this Master Agreement without first obtaining review and written approval of said news release from County through the County's project manager. *This provision is added by the County of Orange to The Center to Promote Healthcare Access, Inc. Agreement.*
- E. Audit/Records Retention: The contractor shall maintain in good and legible condition all books, documents, papers data files and other records related to its performance under this contract. Such records shall be complete and available to County of Orange, State of California, the Federal government or their duly authorized representatives for the purpose of audit, examination, or copying during the term of the contract and for the period of at least three years following the county's final payment under the contract or until conclusion of any pending matter (e.g. litigation or audit), whichever is later. Such records must be retained in the manner described above until all pending matters are closed. *This provision is added by the County of Orange to the Center to Promote Healthcare Access, Inc. Agreement.*
- F. Amendments: No alteration or variation of the terms of this CONTRACT shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on COUNTY unless authorized by COUNTY in writing. *This provision is added by the County of Orange to the Center to Promote Healthcare Access, Inc. Agreement.*


- Signature Page follows -

MASTER CONTRACT  
MA-063-13010738

SIGNATURE PAGE

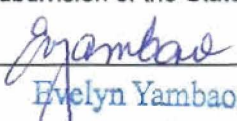
The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

THE CENTER TO PROMOTE HEALTHCARE ACCESS, INC.  
DBA SOCIAL INTEREST SOLUTIONS\*

By		By	
Print Name	Claudia Page	Print Name	
Title	Executive Director	Title	
Date	Corporate Officer 12/18/2012	Date	Corporate Officer

\*If the contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signator to bind the corporation.

COUNTY OF ORANGE  
a political subdivision of the State of California

By		Date	12/18/2012
Print Name	Evelyn Yambao	Title	Procurement Contract Specialist

COUNTY COUNSEL,

Approved as to Form,

By		Date	Dec 18, 2012
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# THE CENTER TO PROMOTE HEALTHCARE ACCESS DBA SOCIAL INTEREST SOLUTIONS

## ONE-E-APP MAINTENANCE AGREEMENT

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**THIS AGREEMENT** is made and entered into as of the 1st day of February 2013 (the "Effective Date"), by and between The Center to Promote HealthCare Access, Inc., dba Social Interest Solutions ("SIS") a California nonprofit public benefit corporation, 1333 Broadway, Suite 1020, Oakland, CA 94612, and the County of Orange, Social Services Agency (SSA), (County) a political subdivision of the State of California, with its principal office at 1505 E. Warner Ave., Santa Ana, CA 92705.

**WHEREAS**, the California HealthCare Foundation, a California non-profit, public benefit corporation ("CHCF"), owns or controls the One-e-App Software;

**WHEREAS**, CHCF has authorized SIS to provide maintenance and support services to County with respect to its use of the One-e-App Software;

**WHEREAS**, County desires to receive the Services from SIS; and

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual promises contained herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

### 1. Services.

- a) SIS will provide County with the services as set forth on Exhibit A attached hereto and made a part hereof (the "Services") in accordance with generally accepted industry practice standards. It is understood and agreed that the Services may include advice and recommendations regarding the use or operation of the One-e-App Software, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, County.
- b) SIS and County agree to use reasonable efforts to meet the performance dates specified in Exhibit A. Nevertheless, the parties understand and agree that it may be necessary to change one or more of the specific start and stop dates contained in Exhibit A during the term of this Agreement. Notwithstanding any other provision of this Agreement, if SIS utilizes diligent efforts, but is unable to meet such dates, it shall not be considered to have defaulted in its obligations hereunder. SIS agrees to notify the County promptly in writing if it expects to encounter, or does encounter, delays. If County is unable to meet its obligations in a timely manner, a change order, subject to the prior written approval of SIS, may be required to address costs incurred by SIS during the County delay and to set forth a revised schedule of performance of the Services.
- c) The Services may be performed away from the relevant County site by SIS personnel.

### 2. Payment of Invoices.

- a) For the Services provided by SIS hereunder, County shall compensate SIS as set forth on Exhibit A attached hereto and made a part hereof. County shall be responsible for any excise, sales, use or other similar tax as required by law, based upon charges or services rendered pursuant to the Agreement, if applicable, any of which may be paid by SIS on County's behalf and added to County's invoice. County shall not be obligated to pay any taxes based on SIS's net income or property.
- b) SIS shall invoice County according to payment schedules within Exhibit A. Invoices are due and payable within thirty (30) days of the invoice date. Invoices for which payment is not received within 30 days of the invoice date shall accrue a late charge in the amount of the lesser of (i) 1½% per month or (ii) the highest rate allowable by law, in each case compounded monthly to the extent allowable by law. Without limiting its rights or remedies, SIS shall have the right to suspend or terminate entirely its Services for cause as referenced in Section 3(b) on thirty (30) days notice if payment is not received.

### **3. Term.**

- a) The term of this Agreement is set forth in Exhibit A.
- b) This Agreement may be terminated by either party at any time with cause by giving written notice to the other party not less than thirty (30) calendar days prior to the effective date of termination, provided that in the event of a termination for cause, the breaching party shall have the right to cure the breach within the notice period. Either party may terminate this Agreement, without cause, after the first year of this Agreement by providing at least one hundred and eighty days (180) prior written notice to the other party, unless otherwise mutually agreed upon by the parties.
- c) The obligations of each party which have been incurred prior to the effective date of termination (including, without limitation, the obligations of County under Section 2) shall continue in full force and effect notwithstanding the expiration or termination of this Agreement and whether or not an invoice has been rendered with respect thereto.

### **4. Ownership.**

- a) Ownership of SIS's Technology. SIS has created, acquired or otherwise has rights in, and may, in connection with the performance of the Services hereunder, will employ, provide, modify, create, acquire or otherwise obtain rights in, various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates, software, user interfaces, screen designs, tools, utilities, routines and materials (including, without limitation, billing and reimbursement systems) (collectively, "SIS's Technology"). To the extent that SIS creates or utilizes any of SIS's Technology, such property shall remain the property of SIS or its affiliates or licensors and County shall acquire no right or interest in such property. County acknowledges and agrees that SIS and/or its affiliates or licensors will own all right, title and interest, including, without limitation, all rights under trademark, copyright, patent and any other intellectual property laws, in and to SIS's Technology.
- b) Ownership of the One-e-App Software. CHCF owns or controls the One-e-App Software, including, without limitation, any and all modifications, enhancements, updates, and derivative works thereof, whether existing now or in the future. CHCF has entered into a license agreement with SIS authorizing it to enter into a sublicense agreement with County (the "Sublicense Agreement") to use the One-e-App Software solely for the purposes and pursuant to the terms, conditions and restrictions specified in the Sublicense Agreement. County's use of the One-e-App Software, including any modifications, enhancements, updates or derivative works thereof resulting from work performed by SIS pursuant to this Agreement shall be strictly subject to all of the terms, conditions and restrictions of the Sublicense Agreement

### **5. Confidentiality.**

- a) To the extent that, in connection with this Agreement, each party comes into possession of any proprietary or confidential information of the other party ("Confidential Information"), each party agrees to use the Confidential Information of the other party solely for the purposes of this Agreement, and will not disclose such Confidential Information to any third party without the other party's consent. County acknowledges and agrees that SIS's Technology, including, without limitation, the One-e-App Software and any enhancements or derivative works thereof are Confidential Information of SIS and/or its affiliates or licensors. Each party shall maintain the Confidential Information of the other party in confidence using at least the same degree of care as it employs in maintaining in confidence its own proprietary and confidential information, but in no event less than a reasonable degree of care. Neither party shall disclose Confidential Information to the extent prohibited by an order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by applicable regulatory or professional standards, or in connection with any judicial or other proceeding involving SIS and County relating to SIS's Services for County or this Agreement.
  - b) Confidential Information shall not include information which (i) shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach hereof, (ii) was disclosed to the receiving party on a non-confidential basis from a source other than the disclosing party, which the receiving
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party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party, (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party, or is disclosed with the written consent of the disclosing party.

- c) A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or other administrative or legal process, or by applicable regulatory or professional standards, or in connection with any judicial or other proceeding involving SIS and County relating to SIS's Services for County or this Agreement.
- d) Upon the written request of Licensee, SIS shall enter into an addendum to this Agreement in which SIS agrees to fulfill its obligations as a "Business Associate" of Licensee, as defined by HIPAA, in the form that is attached in "Business Associate Addendum."

## **6. Client Equipment.**

If necessary for the performance of this Agreement, SIS may require that certain equipment owned or co-owned by County be installed at the facilities of SIS's service providers, and SIS may arrange for the service providers to provide maintenance, security, electrical and telecommunications services. County agrees to be bound by the applicable terms and conditions of SIS's contractual agreements with such service providers, as such agreements may be amended from time to time.

## **7. Limitation on Warranties.**

SIS warrants that it will perform services hereunder in good faith and in a manner consistent with industry standards of practice. SIS makes no express or implied warranties of any kind with respect to SIS's Technology, including, without limitation, the One-e-App Software and any enhancements, modifications, updates or derivative works thereof. SIS disclaims all other warranties, either express or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose. County's exclusive remedy for any breach of this warranty shall be for SIS, upon receipt of written notice, to use diligent efforts to cure such breach, or, failing any such cure in a reasonable period of time, the return of professional fees paid to SIS hereunder with respect to the services giving rise to such breach.

## **8 Limitation on Damages and Actions.**

- a) EACH PARTY AGREES THAT THE OTHER PARTY, ITS AFFILIATES, LICENSORS, AGENTS AND SUBCONTRACTORS, AND EACH OF THEIR PARTNERS, PRINCIPALS, OFFICERS, DIRECTORS, EMPLOYEES OR OTHER PERSONNEL SHALL NOT BE LIABLE FOR ANY ACTIONS, DAMAGES, CLAIMS, LIABILITIES, COSTS, EXPENSES, OR LOSSES IN ANY WAY ARISING OUT OF OR RELATING TO THE SERVICES PERFORMED HEREUNDER FOR AN AGGREGATE AMOUNT IN EXCESS OF (I) IN THE CASE OF THE CENTER, THE FEES PAID BY COUNTY TO THE CENTER UNDER THIS ENGAGEMENT, OR (II) IN THE CASE OF COUNTY, THE FEES PAID AND PAYABLE TO THE CENTER BY COUNTY UNDER THIS ENGAGEMENT. IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES, AGENTS OR SUBCONTRACTORS, OR ANY OF THEIR PARTNERS, PRINCIPALS OFFICERS, DIRECTORS, EMPLOYEES OR OTHER PERSONNEL BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, COSTS, EXPENSES, OR LOSSES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND OPPORTUNITY COSTS) NOR SHALL THEY BE LIABLE FOR ANY CLAIM OR DEMAND AGAINST THE OTHER PARTY BY ANY THIRD PARTY. THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE, CLAIM, LIABILITY, COST, EXPENSE, OR LOSS, WHETHER IN CONTRACT, STATUTE, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE.
  - b) No action, regardless of form, arising under or relating to this engagement, may be brought by either party more than one year after the cause of action was or could have been reasonably discovered, except that an action for non-payment of any invoice may be brought by a party not later than one year
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following the date of the last payment due to such party on any invoice hereunder.

9. **Cooperation.** The parties shall cooperate with each other in the performance their respective duties hereunder. Each party shall be responsible for the performance of its employees and agents and for the accuracy and completeness of all data and information provided to the other party hereunder. Each party acknowledges and agrees that the performance of the other party is dependent in part upon the timely and effective satisfaction of its responsibilities hereunder. Each party shall be entitled to rely on all decisions and approvals of the other party.
  10. **Non-Exclusivity.** This Agreement shall not preclude or limit in any way (i) the right of SIS to provide consulting or other services of any kind or nature whatsoever to any individual or entity as SIS in its sole discretion deems appropriate, or (ii) developing for itself or for others, materials that are competitive with those produced as a result of the Services provided hereunder, irrespective of their similarity to the Services, provided that such materials do not use or contain confidential or privileged Client information.
  11. **Non-Solicitation.** During the term of this Agreement and for a period of one (1) year thereafter, neither party shall directly or indirectly employ, solicit or retain the services of the personnel of the other party who are involved in the receipt or provision of the Services, for its own benefit or the benefit of another, except as expressly authorized by the other party in writing. A party shall not be in breach of this Section if those responsible for the solicitation and subsequent hiring or retention of the other party's personnel were not aware of the prohibition contained in this section; however, personnel of both parties engaged in the provision or acceptance of Services hereunder shall be presumed to know of the prohibition. In the event a party breaches this provision, the breaching party shall be liable to the aggrieved party for an amount equal to thirty percent (30%) of the first year's annual base compensation of the relevant personnel in his/her new position. Although such payment shall be the aggrieved party's exclusive means of monetary recovery from the breaching party for breach of this provision, such a breach shall be considered a material breach of this Agreement and the aggrieved party's remedies of termination, injunction and damages shall be cumulative. Notwithstanding the above, this Section shall not be applicable to either party if the other party's employees who are seeking employment or work are doing so in response to a general advertisement for the work or position run by the other party or has voluntarily sought employment or work from the other party.
  12. **Waiver of Jury Trial.** Each of the parties hereby irrevocably waives, to the fullest extent permitted by law, all right to trial by jury in any action, proceeding or counterclaim (whether in contract, statute, tort (including, without limitation, negligence) or otherwise) relating to this engagement. Nothing in this section of the Agreement or any other section shall be deemed or construed to constitute a waiver by County of any sovereign immunity it may have as a county public agency under the Welfare and Institutions code or any other provision of California law.
  13. **Transfer of Data, Data Documentation, Software, and Hardware.** At County's reasonable request in the event that this Agreement terminates for any reason or should SIS cease to do business or become insolvent or bankrupt, SIS shall promptly transfer to County: i) all of County's data that SIS has in an electronic format or other format reasonably acceptable to County; ii) all of the data documentation that SIS has, e.g. data model, data table descriptions, data field descriptions, technical architecture schema, or other similar documents used to support or operate the system; and iii) all web servers and any associated operating software specifically purchased by SIS or its affiliates for County. The transfer of these items shall be at no cost to County, other than reimbursement of media expenses by County to SIS. This provision shall survive the termination of this Agreement.
  14. **Other Terms**
    - a) **Force Majeure.** Except for the payment of money, neither party shall be liable for any delays or other non-performance resulting from circumstances or causes beyond its reasonable control, including, without limitation, acts or omissions or the failure to cooperate of the other party (including, without limitation, entities or individuals under its control, or their respective officers, directors, employees or other personnel and agents), acts or omissions or the failure to cooperate by any third party (other than
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SIS's subcontractors), fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

- b) Independent Contractor. Each party is an independent contractor, and neither party is, nor shall represent itself to be, an agent, partner, fiduciary, joint venturer, co-owner or representative of the other. No relationship of employer and employee is created by this Agreement, it being understood that each party shall act hereunder as an independent contractor; that neither party, its officers nor employees become employees of the other party and neither shall have any claim under this Agreement or otherwise against the other for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, retirement benefits, Social Security, disability, Worker's Compensation or unemployment insurance benefits, or employee benefits of any kind; and that SIS shall be solely liable for and obligated to pay directly all applicable Federal and State income taxes and in connection therewith, SIS shall indemnify and hold the County harmless from any and all liability which the County may incur because of SIS's failure to pay such taxes.
  - c) County Property. SIS shall not use County premises, property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of the Services.
  - d) Conformity with Law. SIS and the County shall observe and comply with all laws, ordinances, codes and regulations of governmental agencies, including Federal, State, municipal and local governing bodies, having jurisdiction over the Services.
  - e) Insurance. While performing the Services, SIS shall carry, at its own expense and for its own benefit (i) commercial general liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence; (ii) worker's compensation insurance complying with statutory requirements; and (iii) comprehensive motor vehicle liability insurance with combined bodily injury and property damage coverage of \$1,000,000 per occurrence and covering owned and hired vehicles.
  - f) Federal and State Audits. Until the expiration of five (5) years after the furnishing of the Services, SIS shall make available, when legally required by the Federal/State government, or any of their duly authorized representatives, this Agreement and such books, documents and records of SIS that are necessary to certify the nature and extent of the payments made by Client for invoices issued by SIS for the Services. If SIS enters into any subcontract with any related organization to provide the Services or any portion thereof with a value or cost of \$10,000 or more over a twelve month period, such subcontract shall contain a clause to the effect that until the expiration of five years after the furnishing of such services, the related organization shall make available, when legally required by the Federal/State government, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs. This Section shall be of no force and effect when and if it is not required by law. The County shall have the right to review SIS's financial records relating to fees and expenses invoiced hereunder for purposes of confirming the accuracy thereof. Such records shall be complete and available for review 90 days after final payment hereunder and shall be retained and available for review purposes for five years after final payment hereunder.
  - g) Dispute Resolution. In the event of a dispute between County and SIS, County's Project Manager and SIS's Project Manager shall use good faith efforts to attempt to resolve the dispute promptly. If such persons are unable to resolve the dispute within thirty (30) days, the parties agree to submit the dispute to mediation before a mutually acceptable mediator. The costs of mediation, not including costs incurred by a party for representation of counsel in preparation for or at the mediation, shall be shared equally by the parties. If the dispute cannot be resolved within thirty (30) days after the mediation session, either party may submit the dispute to a court of competent jurisdiction.
  - h) Survival. All sections herein relating to payment, license and ownership, confidentiality, warranties, limitations of warranties, limitations on damages and actions, non-exclusivity, non-solicitation, waiver and waiver of jury trial, and all other provisions that by their terms are intended to survive the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.
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- i) Interpretation. For the purposes of this Agreement, "SIS" shall mean SIS to The Center to Promote HealthCare Access, Inc. and its successors and assigns.
- j) Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (a) by personal delivery when delivered personally; (b) by overnight courier upon written verification of receipt; (c) by telecopy or facsimile transmission upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth below or such other address as either party may specify in writing.

To SIS: Claudia Page  
Director  
Social Interest Solutions  
1333 Broadway, Suite #1020  
Oakland, CA, 94612

To County: County of Orange/Social Services Agency  
Attn: Marilyn Inigo  
888 N. Main St.  
Santa Ana, CA 92701

County of Orange/Social Services Agency  
Procurement Services  
Attn: Angie Villalpando  
1505 E. Warner Ave.  
Santa Ana, CA 92705



Either party may change its address for notice by giving the other party prior written notice of the new address in conformity with the foregoing and the date upon which such new address will become effective.

- k) Assignment. Neither party may assign, transfer or delegate any of the rights or obligations hereunder (including, without limitation, interests or claims relating to this Agreement) without the prior written consent of the other party, provided however, that SIS may, without consent of the County retain in its sole discretion subcontractors to perform the Services.
- l) Waiver. The failure of either party to insist upon strict performance of any of the provisions contained in this Agreement shall not constitute a waiver of its rights as set forth in this Agreement, at law or in equity, or a waiver of any other provisions or subsequent default by the other party of any of the terms or conditions in this Agreement.
- m) Entire Agreement. This Agreement, including any Exhibits attached hereto and made a part hereof, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all other oral or written representations, understandings or agreements relating to the subject matter hereof, and may not be amended except by a written agreement signed by the parties.
- n) Governing Law. This Agreement and all matters relating to this Agreement (whether in contract, statute, tort (including, without limitation, negligence) or otherwise), shall be governed by, and construed in accordance with, the laws of the State of California and applicable federal law (without giving effect to the choice of law principles thereof).
- o) Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision
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shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth in this Agreement.

p) **Indemnification.** Subject to Section 8, SIS will indemnify, defend and save harmless County, its agents, officers and employees, from and against any and all liability, expense, including reasonable defense costs and reasonable legal fees, and claims for damages, in each case solely for bodily injury, death or damage to real or tangible personal property to the extent directly and proximately caused by the gross negligence or willful misconduct of SIS while engaged in the performance of services under this Agreement, provided, however, that if there also is fault on the part of Client or any entity or Individual Indemnified hereunder or any entity or individual acting on County's behalf, the foregoing indemnification shall be on a comparative fault basis. The foregoing indemnity obligations are conditioned on County providing SIS with prompt notice of any claim for which indemnification shall be sought and cooperating in all reasonable respects with SIS in connection with any such claim. SIS shall be entitled to control the handling of any such claim and to defend or settle any such claim, in its discretion, with counsel of its own choosing; provided that SIS will not settle any indemnified claim without County's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

IN WITNESS WHEREOF, SIS and County have caused this Agreement to be executed and delivered by their respective duly authorized representatives as of the date first set forth above.

<b>The Center to Promote HealthCare Access, Inc. DBA Social Interest Solutions</b>	<b>COVERED ENTITY</b>
Signature: 	Name of Entity:
Printed Name: <u>Claudia Page</u>	Signature: 
Title: <u>Executive Director</u>	Printed Name: <u>Evelyn Yambao</u>
Date: <u>December 17, 2012</u>	Title: <u>Procurement Contract Specialist</u>
	Date: <u>12/18/2012</u>

- Exhibit A – Scope of Services
- Exhibit B – Response and Performance Standards
- Exhibit C – Business Associate Agreement

## **Exhibit A**

### **SCOPE OF SERVICES**

#### **ONE-E-APP MAINTENANCE SERVICES**

The County has been using One-e-App to provide preliminary eligibility determination and application submission for:

- Medi-Cal for Children and Pregnant Women and Healthy Families (submitted via the State Single Point of Entry via Health-e-App)
- Child Health and Disability Prevention Program (CHDP)
- Orange County Healthy Kids
- CalKIDS
- Kaiser CHP
- Adult Medi-Cal
- CalFresh (aka Food Stamps)
- Temporary Aid to Needy Families (TANF)
- Earned Income Tax Credit (EITC)
- Women, Infants & Children (WIC)
- Case Management Module Enhancement

This contract is for the ongoing maintenance of the One-e-App system to support the programs listed above. If the County wishes to add additional programs or interfaces to One-e-App in the future, this Scope of Work will be modified to accommodate changes at a cost mutually agreed to by the parties.

#### **Maintenance**

Maintenance begins the day data is entered into the production system, or 30 days after the completion of UAT, whichever is sooner. SIS responsibilities regarding Maintenance include:

- Maintain a production technical environment and telecommunications infrastructure to host the One-e-App application, which will include the centralized SQL Server database with a specific database instance that is allocated and secure for the County, but infrastructure shared by other One-e-App clients.
- Maintain a development, staging, training and pre-production technical environment (also used for user acceptance testing) for the One-e-App application that is available to the County to conduct demonstrations and training as coordinated with SIS.
- Maintain the One-e-App pre-production and production technical environment (in accordance with Exhibit B) for the term of the contract which includes the following services:
  - Provide secondary-level help desk support (9:00 AM – 5:00 PM PST, Monday through Friday);
  - Provide live chat for secondary-level help desk support (10:00 AM – 4:00 PM PST, Monday through Friday);
  - Provide voicemail or email secondary-level help desk support 24 hours a day, 7 days a week. The help desk will return the call the following work day.
  - Complete bug fixes to the One-e-App application, as implemented (Bugs introduced as a result of enhancements made on behalf of the County are not considered maintenance, but will be addressed and resolved as part of the preparation for implementing the enhancement in accordance with the performance standards set forth in Exhibit B);
  - Maintain server hardware and software:
    - Installing third party software upgrades, where appropriate,

- Maintaining or managing maintenance agreements with third party software vendors where the third party software is used as part of the production environment and maintenance agreements are determined to be appropriate,
  - Installing patches, where appropriate, and
  - Installing point release upgrades, where appropriate;
- Establish virus protection by running anti-virus software at the server level;
- Monitor and review system performance, consisting of:
  - Availability of system,
  - Interface activity and success and,
  - Application performance;
- Provide and manage telecommunications and network infrastructure for the One-e-App application, including:
  - Switch
  - Router
  - Fax servers
  - T1
  - Help desk telecommunications and software and
  - Conference call and web conferencing telecommunication services required to support the One-e-App application
  - Verisign certificates and encryption key
- Perform database management
  - Perform daily incremental back-up on-site and weekly off-site storage
  - Conduct performance monitoring weekly, that includes regular stress testing
  - Conduct database sizing analysis monthly
  - Monitor the One-e-App database instances
  - Monitor the timely and complete distribution of data to the County based on the process established at County's implementation date.
- Establish and maintain a contingency or disaster plan to protect the County in case of a system failure which is available to the County upon request.
- Maintain and support, whenever possible, performance standards are delineated within Exhibit B.

### **The Client's Responsibilities**

- Provide a project manager representing the project participants, who is empowered to make daily project, maintenance and support decisions.
- Provide appropriate mechanisms to resolve issues in a timely manner so the project schedule is not adversely impacted.
- Provide subject matter experts to participate in all project activities, as needed.
- Provide desktops or laptops for all users that have access to high speed internet connectivity.
- Provide help text to be inserted by the County into the application.
- Provide Spanish or other language translations for all customizations and help text. This is typically done after the final design is complete to avoid rework created by revisions to the web pages. Maintenance of translations will be the County's responsibility.
- Coordinate the participation of the County's staff involved in the One-e-App project in any required discussions, meetings, or other activities.
- Coordinate, complete, and maintain the setup of the technical infrastructure requirements at the County's user sites.
- Arrange for appropriate trainers to participate in the train-the-trainer sessions to be led by SIS. The participants must participate for the entire train-the-trainer session.
- Provide real-time training (including scheduling, sites, trainer prep and user account set up) and implementation support to the County users.
- Provide first tier help desk support. Teach the County's users when and how to contact SIS second tier help desk.

- Assign and provide Super System Administrator and Organizational System Administrators to establish and maintain all user accounts, manage help text, reset passwords, run reports in One-e-App, manage notification letters for the County.
- Establish an environment for and maintain a copy of the County's One-e-App database.
- Load and manage all notification letters.
- Provide all information regarding program eligibility rules for programs included in this scope of work.
- Organize, manage and conduct User Acceptance testing sessions and process.
- Report any One-e-App issues or other concerns to SIS by using TestTrackPro issue logging software.
- The County will provide all language translations required to support the programs added in this scope of work.

## Assumptions

Assumptions used in developing the scope of work and pricing for the maintenance of the One-e-App application for the County include the following:

- The County has established an organizational structure to support the maintenance and enhancement of the County's One-e-App system so as to make timely decisions, prepare the County's participants for adoption of this system and contribute Subject Matter Experts (SME) to support customizations, User Acceptance Testing sessions (UATs), Train-the-Trainer and other sessions that will be conducted as part of completing the requirements set forth in this Agreement.
- The configurations included in this statement of work are for Orange County only.
- The One-e-App enhancements will be based on the process flow, database design, and hardware and software infrastructure of the current One-e-App application, whenever practical.
- The County will work collaboratively with other One-e-App clients that are implementing, or have implemented, the One-e-App application through SIS.
- The County will provide appropriate information technology staff resources access to the Internet (high speed where available), and prepare the desktops and laptops to be used to support the use of the One-e-App application.
- The County will be responsible for training and supporting staff that will use One-e-App, unless otherwise included in the "Enhancement" section of this Exhibit A.
- The infrastructure proposed is scaled to accommodate 60 users. If the number of concurrent users exceeds this number, there will be additional costs to add web servers and associated configuration, testing and installation. SIS will maintain the County's One-e-App for the term of this contract.
  - There are no more than a total of 60 concurrent users.
  - No enhancements were made to the core on behalf of all or some users that requires additional maintenance resources for the County.
  - There are no additional programs or enhancements added to the system that have an impact on the performance, capacity of the system infrastructure or SIS staffing.
  - Other infrastructure changes that are yet unknown in which case we reserve the right to discuss these types of cost with the County and adjust the costs if needed to compensate SIS.
- The County will provide translations for the application.
- The County will provide first level (i.e., first tier) help desk support for One-e-App.
- SIS will provide support to client as reasonably needed, including up to two, one-hour calls per month with SIS and County representatives to discuss One-e-App.
- Any changes to the requirements specified herein will require an additional change order.
- Cost estimates are contingent on the County's timely participation, decision-making, review, testing and feedback on changes. The County is responsible for providing testers, managing the testing process and providing the feedback to SIS. Feedback must be received in written form in the timeframes specified above. If feedback is not provided in these timeframes, the changes will be deemed accepted.
- Go-live will be within 30 days of the UAT revalidation, or go-live, whichever is earlier for purposes of starting maintenance charges.

## **Core Enhancements**

From time to time, policy or process mandates may require upgrades and changes to enhance One-e-App core features to be in compliance. These changes may be financed by third parties, other One-e-App Clients and/or the County in concert with other One-e-App clients. The County will be obligated to support reasonable maintenance of these upgrades. The County will be given notice of the new maintenance fees and expected timeline prior to the development work on the enhancement begins. The County is obligated to implement the enhancement to begin payment for maintenance no later than one month after the announced availability of the enhancement.

The County will have an opportunity to conduct user acceptance testing on the enhancement and the enhancement will be supported by a written description and demonstration of the functionality. As indicated below, there may be ongoing maintenance fees associated with these core enhancements that will be the obligation of the County to support.

## **Fees**

SIS will perform consulting services for the fees identified in the schedule below, based on the scope of work and assumptions set forth above.



**Orange County Maintenance Fees  
(Feb 1, 2013 to January 31, 2016)**

Maintenance Fee Schedule		Month	Monthly Fee
Month	Maintenance		
Month	1	Feb-13	19,840
Month	2	Mar-13	19,840
Month	3	Apr-12	19,840
Month	4	May-13	19,840
Month	5	June-13	19,840
Month	6	July-13	19,840
Month	7	Aug-13	19,840
Month	8	Sept-13	19,840
Month	9	Oct-13	19,840
Month	10	Nov-13	19,840
Month	11	Dec-13	19,840
Month	12	Jan-14	19,840
<b>Total Year 1 =</b>			<b>238,080</b>
Month	13	Feb-14	21,229
Month	14	Mar-14	21,229
Month	15	Apr-14	21,229
Month	16	May-14	21,229
Month	17	June-14	21,229
Month	18	July-14	21,229
Month	19	Aug-14	21,229
Month	20	Sept-14	21,229
Month	21	Oct-14	21,229
Month	22	Nov-14	21,229
Month	23	Dec-14	21,229
Month	24	Jan-15	21,229
<b>Total Year 2 =</b>			<b>254,748</b>
Month	25	Feb-15	22,715
Month	26	Mar-15	22,715
Month	27	Apr-15	22,715
Month	28	May-15	22,715
Month	29	June-15	22,715
Month	30	July-15	22,715
Month	31	Aug-15	22,715
Month	32	Sept-15	22,715
Month	33	Oct-15	22,715
Month	34	Nov-15	22,715
Month	35	Dec-15	22,715
Month	36	Jan-16	22,715
<b>Total Year 3 =</b>			<b>272,580</b>
<b>Total for Three Years =</b>			<b>765,408</b>

Invoices will be submitted to Social Services Agency 1505 E. Warner Ave., Santa Ana, CA 92705. SIS shall reference Master Agreement MA 063 13010738 on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor. SSAIT department shall monitor the agreement expenditure to ensure the monetary limit is not exceeded.

These payments are subject to adjustment if change orders or other maintenance items are identified such as Core Maintenance items. Maintenance costs associated with enhancements made by any third party or by SIS to the core functionality of the One-e-App application are not included in the aforementioned cost schedule and are not subject to the 8% cap on annual maintenance fees. In addition to the fees specified above, the County will pay its share of maintenance fees for enhancements made by such third parties or by The Center to the core One-e-App application.

### **Term**

This Agreement shall commence on the date hereof and, unless terminated sooner in accordance with its terms, shall terminate on January 31, 2016.

## Exhibit B

### RESPONSE AND PERFORMANCE STANDARDS

#### Technical Service Levels

The One-e-App production application and hardware will be available during normal business hours unless otherwise coordinated between parties or in the event of outages. Normal business hours are defined as Monday through Friday, 9:00 a.m. - 5:00 p.m.

SIS One-e-App Support Team will notify the County when the application performance is impacted.

Throughout the maintenance support process, SIS will record support issues, and development responses and a summary will be provided to the County.

#### Application Service Levels

When an issue is reported to SIS One-e-App Support Team, it will be assigned a level of severity. SIS recognizes that loss of functionality could adversely affect a County member's ability to obtain needed health care services. SIS therefore agrees to use reasonable efforts to resolve issues as soon as possible, and whenever possible, within the time periods referenced below.

The four different levels of severity are:

- **Critical.** Issues that involve work stoppage are defined as follows:

A significant number of users are unable to access the system. All users at a single location or multiple users across multiple locations.

The system is down, or data has been lost due to a suspected failure of the One-e-App software.

There is evidence of software malfunction that could lead to the possibility of large amounts of data being corrupted or lost.

Loss of functionality, which creates the inability of users to perform a singular business task, which is critical but does not impair functionality in other modules or other tasks.

Limited data loss, which adversely affects processing.

**Response Standard:** Critical issues will be acknowledged by SIS to the County within two (2) hours. If a workaround is available, SIS will implement the workaround within four (4) hours of receipt of the issue (during business hours), or within four (4) hours on the first business day after an issue is reported if it is reported during non-business hours. The problem will be addressed in the application as quickly as the issue can be fixed and thoroughly tested in the application.

- **High.** Severe problems that involve work slowdowns are defined as follows:

Loss of functionality, which creates the inability of users to perform a singular business task, which is not necessarily critical and does not impair functionality in other modules or other tasks.

Limited data loss, which does not adversely affect more than one area of the application.

**Response Standard:** High severity issues will be addressed in the application upon its next release, but not to exceed a one week time period. If a workaround is available, it will be given with eight (8) hours of receipt of the issue (during business hours), or on the second business day after an issue is reported if it is reported during non-business hours.

- **Medium.** Non-critical problems that have some impact on the user are defined as follows:  
Loss of functionality in a limited capacity within a module that does not impair ability to perform business tasks.

The system is operational, but the user is experiencing problems or has questions on features or results.

The issue has little impact on the system as a whole, and the majority of users can access and utilize the system with ease.

**Response Standards:** Medium severity issues will be addressed in the application in a future release of the system. If a workaround is available, it will be given within 24 hours of receipt of the issue (during business hours), or on the third business day after an issue is reported if it is reported during non-business hours.

- **Low.** This includes problems that do not fall into the categories above and defined as follows:

Minor aesthetic defects, which do not adversely affect the performance of the application.

**Response Standard:** Low severity issues will be addressed in the application in a future system release.

## Performance Standards

Notwithstanding any on-line disclaimers, any provision of this Agreement to the contrary or circumstances outside of SIS's control such as Public Internet availability, in providing the services described in this Agreement, SIS will make meet the following standards:

- Response Time for Outages -- One-e-App will respond to outages within thirty minutes;
- Notice of Outages -- One-e-App shall notify the County of scheduled server computer/network outages in advance (48 hours in advance, whenever possible) and will notify the County of any unscheduled outage which One-e-App believes will last longer than 30 minutes;
- Bandwidth and Storage-- One-e-App will support bandwidth and storage, with updates that County is entitled to have under this Agreement, plus sufficient capacity and storage for additional updates that the County may pay extra and amend this Agreement to have SIS host;
- Systems Backup -- SIS will back-up the One-e-App System in accordance with commercially reasonable standards;
- Security -- SIS will take commercially reasonable steps, including real time security monitoring, to prevent unauthorized access to the One-e-App Data Base, Content, User Content and Confidential Information stored on the site;
- Maintenance and Support -- SIS provide real time site performance monitoring, load balancing and traffic routing. SIS will notify County of any errors identified and will ensure that only competent technicians will correct software-based server errors, provide courteous user support and reply to user inquiries as indicated in response times noted above;
- Timeliness of initial release and subsequent updates of One-e-App -- within the estimated time frames specified by SIS in this Agreement or within commercially reasonable timeframes, if those estimated time frames cannot reasonably be met due to circumstances beyond SIS's control.

## Exhibit C

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("BAA") is entered into by and between the County of Orange, Social Services Agency (SSA), ("CE") and The Center to Promote HealthCare Access, Inc., dba Social Interest Solutions ("Business Associate"), effective February 1, 2013 (the "Effective Date").

#### RECITALS

A. CE and Business Associate have entered into agreements or other documented arrangements (collectively, the "Services Agreement") under which Business Associate provides services to CE.

B. The Health Insurance Portability and Accountability Act of 1996, Public Law 104 191 ("HIPAA") and the regulations (the "HIPAA Regulations") promulgated thereunder by the U.S. Department of Health and Human Services, in particular the Security Standards and the Privacy Standards, 45 C.F.R. Parts 160, 162, and 164, as added to and amended by the federal Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), require certain individuals and entities (each, a "Covered Entity") to protect the privacy of certain individually identifiable health information ("Protected Health Information" or "PHI"), including electronic protected health information ("EPHI").

C. CE is either a Covered Entity, or receives information from one or more Covered Entities. In performance of the Services Agreement, Business Associate may receive, have access to or create Protected Health Information.

D. In order to protect the privacy and security of PHI and EPHI received, created or maintained by or on behalf of CE, the Privacy Standards and Security Standards require CE to enter into a "business associate agreement" with Business Associate;

In consideration of the mutual promises made below, the parties agree as follows:

**1. Definitions.** Capitalized terms used but not otherwise defined in this BAA shall have the same meaning as those terms in the Privacy Standards, Security Standards or HITECH Act, as applicable. References to Protected Health Information and/or PHI in this BAA include EPHI, and mean any Protected Health Information or PHI that is received by or made accessible to Business Associate from or on behalf of CE, or that Business Associate creates in the course of performance of the Services Agreement.

**2. Business Associate Obligations.** Business Associate may receive from CE, or create or receive on behalf of CE, health information that is protected under applicable state and/or federal law, including without limitation, PHI. Business Associate shall use PHI only as necessary for (a) performance of services or obligations under the Services Agreement (provided that such use does not conflict with the provisions of this BAA); and (b) as necessary for management and administration of the Business Associate's business or to carry out Business Associate's legal responsibilities, provided that such uses are permitted under applicable state and federal law. Except as otherwise required by law, Business Associate agrees not to use or disclose (or permit use or disclosure of) PHI in a manner that would violate the Privacy Standards, Security Standards or HITECH Act if the PHI were used or disclosed by CE in the same manner. Business Associate shall ensure that each of its agents and subcontractors that receives or has access to Protected Health Information from Business Associate, or that creates Protected Health Information on behalf of Business Associate or CE agrees to the same restrictions

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and conditions that apply to Business Associate under this BAA with respect to such Protected Health Information, and implements safeguards as required under this BAA.

**3. Disclosure of PHI.** Subject to the provisions of this BAA, Business Associate may disclose PHI to any third party(ies) as necessary to perform Business Associate's obligations under the Services Agreement and as permitted or required by applicable federal or state law. Further, Business Associate may disclose PHI for the proper management and administration of Business Associate's business and to carry out Business Associate's legal responsibilities. To the extent that Business Associate is permitted to disclose PHI to a third party (a "Recipient") under this BAA, other than as required by law, Business Associate shall (a) obtain reasonable assurances from such Recipient prior to disclosure that such PHI will remain confidential and will be used and further disclosed only as required by law or for the authorized purpose for which it was disclosed by Business Associate; (b) obtain written agreement from such Recipient to the same restrictions and conditions with respect to Protected Health Information that apply to Business Associate under this BAA; and (c) require such Recipient to agree to immediately notify Business Associate in writing of any Security Incident or other unauthorized use or disclosure or breach of Protected Health Information. Additionally, Business Associate shall ensure that all disclosures of PHI by Business Associate and/or any such Recipient comply with the principle of "minimum necessary use and disclosure," i.e., only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed, in accordance with Section 13405(b) of the HITECH Act, and any regulations or guidance issued by HHS concerning such provisions.

**4. Safeguards.** Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Health Information other than as specifically permitted under this BAA, including administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on behalf of CE. **Business Associate acknowledges that the HITECH Act requires Business Associate to comply with 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 as if Business Associate were a Covered Entity, and Business Associate agrees to comply with such provisions of the Security Standards and all additional security provisions of the HITECH Act.** Furthermore, to the extent feasible, Business Associate will use commercially reasonable efforts to ensure that the technology safeguards used by Business Associate to secure Protected Health Information will render such Protected Health Information unusable, unreadable and indecipherable to individuals unauthorized to acquire or otherwise have access to such Protected Health Information in accordance with HHS Guidance published at 74 Federal Register 19006 (April 17, 2009), or such later regulations or guidance promulgated by HHS including the National Institute for Standards and Technology ("NIST") standards adopted by HHS concerning the protection of identifiable data such as Protected Health Information.

**5. Reporting of Unauthorized Disclosures.** Business Associate shall promptly notify CE of any use or disclosure of Protected Health Information by Business Associate, any Recipient to whom/which Business Associate has disclosed PHI as provided under this BAA, or any employee, representative, agent or subcontractor of Business Associate of which Business Associate becomes aware that is not permitted under this BAA, and of any Security Incident, as such term is defined in 45 C.F.R. §164.304, of which Business Associate becomes aware. The initial report shall be by telephone call within forty-eight (48) hours of the time Business Associate becomes aware of the use or disclosure or Security Incident, and shall be followed by a full written report within ten (10) business days. The term "Security Incident" does not include any security event that is either benign in nature, commonplace with networked computing environments or does not result in an intrusion or impact on the confidentiality, integrity, or availability of Protected Health Information. Examples of such security events that are not included within the definition of Security Incident include, but are not limited to, network pings and port scans, failed login attempts, unsuccessful foiled attacks by malicious software, including viruses and worms, or other non-impacting activity.

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## **6. Breach Notification and Mitigation.**

(a) HIPAA Data Breach Notification and Mitigation. Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any “breach” of “unsecured PHI” as those terms are defined by 45 C.F.R. § 164.402 (hereinafter a “HIPAA Breach”). The parties acknowledge and agree that 45 C.F.R. § 164.404, as described below governs the determination of the date of a HIPAA Breach. In the event of any conflict between this Paragraph and the Privacy Standards, Security Standards and/or HITECH Act, the more stringent requirements shall govern. Business Associate will notify CE no later than two (2) business days after Business Associate discovers a HIPAA Breach, unless Business Associate is prevented from doing so by 45 C.F.R. § 164.412 concerning law enforcement investigations. For purposes of reporting a HIPAA Breach to CE, the discovery of a HIPAA Breach shall occur as of the first day on which such HIPAA Breach is known to the Business Associate or, by exercising reasonable diligence, would have been known to the Business Associate. Business Associate will be considered to have had knowledge of a HIPAA Breach if the HIPAA Breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the HIPAA Breach) who is an employee, officer or other agent of the Business Associate. No later than seven (7) business days following a HIPAA Breach, Business Associate shall provide CE with sufficient information to permit CE to comply with the HIPAA Breach notification requirements set forth at 45 C.F.R. § 164.400 et seq. Specifically, if the following information is known to (or can be reasonably obtained by) the Business Associate, Business Associate will provide CE with: (i) contact information for individuals who were or who may have been impacted by the HIPAA Breach (e.g., first and last name, mailing address, street address, phone number, email address); (ii) a brief description of the circumstances of the HIPAA Breach, including the date of the HIPAA Breach and date of discovery; (iii) a description of the types of unsecured PHI involved in the HIPAA Breach (e.g., names, social security number, date of birth, address(es), account numbers of any type, disability codes, diagnostic and/or billing codes and similar information); and (iv) a brief description of what the Business Associate has done or is doing to investigate the HIPAA Breach, mitigate harm to the individual impacted by the HIPAA Breach, and protect against future HIPAA Breaches. Business Associate shall also identify a liaison and provide contact information for same so that CE may ask questions and learn additional information concerning the HIPAA Breach. Following a HIPAA Breach, Business Associate will have a continuing duty to inform CE of new information learned by Business Associate regarding the HIPAA Breach, including but not limited to the information described in items (i) through (iv) above.

(b) Data Breach Notification and Mitigation Under Other Laws. In addition to the requirements of Paragraph 6(a), Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach of individually identifiable information, including but not limited to Protected Health Information (“Individually Identifiable Information”) that, if misused, disclosed, lost or stolen, would trigger an obligation under one or more State data breach notification laws (each a “State Breach”) to notify the Individuals who are the subject of the Individually Identifiable Information. Business Associate agrees that in the event any Individually Identifiable Information is lost, stolen, used or disclosed in violation of one or more State Breach laws, Business Associate shall promptly: (i) cooperate and assist CE with any investigation into such State Breach or alleged State Breach; (ii) cooperate and assist CE with any investigation into any State Breach or alleged State Breach conducted by any State Attorney General or any other State agency; (iii) comply with CE’s reasonable determinations regarding CE’s and/or Business Associate’s obligations to mitigate to the extent practicable any potential harm to the individuals impacted by the State Breach; and (iv) assist with the implementation of any decision by CE or any State agency to notify individuals impacted or potentially impacted by a State Breach.

**7. Access to and Amendment of PHI.** Within ten (10) days of CE’s request, Business Associate shall (a) make Protected Health Information maintained by Business Associate, Recipients or Business

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Associate's agents or subcontractors in a Designated Record Set available for inspection and copying to CE or, as directed in writing by CE, to another Covered Entity or an Individual, under conditions and limitations required under 45 C.F.R. § 164.524, as it may be amended from time to time; and (b) amend, and ensure that Recipients amend, Protected Health Information maintained by Business Associate and/or Recipients, as applicable, as requested by CE. Business Associate shall notify CE within five (5) days of Business Associate's receipt of any request from an Individual for access to or amendment of PHI. CE shall determine whether to grant or deny any access or amendment requested by such Individual. Any PHI requested under this Section 7 shall be provided in the form or format requested, if it is readily producible in such form or format. Business Associate may charge a reasonable fee based upon Business Associate's labor costs in responding to a request for electronic information (or a cost-based fee for the production of non-electronic media copies).

**8. Accounting of Disclosures.** Within ten (10) days of notice by CE to Business Associate that CE has received a request from an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528, as amended by Section 13405(c) of the HITECH Act and any related regulations or guidance issued by HHS in accordance with such provision, or such shorter time required by federal law, Business Associate shall make available to CE such information as is required for such accounting. Such accounting must be provided without cost to the Individual or to CE if it is the first accounting requested by such Individual within any twelve (12) month period. For subsequent accountings requested by any Individual within a twelve (12) month period, Business Associate may charge a reasonable fee based upon Business Associate's labor costs in responding to a request for electronic information (or a cost-based fee for the production of non-electronic media copies) so long as Business Associate informs CE and CE informs the Individual in advance of the fee, and the Individual is afforded an opportunity to withdraw or modify the request. Business Associate shall forward to CE any request by an Individual for an accounting that is made directly to Business Associate, within two (2) business days of Business Associate's receipt of such request. Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section 8. Business Associate's obligations under this Section 8 shall survive termination of this BAA and shall continue as long as Business Associate maintains any Protected Health Information.

**9. Government Access.** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI available to the United States Department of Health and Human Services and its agents, at a time and manner designated by same, for purposes of determining Business Associate's, CE's or any Recipient's compliance with his/her/its legal obligations.

**10. Withdrawal of Authorization.** If the use or disclosure of PHI under this BAA is based upon an Individual's authorization, and (a) the Individual revokes such authorization in writing; (b) the effective date of such authorization has expired; or (c) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, subject to notice from CE of such revocation or invalidity, to cease the use and disclosure of such Individual's PHI except to the extent Business Associate has relied on such use or disclosure, or where an exception under the Security Standards, Privacy Standards or HITECH Act applies.

## **11. Term and Termination.**

(a) Term. This BAA is effective on the Effective Date and shall remain in effect as long as the Services Agreement is in effect, or such longer period until all Protected Health Information is destroyed or returned to CE; or if it is not feasible to return or destroy such Protected Health Information, the protections and restrictions of this BAA shall survive as provided hereunder. Termination shall not affect the obligations or rights of the parties under this BAA arising prior to the effective date of termination, all of which rights and obligations shall continue in accordance with their terms.

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(b) Termination. CE shall have the right to terminate this BAA for any or no reason upon thirty (30) days prior written notice to Business Associate. Either party may terminate this BAA by providing written notice to the other party upon the termination of the Services Agreement. Either party may immediately terminate this BAA upon written notice to the other party (a) should the other party fail to cure any breach of this BAA or the Services Agreement within ten (10) days of written notice of such breach, if subject to cure; or (b) should the other party violate any provision of the HIPAA Regulations, the HITECH Act and/or a State data breach notification law, or any other applicable federal or state privacy law relating to the Protected Health Information. Upon termination of this BAA by either party, CE shall have the right, but not the obligation, to immediately terminate the Services Agreement and/or any other agreement under which the Business Associate may receive Protected Health Information from or on behalf of CE, upon written notice to Business Associate.

(c) Effect of Termination. Upon termination of this BAA for any reason, Business Associate shall, at the option of CE, return or destroy all Protected Health Information that Business Associate, Recipients and/or Business Associate's agents or subcontractors maintains in any form or format as of such date, and shall retain no copies of such Protected Health Information, except as specifically provided hereunder. If CE elects destruction of the Protected Health Information, Business Associate shall certify such destruction in writing to CE within ten (10) days of such election. If Business Associate reasonably determines that returning or destroying Protected Health Information, in whole or in part, is not feasible, Business Associate shall provide CE with written notice of the conditions that make return or destruction infeasible, including, without limitation, retention requirements of applicable state or federal laws, within ten (10) business days of termination of this BAA, and shall extend the protections of this BAA to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible for so long as Business Associate or any Recipient maintains such Protected Health Information. Business Associate shall return or destroy all other Protected Health Information in accordance herewith. The rights and obligations of Business Associate under this Paragraph shall survive termination or expiration of this BAA for any reason.

## **12. Miscellaneous.**

(a) No Third Party Beneficiaries. No third party shall be considered a third-party beneficiary under this BAA, nor shall any third party have any rights as a result of this BAA.

(b) Notices. Except as otherwise specified herein, all notices, requests, demands and other communications required or permitted to be given or made under this BAA shall be in writing, shall be effective upon receipt or attempted delivery in accordance herewith, and shall be delivered by (i) personal delivery; (ii) certified or registered United States mail, return receipt requested; (iii) overnight courier; or (iv) facsimile with return facsimile acknowledging receipt. Notices shall be sent to each party at its address set forth in the signature block below. Neither party shall refuse delivery of any notice hereunder.

(c) Waiver. No provision of this BAA or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver shall constitute a waiver of or excuse any different or subsequent breach.

(d) Assignment. Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this BAA without the prior written consent of the other party. Any unauthorized assignment shall be void. This BAA is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and authorized assigns.

(e) Severability. This BAA and the Services Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act and the HIPAA Regulations. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies, and is consistent, with HIPAA, the HITECH Act and the HIPAA Regulations. Any provision of this BAA that is determined by a court of competent jurisdiction to be invalid or unenforceable will be ineffective only to the extent of such determination, without invalidating the remaining provisions of this BAA or affecting the validity or enforceability of such remaining provisions.

(f) Entire Agreement. This BAA constitutes the entire agreement between CE and Business Associate with respect to the subject matter hereof, and supersedes and replaces all prior representations or agreements, whether verbal or written. In the event of any conflict between the terms of this BAA and the terms of the Services Agreement or any later agreement(s) between CE and Business Associate, the terms of this BAA shall control unless the terms of the Services Agreement or later agreement are more restrictive with respect to disclosure, use and otherwise with respect to Protected Health Information and also comply with HIPAA, the HITECH Act and the HIPAA Regulations, or the parties specifically otherwise agree in writing. Any modification of this BAA must in a writing signed by both parties; provided, however, that upon the enactment of any law, regulation, court decision or relevant government publication and/or interpretive guidance or policy that CE believes in good faith will adversely impact the use or disclosure of Protected Health Information under this BAA, CE may amend this BAA to comply with such law, regulation, court decision or government publication, guidance or policy by delivering a written amendment to Business Associate, which shall be effective thirty (30) days after receipt, or such shorter period as required under applicable law. No obligation of either party to enter into any transaction is to be implied from the execution or delivery of this BAA.

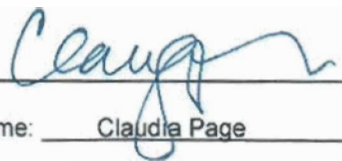

(g) Governing Law. This BAA shall be governed by, and interpreted in accordance with, the laws of the State in which CE has its principal offices, excluding its conflicts of laws provisions. Jurisdiction and venue for any dispute under or relating to this BAA shall exclusively rest with the state and federal courts in the county in which CE has its principal offices.

(h) Independent Contractors. Nothing in this BAA shall be construed to create a partnership, joint venture or other joint business relationship between the parties or any of their affiliates or a relationship of employer and employee between the parties. Business Associate and CE are each independent contractors, and not agents of the other party. This BAA does not express or imply any commitment to purchase or sell goods or services.

(i) Disclaimer. CE and Business Associate hereby acknowledge that they have each sought and received legal advice from independent counsel or have voluntarily waived the right to independent counsel with respect to the terms and provisions contained in this BAA. Neither party makes any warranty or representation that execution and compliance with this BAA will satisfy the other party's obligations under HIPAA, the HITECH Act or the HIPAA Regulations or applicable State laws. Each party is solely responsible for ensuring that it complies with all laws, statutes and regulations.

(j) Counterparts. This BAA may be executed in one or more counterparts (including facsimile or .pdf), each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this BAA, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this BAA is sought.

By authorized signatures below, Business Associate and CE agree to the provisions set forth above.

<p>The Center to Promote HealthCare Access, Inc.</p> <p>DBA Social Interest Solutions</p> <p>Signature: <u></u></p> <p>Printed Name: <u>Claudia Page</u></p> <p>Title: <u>Executive Director</u></p> <p>Address: <u>1333 Broadway, Suite 1020</u></p> <p>Address: <u>Oakland, CA 94612</u></p> <p>Facsimile: <u>(510)834-1301</u></p> <p>Date: <u>December 17, 2012</u></p>	<p><b>COVERED ENTITY</b></p> <p>Name of Entity:</p> <p>Signature: <u></u></p> <p>Printed Name: <u>Evelyn Yambao</u></p> <p>Title: <u>Procurement Contract Specialist</u></p> <p>Address: <u>1505 E. WARNER AVE</u></p> <p>Address: <u>SANTA ANA, CA 92705</u></p> <p>Facsimile: <u>(714) 825-3201</u></p> <p>Date: <u>12/18/2012</u></p>
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