

**SERVICE AGREEMENT**

This Service Agreement (“Agreement”) is dated December 17, 2024 and is between Thomas Sy dba MindTapp, a sole proprietor (“Contractor”), and the County of Fresno, a political subdivision of the State of California (“County”).

**Recitals**

A. The County’s Department of Social Services (DSS) serves adults, children, and families in achieving health, safety, and self-sufficiency through a diverse range of programs and partnerships, serving about one in two County residents.

B. The County has a vested interest in developing the leadership capacity of its employees, which will result in greater retention of staff, improved organizational cohesion, and ultimately more effective public service.

C. The County, through its DSS, is in need of management training, coaching, and consultation services to support the goals of leadership development, staff retention, and departmental cohesion.

D. The Contractor, willing and able to provide the aforementioned services to DSS managerial and executive leaders, entered into Procurement Agreement No. P-23-022 with the County on January 5, 2023.

E. The County and Contractor would like to continue the provision of management training, coaching, and consultation services pursuant to the terms of this Agreement.

The parties therefore agree as follows:

**Article 1**

**Contractor’s Services**

1.1 **Scope of Services.** The Contractor shall perform all of the services provided in Exhibit A to this Agreement, titled “Scope of Services.”

1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and able to perform all of the services provided in this Agreement.

1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all applicable federal, state, and local laws and regulations in the performance of its obligations

1 under this Agreement, including but not limited to workers compensation, labor, and  
2 confidentiality laws and regulations.

## 3 **Article 2**

### 4 **County's Responsibilities**

5 2.1 The County shall meet all obligations provided in Exhibit A to this Agreement, titled  
6 "Scope of Services."

## 7 **Article 3**

### 8 **Compensation, Invoices, and Payments**

9 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for  
10 the performance of its services under this Agreement as described in Article 2 and Exhibit A of  
11 this Agreement at an hourly rate of \$500 and a transportation reimbursement rate of \$2,500.  
12 The actual quantity of services may vary each month. A unit of service is inclusive of all costs  
13 associated with the provision of services. Partial hours will be billed in 15-minute increments. All  
14 travel must be approved by the County and itemized in the submitted invoice. Travel rate  
15 includes the cost of an overnight stay, meals, mileage, and travel time. No additional  
16 compensation will be provided.

17 3.2 The services provided by the Contractor under this Agreement are funded in whole  
18 or in part by the State of California and/or the United States Federal government. In the event  
19 that funding for these services is delayed by the State Controller or the Federal government, the  
20 County may defer payment to the Contractor. The amount of the deferred payment shall not  
21 exceed the amount of funding delayed to the County. The period of time of the deferral by the  
22 County shall not exceed the period of time of the State Controller's or Federal government's  
23 delay of payment to County plus forty-five (45) days.

24 3.3 **Maximum Compensation.** The maximum compensation payable to the Contractor  
25 under this Agreement is \$100,000 during the period of December 16, 2022, through December  
26 31, 2023, \$99,000 during the period of January 1, 2024, through December 31, 2024, \$100,000  
27 during the period of January 1, 2025, through December 31, 2025, and \$100,000 during the  
28 one-year optional extended period of January 1, 2026, through December 31, 2026. In no event

1 shall compensation paid for services performed under this agreement exceed \$399,000. The  
2 Contractor acknowledges that the County is a local government entity and does so with notice  
3 that the County's powers are limited by the California Constitution and by State law, and with  
4 notice that the Contractor may receive compensation under this Agreement only for services  
5 performed according to the terms of this Agreement and while this Agreement is in effect, and  
6 subject to the maximum amount payable under this section. The Contractor further  
7 acknowledges that County employees have no authority to pay the Contractor except as  
8 expressly provided in this Agreement.

9       **3.4 Invoices.** The Contractor shall submit monthly invoices to  
10 [DSSInvoices@fresnocountyca.gov](mailto:DSSInvoices@fresnocountyca.gov) in attention to the County's designated Senior Staff Analyst.  
11 The Contractor shall submit each invoice within 30 days following the month in which expenses  
12 were incurred and services rendered, and in any case within 60 days after the end of the term or  
13 termination of this Agreement. Contractor shall submit invoices to the County each month with  
14 supporting documentation of costs. Failure to submit supporting documentation shall be  
15 deemed sufficient cause for County to withhold payments until there is compliance, as further  
16 described in Section 3.6 herein. Supporting documentation shall include but is not limited to  
17 activity reports reflecting the services rendered in such detail as acceptable to the County's  
18 DSS. No reimbursement for services shall be made until invoices and supporting documents are  
19 reviewed and approved by the County's DSS. Proof of payment may be required for certain  
20 funding streams and will be made available by the Contractor as requested by the County.

21       **3.5 Payment.** The County shall pay each correctly completed and timely submitted  
22 invoice within 45 days after receipt. If an invoice is incorrect or otherwise not in proper form or  
23 detail, the County's DSS Director or designee shall have the right to withhold payment as to only  
24 that portion of the invoices that is incorrect or improper, after five days prior written notice or  
25 email correspondence to the Contractor. The County shall remit any payment to the  
26 Contractor's address specified in the invoice.

27       **3.6 Incidental Expenses.** The Contractor is solely responsible for all of its costs and  
28 expenses that are not specified as payable by the County under this Agreement.

1 **Article 4**

2 **Term of Agreement**

3 4.1 **Term.** This Agreement is effective on December 16, 2022, and terminates on  
4 December 31, 2025, except as provided in section 4.2, "Extension," or Article 6, "Termination  
5 and Suspension," below.

6 4.2 **Extension.** The term of this Agreement may be extended for one additional one-year  
7 period only upon written approval of both parties at least 30 days before the first day of the next  
8 one-year extension period. The County's DSS Director or his or her designee is authorized to  
9 sign the written approval on behalf of the County based on the Contractor's satisfactory  
10 performance. The extension of this Agreement by the County is not a waiver or compromise of  
11 any default or breach of this Agreement by the Contractor existing at the time of the extension  
12 whether or not known to the County.

13 **Article 5**

14 **Notices**

15 5.1 **Contact Information.** The persons and their addresses having authority to give and  
16 receive notices provided for or permitted under this Agreement include the following:

17 **For the County:**  
18 Director of Department of Social Services  
19 County of Fresno  
20 205 W. Pontiac Way  
Clovis, CA 93612  
dssasu@fresnocountyca.gov

21 **For the Contractor:**  
22 Dr. Thomas Sy dba MindTapp  
23 17206 Courtney Lane  
Huntington Beach, CA 92649  
dr.tom.sy@gmail.com

24  
25 5.2 **Change of Contact Information.** Either party may change the information in section  
26 5.1 by giving notice as provided in section 5.3.

27 5.3 **Method of Delivery.** Each notice between the County and the Contractor provided  
28 for or permitted under this Agreement must be in writing, state that it is a notice provided under

1 this Agreement, and be delivered either by personal service, by first-class United States mail, by  
2 an overnight commercial courier service, or by a Portable Document Format (PDF) document  
3 attached to an email.

4 (A) A notice delivered by personal service is effective upon service to the recipient.

5 (B) A notice delivered by first-class United States mail is effective three County  
6 business days after deposit in the United States mail, postage prepaid, addressed to the  
7 recipient.

8 (C) A notice delivered by an overnight commercial courier service is effective one  
9 County business day after deposit with the overnight commercial courier service,  
10 delivery fees prepaid, with delivery instructions given for next day delivery, addressed to  
11 the recipient.

12 (D) A notice delivered by PDF document attached to an email is effective when  
13 transmission to the recipient is completed (but, if such transmission is completed outside  
14 of County business hours, then such delivery is deemed to be effective at the next  
15 beginning of a County business day), provided that the sender maintains a machine  
16 record of the completed transmission.

17 **5.4 Claims Presentation.** For all claims arising from or related to this Agreement,  
18 nothing in this Agreement establishes, waives, or modifies any claims presentation  
19 requirements or procedures provided by law, including the Government Claims Act (Division 3.6  
20 of Title 1 of the Government Code, beginning with section 810).

## 21 **Article 6**

### 22 **Termination and Suspension**

23 **6.1 Termination for Non-Allocation of Funds.** The terms of this Agreement are  
24 contingent on the approval of funds by the appropriating government agency. If sufficient funds  
25 are not allocated, then the County, upon at least 30 days' advance written notice to the  
26 Contractor, may:

27 (A) Modify the services provided by the Contractor under this Agreement; or

28 (B) Terminate this Agreement.

1       **6.2 Termination for Breach.**

2           (A) Upon determining that a breach (as defined in paragraph (C) below) has  
3       occurred, the County may give written notice of the breach to the Contractor. The written  
4       notice may suspend performance under this Agreement, and must provide at least 30  
5       days for the Contractor to cure the breach.

6           (B) If the Contractor fails to cure the breach to the County’s satisfaction within the  
7       time stated in the written notice, the County may terminate this Agreement immediately.

8           (C) For purposes of this section, a breach occurs when, in the determination of the  
9       County, the Contractor has:

- 10           (1) Obtained or used funds illegally or improperly;  
11           (2) Failed to comply with any part of this Agreement;  
12           (3) Submitted a substantially incorrect or incomplete report to the County; or  
13           (4) Improperly performed any of its obligations under this Agreement.

14       **6.3 Termination without Cause.** In circumstances other than those set forth above, the  
15       County or Contractor may terminate this Agreement by giving at least 30 days advance written  
16       notice to the Contractor.

17       **6.4 No Penalty or Further Obligation.** Any termination of this Agreement by the County  
18       under this Article 6 is without penalty to or further obligation of the County.

19       **6.5 County’s Rights upon Termination.** Upon termination for breach under this Article  
20       6, the County may demand repayment by the Contractor of any monies disbursed to the  
21       Contractor under this Agreement that, in the County’s sole judgment, were not expended in  
22       compliance with this Agreement. The Contractor shall promptly refund all such monies upon  
23       demand. This section survives the termination of this Agreement.

24                               **Article 7**

25                                       **Independent Contractor**

26       **7.1 Status.** In performing under this Agreement, the Contractor, including its officers,  
27       agents, employees, and volunteers, is at all times acting and performing as an independent  
28

1 Contractor in an independent capacity, and not as an officer, agent, servant, employee, joint  
2 venturer, partner, or associate of the County.

3 7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the  
4 manner or method of the Contractor's performance under this Agreement, but the County may  
5 verify that the Contractor is performing according to the terms of this Agreement.

6 7.3 **Benefits.** Because of its status as an independent Contractor, the Contractor has no  
7 right to employment rights or benefits available to County employees. The Contractor is solely  
8 responsible for providing to its own employees all employee benefits required by law. The  
9 Contractor shall save the County harmless from all matters relating to the payment of  
10 Contractor's employees, including compliance with Social Security withholding and all related  
11 regulations.

12 7.4 **Services to Others.** The parties acknowledge that, during the term of this  
13 Agreement, the Contractor may provide services to others unrelated to the County.

## 14 **Article 8**

### 15 **Indemnity and Defense**

16 8.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the  
17 County (including its officers, agents, employees, and volunteers) against all claims, demands,  
18 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and  
19 liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to  
20 the performance or failure to perform by the Contractor (or any of its officers, agents,  
21 subcontractors, or employees) under this Agreement. The County may conduct or participate in  
22 its own defense without affecting the Contractor's obligation to indemnify and hold harmless or  
23 defend the County.

24 8.2 **Survival.** This Article 8 survives the termination of this Agreement.

## 25 **Article 9**

### 26 **Insurance**

27 9.1 The Contractor shall comply with all the insurance requirements in Exhibit C to this  
28 Agreement.

1 **Article 10**

2 **Inspections, Audits, Record Maintenance, and Public Records**

3 10.1 **Inspection of Documents.** The Contractor shall make available to the County, and  
4 the County may examine at any time during business hours and as often as the County deems  
5 necessary, all of the Contractor's records and data with respect to the matters covered by this  
6 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon  
7 request by the County, permit the County to audit and inspect all of such records and data to  
8 ensure the Contractor's compliance with the terms of this Agreement.

9 10.2 **State Audit Requirements.** If the compensation to be paid by the County under this  
10 Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the  
11 California State Auditor, as provided in Government Code section 8546.7, for a period of three  
12 years after final payment under this Agreement. This section survives the termination of this  
13 Agreement.

14 10.3 **Single Audit Clause.** If Contractor expends Seven Hundred Fifty Thousand Dollars  
15 (\$750,000) or more in Federal and Federal flow-through monies annually, Contractor agrees to  
16 conduct an annual audit in accordance with the requirements of the Single Audit Standards as  
17 set forth in Office of Management and Budget (OMB) Title 2 of the Code of Federal Regulations  
18 Part 200. Contractor shall submit said audit and management letter to County. The audit must  
19 include a statement of findings or a statement that there were no findings. If there were negative  
20 findings, Contractor must include a corrective action signed by an authorized individual.  
21 Contractor agrees to take action to correct any material non-compliance or weakness found as  
22 a result of such audit. Such audit shall be delivered to County's DSS, Administration, for review  
23 within nine (9) months of the end of any fiscal year in which funds were expended and/or  
24 received for the program. Failure to perform the requisite audit functions as required by this  
25 Agreement may result in County performing the necessary audit tasks, or at County's option,  
26 contracting with a public accountant to perform said audit, or, may result in the inability of  
27 County to enter into future agreements with Contractor. All audit costs related to this Agreement  
28 are the sole responsibility of Contractor.



1       **10.4 Program Audit Requirements.** A single audit report is not applicable if all  
2 Contractor's Federal contracts do not exceed the Seven Hundred Fifty Thousand Dollars  
3 (\$750,000) requirement or Contractor's funding is through Drug related Medi-Cal. If a single  
4 audit is not applicable, a program audit must be performed and a program audit report with  
5 management letter shall be submitted by Contractor to County as a minimum requirement to  
6 attest to Contractor's solvency. Said audit report shall be delivered to County's DSS,  
7 Administration, for review no later than nine (9) months after the close of the fiscal year in which  
8 the funds supplied through this Agreement are expended. Failure to comply with this Act may  
9 result in County performing the necessary audit tasks or contracting with a qualified accountant  
10 to perform said audit. All audit costs related to this Agreement are the sole responsibility of  
11 Contractor who agrees to take corrective action to eliminate any material noncompliance or  
12 weakness found as a result of such audit. Audit work performed by County under this paragraph  
13 shall be billed to the Contractor at County cost, as determined by County's Auditor-  
14 Controller/Treasurer-Tax Collector.

15       **10.5 Record Establishment and Maintenance.** Contractor shall establish and maintain  
16 records in accordance with those requirements prescribed by County, with respect to all matters  
17 covered by this Agreement. Contractor shall retain all fiscal books, account records and client  
18 files for services performed under this Agreement for at least five (5) years from date of final  
19 payment under this Agreement or until all State and Federal audits are completed for that fiscal  
20 year, whichever is later.

21               (A) Cost Documentation. Contractor agrees to maintain records to verify costs under  
22 this Agreement including a General Ledger, properly executed payrolls, time records,  
23 invoices, vouchers, orders, proof of payment, and any other accounting documents  
24 pertaining in whole or in part to this Agreement and they shall be clearly identified and  
25 readily accessible. The support documentation must indicate the line budget account  
26 number to which the cost is charged.

27               (B) Service Documentation. Contractor agrees to maintain records to verify services  
28 under this Agreement including names and addresses of clients served, if applicable,

1 and the dates of service and a description of services provided on each occasion. These  
2 records and any other documents pertaining in whole or in part to this Agreement shall  
3 be clearly identified and readily accessible.

4 (C) County shall notify Contractor in writing within thirty (30) days of any potential  
5 State or Federal audit exception discovered during an examination. Where findings  
6 indicate that program requirements are not being met and State or Federal participation  
7 in this program may be imperiled in the event that corrections are not accomplished by  
8 Contractor within thirty (30) days of receipt of such notice from County, written  
9 notification thereof shall constitute County's intent to terminate this Agreement.

10 **10.6 Public Records.** The County is not limited in any manner with respect to its public  
11 disclosure of this Agreement or any record or data that the Contractor may provide to the  
12 County. The County's public disclosure of this Agreement or any record or data that the  
13 Contractor may provide to the County may include but is not limited to the following:

14 (A) The County may voluntarily, or upon request by any member of the public or  
15 governmental agency, disclose this Agreement to the public or such governmental  
16 agency.

17 (B) The County may voluntarily, or upon request by any member of the public or  
18 governmental agency, disclose to the public or such governmental agency any record or  
19 data that the Contractor may provide to the County, unless such disclosure is prohibited  
20 by court order.

21 (C) This Agreement, and any record or data that the Contractor may provide to the  
22 County, is subject to public disclosure under the Ralph M. Brown Act (California  
23 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

24 (D) This Agreement, and any record or data that the Contractor may provide to the  
25 County, is subject to public disclosure as a public record under the California Public  
26 Records Act (California Government Code, Title 1, Division 7, Chapter 3.5, beginning  
27 with section 6250) ("CPRA").  
28

1 (E) This Agreement, and any record or data that the Contractor may provide to the  
2 County, is subject to public disclosure as information concerning the conduct of the  
3 people's business of the State of California under California Constitution, Article 1,  
4 section 3, subdivision (b).

5 (F) Any marking of confidentiality or restricted access upon or otherwise made with  
6 respect to any record or data that the Contractor may provide to the County shall be  
7 disregarded and have no effect on the County's right or duty to disclose to the public or  
8 governmental agency any such record or data.

9 (G) Notwithstanding sections A-F above, any information protected by law shall not  
10 be subject to public disclosure.

11 **10.7 Public Records Act Requests.** If the County receives a written or oral request  
12 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,  
13 and which the County has a right, under any provision of this Agreement or applicable law, to  
14 possess or control, then the County may demand, in writing, that the Contractor deliver to the  
15 County, for purposes of public disclosure, the requested records that may be in the possession  
16 or control of the Contractor. Within five business days after the County's demand, the  
17 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's  
18 possession or control, together with a written statement that the Contractor, after conducting a  
19 diligent search, has produced all requested records that are in the Contractor's possession or  
20 control, or (b) provide to the County a written statement that the Contractor, after conducting a  
21 diligent search, does not possess or control any of the requested records. The Contractor shall  
22 cooperate with the County with respect to any County demand for such records. If the  
23 Contractor wishes to assert that any specific record or data is exempt from disclosure under the  
24 CPRA or other applicable law, it must deliver the record or data to the County and assert the  
25 exemption by citation to specific legal authority within the written statement that it provides to  
26 the County under this section. The Contractor's assertion of any exemption from disclosure is  
27 not binding on the County, but the County will give at least 10 days' advance written notice to  
28 the Contractor before disclosing any record subject to the Contractor's assertion of exemption

1 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs  
2 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,  
3 failure to produce any such records, or failure to cooperate with the County with respect to any  
4 County demand for any such records.

## 5 **Article 11**

### 6 **Disclosure of Self-Dealing Transactions and Conflict of Interest**

7 11.1 **Applicability.** This Article 11 applies if the Contractor is operating as a corporation,  
8 or changes its status to operate as a corporation.

9 11.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a  
10 self-dealing transaction, he or she shall disclose the transaction by completing and signing a  
11 "Self-Dealing Transaction Disclosure Form" (Exhibit B to this Agreement) and submitting it to the  
12 County before commencing the transaction or immediately after.

13 11.3 **Definition.** "Self-dealing transaction" means a transaction to which the Contractor is  
14 a party and in which one or more of its directors, as an individual, has a material financial  
15 interest.

16 11.4 **Conflict of Interest.** No officer, employee or agent of the County who exercises any  
17 function or responsibility for planning and carrying out of the services provided under this  
18 Agreement shall have any direct or indirect personal financial interest in this Agreement. In  
19 addition, no employee of the County shall be employed by the Contractor under this Agreement  
20 to fulfill any contractual obligations with the County. The Contractor shall comply with all  
21 Federal, State of California and local conflict of interest laws, statutes and regulations, which  
22 shall be applicable to all parties and beneficiaries under this Agreement and any officer,  
23 employee or agent of the County.

## 24 **Article 12**

### 25 **Confidentiality and Data Security**

#### 26 **12.1 Conformance with Laws:**

27 All services performed by Contractor under this Agreement shall be in strict conformance  
28 with all applicable Federal, State of California and/or local laws and regulations relating to

1 confidentiality. For the purpose of preventing the potential loss, misappropriation or inadvertent  
2 disclosure of County data including sensitive or personal client information; abuse of County  
3 resources; and/or disruption to County operations, individuals and/or agencies that enter into a  
4 contractual relationship with County for the purpose of providing services under this Agreement  
5 must employ adequate data security measures to protect the confidential information provided  
6 to Contractor by County, including but not limited to the following:

7 (A) Contractor-Owned Mobile/Wireless/Handheld Devices may not be connected to  
8 County networks via personally owned mobile, wireless or handheld devices, except  
9 when authorized by County for telecommuting and then only if virus protection software  
10 currency agreements are in place, and if a secure connection is used.

11 (B) Contractor-Owned Computers or Computer Peripherals may not be brought into  
12 County for use, including and not limited to mobile storage devices, without prior  
13 authorization from County's Chief Information Officer or their designee. Data must be  
14 stored on a secure server approved by County and transferred by means of a VPN  
15 (Virtual Private Network) connection, or another type of secure connection of this type if  
16 any data is approved to be transferred.

17 (C) County-Owned Computer Equipment – Contractor or anyone having an  
18 employment relationship with County may not use County computers or computer  
19 peripherals on non-County premises without prior authorization from County's Chief  
20 Information Officer or their designee.

21 (D) Contractor may not store County's private, confidential or sensitive data on any  
22 hard-disk drive.

23 (E) Contractor is responsible to employ strict controls to ensure the integrity and  
24 security of County's confidential information and to prevent unauthorized access to data  
25 maintained in computer files, program documentation, data processing systems, data  
26 files and data processing equipment which stores or processes County data internally  
27 and externally.

28 (F) Confidential client information transmitted to one party by the other by means of

1 electronic transmissions must be encrypted according to Advanced Encryption  
2 Standards (AES) of 128 BIT or higher. Additionally, a password or pass phrase must be  
3 utilized.

4 (G) Contractor is responsible to immediately notify County of any breaches or  
5 potential breaches of security related to County's confidential information, data  
6 maintained in computer files, program documentation, data processing systems, data  
7 files and data processing equipment which stores or processes County data internally or  
8 externally.

9 (H) Contractor shall require its subcontractors to comply with the provisions of this  
10 Data Security section.

### 11 **Article 13**

#### 12 **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-** 13 **Lower Tier Covered Transactions.**

14 13.1 County and Contractor recognize that Contractor is a recipient of State or Federal  
15 assistance funds under the terms of this Agreement. By signing this Agreement, Contractor  
16 agrees to comply with applicable Federal suspension and debarment regulations, including but  
17 not limited to: 7 CFR 3016.35, 29 CRF 97.35, 45 CFR 92.35, and Executive Order 12549. By  
18 signing this Agreement, Contractor attests to the best of its knowledge and belief, that it and its  
19 principals:

20 (A) Are not presently debarred, suspended, proposed for debarment, declared  
21 ineligible, or voluntarily excluded from participation in this transaction by any Federal  
22 department or agency; and

23 (B) Shall not knowingly enter into any lower tier covered transaction with an entity or  
24 person who is debarred, suspended, proposed for debarment, declared ineligible, or  
25 voluntarily excluded from participation in this transaction by any Federal department or  
26 agency.

27 (C) Contractor shall provide immediate written notice to County if at any time during  
28 the term of this Agreement Contractor learns that the representations it makes above

1 were erroneous when made or have become erroneous by reason of changed  
2 circumstances.

3 13.2 Contractor shall include a clause titled "Certification Regarding Debarment,  
4 Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions" and  
5 similar in nature to this Article Thirteen (13) in all lower tier covered transactions and in all  
6 solicitations for lower tier covered transactions.

7 13.3 Contractor shall, prior to soliciting or purchasing goods and services in excess of  
8 \$25,000 funded by this Agreement, review and retain the proposed vendor's suspension and  
9 debarment status at <https://sam.gov/SAM/>.

10 13.4 The certification in Article Thirteen (13) of this Agreement is a material representation  
11 of fact upon which County relied in entering into this Agreement.

## 12 **Article 14**

### 13 **General Terms**

14 14.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this  
15 Agreement may not be modified, and no waiver is effective, except by written consent by both  
16 parties. The Contractor acknowledges that County employees have no authority to modify this  
17 Agreement except as expressly provided in this Agreement.

18 (A) Changes to the rates in Article 3, "Compensation, Invoices, and Payments,"  
19 Section 1, in an amount not to exceed 10% of the maximum annual compensation  
20 payable to the Contractor, may be made with the written approval of County's DSS  
21 Director or their designee. Said modifications shall not result in any changes to the  
22 maximum compensation amount payable to Contractor, as stated in this Agreement.

23 (B) Contractor agrees that reductions to the maximum compensation set forth under  
24 Article Three (3) of this Agreement may be necessitated by a reduction in funding from  
25 State or Federal sources. Any such reduction to the maximum compensation may be  
26 made with the written approval of County's DSS Director or their designee and  
27 Contractor. Contractor further understands that this Agreement is subject to any  
28 restriction, limitations, or enactments of all legislative bodies which affect the provisions,

1 term, or funding of this Agreement in any manner. If the parties do not provide written  
2 approval for modification due to reduced funding, this Agreement may be terminated in  
3 accordance with Section 6.1 above.

4 14.2 **Contractor's Name Change.** An amendment, assignment, or new agreement is  
5 required to change the name of Contractor as listed on this Agreement. Upon receipt of legal  
6 documentation of the name change, County will process the agreement. Payment of invoices  
7 presented with a new name cannot be paid prior to approval of said agreement.

8 14.3 **Public Information.** Contractor shall disclose County as a funding source in all  
9 public information and program materials developed in support of contracted services.

10 14.4 **Non-Assignment.** Neither party may assign its rights or delegate its obligations  
11 under this Agreement without the prior written consent of the other party. Any transferee,  
12 assignee or subcontractor will be subject to all applicable provisions of this Agreement, and all  
13 applicable State and Federal regulations. Contractor shall be held primarily responsible by  
14 County for the performance of any transferee, assignee or subcontractor unless otherwise  
15 expressly agreed to in writing by County. The use of subcontractor by Contractor shall not  
16 entitle Contractor to any additional compensation than provided for under this Agreement.

17 14.5 **Governing Law.** The laws of the State of California govern all matters arising from  
18 or related to this Agreement.

19 14.6 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno  
20 County, California. Contractor consents to California jurisdiction for actions arising from or  
21 related to this Agreement, and, subject to the Government Claims Act, all such actions must be  
22 brought and maintained in Fresno County.

23 14.7 **Construction.** The final form of this Agreement is the result of the parties' combined  
24 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be  
25 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement  
26 against either party.

27 14.8 **Days.** Unless otherwise specified, "days" means calendar days.  
28



1 14.9 **Headings.** The headings and section titles in this Agreement are for convenience  
2 only and are not part of this Agreement.

3 14.10 **Severability.** If anything in this Agreement is found by a court of competent  
4 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in  
5 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of  
6 this Agreement with lawful and enforceable terms intended to accomplish the parties' original  
7 intent.

8 14.11 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall  
9 not unlawfully discriminate against any employee or applicant for employment, or recipient of  
10 services, because of race, religious creed, color, national origin, ancestry, physical disability,  
11 mental disability, medical condition, genetic information, marital status, sex, gender, gender  
12 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to  
13 all applicable State of California and federal statutes and regulation.

14 (A) Domestic Partners and Gender Identity. For State fund-funded contracts of  
15 \$100,000 or more, Contractor certifies that it complies with Public Contract Code Section  
16 10295.3.

17 (B) Americans with Disabilities Act. Contractor shall comply with the Americans with  
18 Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as  
19 well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C.  
20 12101 et seq.).

21 (C) Contractor shall include the non-discrimination and compliance provisions of this  
22 section in all subcontracts to perform work under this Agreement.

23 14.12 **Lobbying and Political Activity.** None of the funds provided under this Agreement  
24 shall be used for publicity, lobbying or propaganda purposes designed to support or defeat  
25 legislation pending in the Congress of the United States of America or the Legislature of the  
26 State of California. Contractor shall not directly or indirectly use any of the funds under this  
27 Agreement for any political activity or to further the election or defeat of any candidate for public  
28 office.

1       14.13 **Clean Air Act and the Federal Water Pollution Control Act.** If the compensation  
2 to be paid by the County under this Agreement exceeds One Hundred Fifty Thousand and  
3 No/100 Dollars (\$150,000) of Federal funding, Contractor agrees to comply with all applicable  
4 standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q)  
5 and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations  
6 must be reported to the Federal awarding agency and the Regional Office of the Environmental  
7 Protection Agency (EPA).

8       14.14 **Procurement of Recovered Materials.** If compensation to be paid by the County  
9 under this Agreement is funded in whole or in part with Federal funding, In the performance of  
10 this Agreement, Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as  
11 amended by the Resource Conservation and Recovery Act. The requirements of Section 6002  
12 include procuring only items designated in guidelines of the Environmental Protection Agency  
13 (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials  
14 practicable, consistent with maintaining a satisfactory level of competition, where the purchase  
15 price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding  
16 fiscal year exceeded \$10,000; procuring solid waste management services in a manner that  
17 maximizes energy and resource recovery; and establishing an affirmative procurement program  
18 for procurement of recovered materials identified in the EPA guidelines.

19       14.15 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation  
20 of the Contractor under this Agreement on any one or more occasions is not a waiver of  
21 performance of any continuing or other obligation of the Contractor and does not prohibit  
22 enforcement by the County of any obligation on any other occasion.

23       14.16 **Child Support Compliance Act.** If compensation to be paid by the County under  
24 this Agreement includes State funding in excess of \$100,000, the Contractor acknowledges in  
25 accordance with Public Contract Code 7110, that:

- 26               (A) Contractor recognizes the importance of child and family support obligations and  
27 shall fully comply with all applicable state and federal laws relating to child and family  
28 support enforcement, including, but not limited to, disclosure of information and

1 compliance with earnings assignment orders, as provided in Chapter 8 (commencing  
2 with section 5200) of Part 5 of Division 9 of the Family Code; and

3 (B) Contractor to the best of its knowledge is fully complying with the earnings  
4 assignment orders of all employees and is providing the names of all new employees to  
5 the New Hire Registry maintained by the California Employment Development  
6 Department.

7 14.17 **Priority Hiring Considerations.** If compensation to be paid by the County under this  
8 Agreement includes State funding and services in excess of \$200,000, Contractor shall give  
9 priority consideration in filling vacancies in positions funded by the Agreement to qualified  
10 recipients of aid under Welfare and Institutions Code Section 11200, in accordance with Public  
11 Contract Code Section 10353.

12 14.18 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement  
13 between the Contractor and the County with respect to the subject matter of this Agreement,  
14 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,  
15 publications, and understandings of any nature unless those things are expressly included in  
16 this Agreement. If there is any inconsistency between the terms of this Agreement without its  
17 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving  
18 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the  
19 exhibits.

20 14.19 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to  
21 create any rights or obligations for any person or entity except for the parties.

22 14.20 **Authorized Signature.** The Contractor represents and warrants to the County that:

23 (A) The Contractor is duly authorized and empowered to sign and perform its  
24 obligations under this Agreement.

25 (B) The individual signing this Agreement on behalf of the Contractor is duly  
26 authorized to do so and his or her signature on this Agreement legally binds the  
27 Contractor to the terms of this Agreement.

28

1 14.21 **Electronic Signatures.** The parties agree that this Agreement may be executed by  
2 electronic signature as provided in this section.

3 (A) An "electronic signature" means any symbol or process intended by an individual  
4 signing this Agreement to represent their signature, including but not limited to (1) a  
5 digital signature; (2) a faxed version of an original handwritten signature; or (3) an  
6 electronically scanned and transmitted (for example by PDF document) version of an  
7 original handwritten signature.

8 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed  
9 equivalent to a valid original handwritten signature of the person signing this Agreement  
10 for all purposes, including but not limited to evidentiary proof in any administrative or  
11 judicial proceeding, and (2) has the same force and effect as the valid original  
12 handwritten signature of that person.

13 (C) The provisions of this section satisfy the requirements of Civil Code section  
14 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,  
15 Part 2, Title 2.5, beginning with section 1633.1).

16 (D) Each party using a digital signature represents that it has undertaken and  
17 satisfied the requirements of Government Code section 16.5, subdivision (a),  
18 paragraphs (1) through (5), and agrees that each other party may rely upon that  
19 representation.

20 (E) This Agreement is not conditioned upon the parties conducting the transactions  
21 under it by electronic means and either party may sign this Agreement with an original  
22 handwritten signature.

23 14.22 **Counterparts.** This Agreement may be signed in counterparts, each of which is an  
24 original, and all of which together constitute this Agreement.

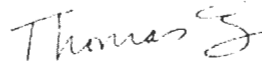
25 [SIGNATURE PAGE FOLLOWS]  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

The parties are signing this Agreement on the date stated in the introductory clause.

Thomas Sy dba MindTapp

County OF FRESNO




Thomas Sy, PhD

Nathan Magsig, Chairman of the Board of Supervisors of the County of Fresno

17206 Courtney Lane  
Huntington Beach, CA 92649

**Attest:**  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By:   
Deputy

For accounting use only:

Org No.: 56107001  
Account No.: 7295  
Fund No.: 0001  
Subclass No.: 10000

# Exhibit A

## Scope of Services

Contractor: Thomas Sy dba MindTapp

Services: Management Training, Consultation, and Coaching Services

Contact Information:

- Telephone: 310-938-8854
- E-Mail: [dr.tom.sy@gmail.com](mailto:dr.tom.sy@gmail.com)

### Contractor Responsibilities:

1. Contractor will provide coaching, training, and consultation services to Fresno County Department of Social Services (DSS) staff.
2. Contractor will plan and develop service delivery with the DSS Executive Team
3. Contractor will provide sign-in sheets with dates, training topic, attendee names, and trainer's signature
4. Contractor will provide Organizational Development consultation activities in conjunction with Departmental priorities
5. Contractor will participate in ad hoc meetings, as requested by DSS staff, including prep time, consultation, and notes.
6. Contractor will provide monthly activity reports to DSS that detail services provided for the prior month. Report format will be developed by DSS in collaboration with Contractor. This will include, but not be limited to, measurements that coincide with deliverables established as part of the service delivery plan.

### Frequency of Service:

1. Contractor will provide services during the period agreement and actual quantity of services may vary each month.
2. At DSS discretion and mutual approval, changes may be made to the frequency and delivery of training or seminars.

## Exhibit B

### Self-Dealing Transaction Disclosure Form

In order to conduct business with the County of Fresno ("County"), members of a Contractor's board of directors ("County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest."

The definition above will be used for purposes of completing this disclosure form.

#### Instructions

(1) Enter board member's name, job title (if applicable), and date this disclosure is being made.

(2) Enter the board member's company/agency name and address.

(3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:

a. The name of the agency/company with which the corporation has the transaction;  
and

b. The nature of the material financial interest in the Corporation's transaction that the board member has.

(4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.

The form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

## Exhibit B

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**(1) Company Board Member Information:**

<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			

**(2) Company/Agency Name and Address:**

**(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)**

**(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code § 5233 (a)**

**(5) Authorized Signature**

<b>Signature:</b>		<b>Date:</b>	
-------------------	--	--------------	--



# Exhibit C

## Insurance Requirements

### 1. Required Policies

Without limiting the County's right to obtain indemnification from the Contractor or any third parties, Contractor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Contractor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Contractor's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.

In lieu of automobile liability, the Contractor may opt to use rideshare or other for-hire vehicle transportation or public transportation when traveling to a County site to conduct services performed under this Agreement. In the event Contractor fails to use rideshare or other for-hire vehicle transportation or public transportation and uses a private vehicle without the automobile liability coverage required in this Agreement, the County may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.

### 2. Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Contractor signs this Agreement, and at any time during the term of this Agreement as requested by the County's Risk Manager or the County Administrative Office, the Contractor shall deliver, or cause its broker or producer to deliver, to the [DSSContractinsurance@fresnocountyca.gov](mailto:DSSContractinsurance@fresnocountyca.gov), Attention: Contract Analyst.
  - (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Contractor has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.

## Exhibit C

- (ii) The commercial general liability insurance certificate must also state, and include an endorsement, that the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, are additional insureds insofar as the operations under this Agreement are concerned. The commercial general liability insurance certificate must also state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the County shall be excess only and not contributing with insurance provided under the Contractor's policy.
  - (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County's Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.
- (E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Contractor. The County may offset such

## Exhibit C

charges against any amounts owed by the County to the Contractor under this Agreement.

- (G) **Subcontractors.** The Contractor shall require and verify that all subcontractors used by the Contractor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Contractor to provide services under this Agreement using subcontractors.