

## **Nurse-Family Partnership Implementation Agreement**

This Agreement ("Agreement"), for the period July 1, 2018, through June 30, 2021, is by and between County of Fresno, a Political Subdivision of the State of California ("Agency") and Nurse-Family Partnership, a Colorado nonprofit corporation ("NFP") (together, the "Parties").

### **RECITALS:**

- A. Whereas, the Nurse-Family Partnership® Program (the "Program") is an evidence-based program developed on the basis of randomized controlled trial research to yield certain benefits for low-income, first-time mothers and their children ("Program Benefits").
- B. Whereas, the Program Benefits can be described generally as helping low-income, first-time mothers develop behaviors that enable them to have healthier pregnancies, be better parents, have emotionally and physically healthier children, and attain greater economic self-sufficiency.
- C. Whereas, the Program implementation by Agency must be based upon key parameters ("Model Elements") identified through research and refined based upon the Program's experience since 1997 and attached to this Agreement as Exhibit A, Nurse-Family Partnership Model Elements.
- D. Whereas, Agency desires and intends to implement the Program to serve low-income, first-time mothers in Agency's geographic area, and to represent itself to the public and be known to the public as being affiliated with the Nurse-Family Partnership Program.
- E. Whereas, NFP desires and intends to guide and support the Program implementation process to help Agency obtain Program Benefits for the mothers and children that Agency serves.
- F. Accordingly, the Parties wish to enter into this Agreement to memorialize the mechanisms and means by which Agency shall implement the Program and NFP shall support such implementation. The Parties intend to remain in a contractual relationship for the period described in Section V herein and thereafter, so long as funding is available to both Parties for this purpose.

### **AGREEMENT:**

In consideration of the foregoing recitals, which are incorporated herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

#### **I. DEFINITIONS.**

- A. Agreement-Specific Definitions. In addition to terms defined above and elsewhere in this Agreement, the following terms shall have the meanings set forth below:
  - 1. "NFP Data Collection System" or "NFP DCS" means the software system that NFP makes available to Agency, into which designated, NFP-approved Agency personnel enter data collected about Clients and the Program, and from which the Parties can obtain reports to help manage and evaluate program implementation and results.
  - 2. "Administrator" means a person with fiscal and quality oversight, operational coordination responsibilities, and/or evaluation responsibility for the Program's management.

3. "Client" means a low-income, first-time mother who is enrolled in the Program implemented by Agency.
  4. "Effective Date" means the date first noted above and upon which this Agreement becomes effective.
  5. "Fidelity to the Model" means implementing the Program in a manner consistent with the Model Elements and therefore maximizing the likelihood of achieving results comparable to those measured in research.
  6. "Electronic Visit-to-Visit Guidelines©" or "E-Guidelines©" means NFP's written guidance for how a Nurse Home Visitor schedules and conducts visits with Clients during the Clients' participation in the Program.
  7. "Location" means the work address of a Program Supervisor.
  8. "Nurse Home Visitor" or "NHV" means a nurse employed by Agency who spends at least 20 (twenty) hours per week, or .5FTE, whichever is greater, delivering the Program to Clients.
  9. "Program Supervisor" means a person who supervises up to eight Nurse Home Visitors who implement the Program on behalf of Agency.
  10. "Research" means any activity, including program evaluation and/or quality improvement activities, (i) that would, according to Federal regulations, require review by an Institutional Review Board ("IRB"), or (ii) that could be expected to yield generalizable knowledge that could be shared publicly with the professional, academic, and/or lay communities.
  11. "Team" means a half- to full-time Program Supervisor and up to eight (8) Nurse Home Visitors who report to the Program Supervisor.
- B. "Proprietary Property" means all of (i) the Program, including facilitators and handouts, (ii) the Model Elements, (iii) the name "Nurse-Family Partnership" and the acronym "NFP" when used in connection with the NFP Logo and the goodwill associated therewith, (iv) all NFP Community Website and NFP DCS website content, and (v) the copyrighted materials and other materials used in the Program as of the date hereof that would be designated as protectable intellectual property under applicable law, including, but not limited to, all modifications, additions, updates, and derivative works thereof and all of the rights of NFP and its licensors associated with this property. Proprietary Property shall also include, individually and collectively, all ideas, concepts, designs, methods, inventions, modifications, improvements, new uses, and discoveries which are conceived and/or made in the performance of the responsibilities stated under this Agreement by one or more of Agency, NFP, or its licensors, whether they are incorporated into the Program or the Proprietary Property. NFP and its licensors reserve the right to modify the Proprietary Property from time to time in accordance with the data, research, and current modalities of delivery of the Program and for any other reason NFP or its licensors, in their sole and absolute discretion, deem appropriate. NFP will provide Agency with reasonable notice of those modifications. NFP and its licensors shall retain ownership and all rights to all Proprietary Property, whether modified or not by Agency.
- C. General Application. Unless a clear contrary intention appears, words used with initial-capitalized letters shall have the meanings set forth in this Agreement, and (i) the singular includes the plural and vice versa, (ii) reference to any document means such document as amended from time to time, (iii) "include" or "including" means including without limiting the generality of any description preceding such term, and (iv) the term "or" is not exclusive.

## II. NFP OBLIGATIONS

- A. NFP grants to Agency a non-exclusive limited right and license to use the Proprietary Property for carrying out Agency's obligations under this Agreement in the geographic area within which Agency Nurse Home Visitors serve Clients. Agency shall not use the Proprietary Property in connection with any social impact bond or pay-for-success contract, including responses to solicitations for such agreements, without NFP's prior written consent. NFP reserves the right to modify the Proprietary Property from time to time in accordance with the data, research, and current modalities of delivery of the Program. NFP will provide reasonable notice of those modifications as set forth in the Implementation Agreement. NFP shall retain ownership and all of the rights to any Proprietary Property, whether modified or not by any Agency. In any event, all software and NFP DCS Website content, excluding Agency's and other agencies' data, shall remain the sole property of NFP.
- B. NFP will provide support to help Agency implement the Program as described in Exhibit B, Nurse-Family Partnership Support for an Agency.
- C. NFP shall submit invoices to Agency for services provided to Agency, listing a date of provision, a description of each such service, and amounts based upon the fee schedule provided in Exhibit C, Fees for Nurse-Family Partnership Services.
- D. NFP may, from time to time, request that Agency collect additional data and/or participate in Research initiated by NFP and intended to improve the NFP model or implementation of the model. The decision as to whether to participate in such Research is, however, entirely up to Agency. NFP may provide the public with information about Agency's NFP-related Research, publications, and presentations.
- E. NFP, independently or jointly with Agency, may publish or present NFP-related information or Program results in research reports, books, book chapters, peer-reviewed journal articles, and at academic or professional conferences, always giving due credit to the Parties involved and recognizing the rights of the individuals doing the work.
- F. NFP understands that pursuant to this Agreement, NFP and its employees may have access to Clients' Protected Health Information ("PHI") and Agency's business information. NFP acknowledges that this information has a high level of confidentiality, and NFP and its employees agree to keep all information made available to its employees confidential and not to disclose this information. NFP will instruct its employees/staff/affiliates to follow Agency's policies regarding patient and business confidentiality. Further, NFP acknowledges that Agency is bound by law to have written agreements with its business partners who may have access to patient information requiring compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the rules and regulations promulgated thereunder. Accordingly, NFP warrants and represents that NFP is compliant with HIPAA and all relevant federal statutes, rules, regulations, and applicable interpretive rulings promulgated under HIPAA, or will become compliant to regulations and requirements effective at future dates according to the applicable timetables. Exhibit D, HIPAA Business Associate Addendum, is hereby incorporated in this Agreement. Failure by NFP to comply with this provision and the provisions of Exhibit D, HIPAA Business Associate Addendum, shall, upon request by the Agency, result in immediate and automatic termination of this Agreement without penalty or cost to Agency. NFP will cooperate with any Agency program(s) instituted in the future to bring Agency into compliance with HIPAA.

- G. NFP shall provide data and reporting services on behalf of Agency to [NONE] in a manner that would not violate HIPAA if done by Agency. If none, enter "NONE" within the brackets.

### III. AGENCY OBLIGATIONS

- A. Agency will make best efforts to implement the Program with Fidelity to the Model and will undertake the steps described in Exhibit E, Agency Responsibilities, to do so.
- B. Agency will take all appropriate steps to maintain client confidentiality and obtain any necessary written client consents for data analysis or disclosure of protected health information, in accordance with applicable federal and state laws, including, but not limited to, authorizations, data use agreements, business associate agreements, as necessary.
- C. Agency assumes responsibility for knowledge of and compliance with the State Nurse Practice Act of its state, state laws, regulations, and licensing requirements pertaining to nursing practice and state laws and regulations pertaining to mandatory reporting.
- D. Agency's Nurse Home Visitors and Supervisors shall complete all required NFP Education. Nurse Home Visitors and Supervisors who leave the program for two (2) years or longer and then return must attend NFP Education before visiting Clients and resuming Program delivery. Agency shall ensure that Nurse Home Visitors are able to provide care to Clients in a manner consistent with the NFP E-Guidelines.
- E. When requested by NFP, Agency will make reasonable efforts to collect additional data and/or participate in Research intended to improve the NFP model or implementation of the model. The decision as to whether to participate in such Research is, however, entirely up to Agency.
- F. To avoid becoming involved in Research that conflicts with implementing the Program with Fidelity to the Model, Agency shall request NFP's permission prior to participating in any Research that is (1) initiated by a party other than NFP and (2) that involves Program staff or explicitly targets the families that are enrolled in the Program. NFP shall review and approve or disapprove Agency's request for participation in such Research on a timely basis and shall not unreasonably withhold such approval.
- G. Agency will inform NFP of Agency proposals to publish or present NFP-related information in research reports, books, book chapters, peer-reviewed journal articles, and at academic or professional conferences. Results of the Program herein outlined may be published by Agency, or jointly by Agency and NFP, always giving due credit to the Parties involved and recognizing the rights of the individuals doing the work.
- H. Agency is authorized to reproduce certain published materials specified below and used in the implementation of the Program so long as (1) this Agreement is in effect, (2) Agency uses the reproductions solely for Program implementation, and (3) Agency does not sell or otherwise distribute the reproductions to any third party not involved in Agency's implementation of the Program.
1. The published materials covered by this authorization are delivered to Nurse Home Visitors as part of the NFP education materials in sets referred to as the E-Guidelines.
  2. The handouts bear notices indicating copyright by any of the following:

- a) University of Colorado
  - b) University of Colorado Health Sciences Center
  - c) University of Colorado at Denver and Health Sciences Center
  - d) Nurse-Family Partnership
3. NFP has the right to grant permission to reproduce materials specified above and that bear the University copyright notice under the terms of a Memorandum of Understanding ("MOU") dated March 31, 2003, between the University of Colorado Health Sciences Center, now known as University of Colorado at Denver and Health Sciences Center, and NFP. The MOU gives NFP an exclusive, perpetual, royalty-free right and license to use copyrighted materials and other materials used in the Program for the purpose of implementing the Program to serve low-income, first-time mothers and their families.
  4. The corresponding Spanish-language versions of these materials are also covered by this authorization.
  5. Agency may not authorize any other entity to reproduce the materials without prior written permission from NFP.
- I. Agency understands and agrees that all Proprietary Property and all associated intellectual property rights are owned exclusively by NFP and its licensors. Agency shall use the Proprietary Property solely for carrying out Agency's obligations under this Agreement and shall not share the Proprietary Property with third parties or modify any Proprietary Property without the prior express written permission of NFP. Agency may not duplicate, distribute or provide access to the Proprietary Property to any individual or organization, except as authorized by this Agreement. Agency may allow only trained, NFP-authorized users to access the NFP DCS. Agency shall retrieve all Proprietary Property from departing employees. Duties of confidentiality and use of the Proprietary Property under this Agreement shall not expire.
  - J. Maintenance, Protection and Promotion of the Nurse-Family Partnership® Program. Agency must use all reasonable means to protect, encourage and promote the Nurse-Family Partnership name and program. NFP and Agency have a mutual responsibility to support and promote each another, as each of the Party's activities reflect on the national image of Nurse-Family Partnership and on the image of Nurse-Family Partnership in the state the Agency is located. Agency and shall take all actions necessary to incorporate the Nurse-Family Partnership Marks and name into any Agency material associated with the Program. In all marketing materials related to the Program, Agency shall use the Nurse-Family Partnership name and ensure that its program will be readily recognizable to the public as an integral part of the Nurse-Family Partnership.

#### IV. FEES AND PAYMENT

- A. Fees associated with NFP services in support of an implementing agency are as follows:
  1. Initial Education Services. NFP provides initial Nurse-Family Partnership education for nurse home visitors, Program Supervisors, and Agency Administrators. This fee applies once for each individual nurse home visitor, nurse supervisor, and administrator at an agency. Fees are due upon completion of the face-to-face session.

- a) Nurse Home Visitor Initial Education Tuition. Education for nurse home visitors (NHV) consists of one face-to-face education unit supported by distance education components. All Program Supervisors who have never taken NHV Education or who completed it more than two years prior to being promoted to Supervisor are required to attend NHV Education as well as Supervisor Education.
  - b) Supervisor Initial Education Tuition. For Program Supervisors, education consists of Nurse Home Visitor Initial Education plus two face-to-face education units supported by distance education components and nurse consultation.
  - c) Agency Administrator Orientation Tuition. Currently, Administrator Orientation is a two-day face-to-face session in Denver. Administrator Orientation is required for new Administrators within six (6) months of being hired. Experienced Administrators are strongly encouraged to take advantage of NFP's ongoing distance learning opportunities.
  - d) Nurse-Family Partnership Education Materials Fee. Contributes toward the cost of the following materials:
    - (1) Nurse-Family Partnership Orientation Materials
    - (2) Set of Prenatal, Infancy and Toddler Guidelines
    - (3) A series of additional nursing practice and program management resources tied to implementation of Nurse-Family Partnership.
2. Implementation Support Services. These are annual fees, which are due on the Effective Date and each anniversary thereof and are based on the number of Program Supervisor Positions (the greater of (1) the number of individuals with supervisory responsibility at the agency or (2) the number of supervisor FTEs that are required to be implementing the model with fidelity (at least one per eight nurse home visitors). Fees are as follows:
- a) Program Support. Fees are per Program Supervisor Position per year and contribute to covering costs associated with the following:
    - (1) NFP DCS. Services related to third party data collection systems are not covered by this Agreement. Fees for supporting Agency's use of third party data collection systems will be in addition to the Annual Program Support Fee.
    - (2) Quality Improvement (QI) and Reporting
    - (3) Ongoing Nurse-Family Partnership nurse home visitor, supervisor, and administrator education; resource library; conference calls; web forums; Nurse-Family Partnership Community resources; and updating of Nurse-Family Partnership Education and E- Guidelines and supporting materials.
    - (4) Marketing and Communications consultation and support, including marketing and community outreach materials (brochures, posters, etc.).
    - (5) Policy and Government Affairs, including advocacy and educational work at federal and state levels.
  - b) Nurse Consultation. The fee is per Program Supervisor Position per year. The full fee is charged for the first Program Supervisor Position at a geographic location and a reduced fee is charged for each additional Program Supervisor Position at that same location. The fees contribute to covering costs associated

with a Nurse-Family Partnership Nurse Consultant providing the following support to Program Supervisors:

- (1) Helping each Program Supervisor develop an annual plan for implementation.
- (2) Monitoring reports based on each Program Supervisor and her/his team's activity and performance.
- (3) Ongoing email support for each Program Supervisor and periodic regular calls with each Program Supervisor.
- (4) Periodic visits to each Program Supervisor with potential travel with each Program Supervisor and/or selected nurse home visitors.
- (5) Clinical and supervisory coaching and consultation with each Program Supervisor.

- c) Program Supervisor Expansion or Replacement Fee. A one-time fixed fee is charged for extra support when a new Program Supervisor Position is added or a vacant position is filled.

B. Prices for each category of Fees are listed on Exhibit C and are subject to change in accordance with Section IV D below.

C. All fees are based upon NFP's standard terms of invoicing and payment, as follows:

1. Education Fees are invoiced when individuals attend in-person education sessions. No special reporting or documentation is provided with the invoice(s).
2. Program Support and Nurse Consultation Fees are invoiced on the Effective Date and each anniversary thereof to cover each ensuing year and are due in 30 days. No special reporting or documentation is provided with the invoice(s).
3. Program Supervisor Expansion or Replacement Fees are invoiced when the new supervisor is hired. No special reporting or documentation is provided with the invoice(s).

D. NFP shall invoice, without limitation, not to exceed Thirty-Six Thousand Five Hundred Forty-Seven Dollars (\$36,547) annually, for services provided to Agency based upon the fee schedule set forth in Exhibit C, Fees for Nurse-Family Partnership Services. NFP reserves the right to change the fees set forth in Exhibit C during the term of this Agreement but not more often than annually. NFP will notify Agency at least one year prior to any such change becoming effective. If this Agreement exceeds Ten Thousand and No/100 Dollars (\$10,000.00), NFP shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under contract.

E. Invoices will be sent to:

County of Fresno, Department of Public Health  
Attention: Accounts Payable  
Address: PO Box 11867  
Fresno CA 93775  
Telephone: (559) 600-3330  
Email: dph@fresnocountyca.gov

☐ Please check this box if you would prefer to receive invoices by email

F. Agency will send payments, identifying the NFP invoice, within 30 days of invoice to:

Nurse-Family Partnership  
Attention: Finance Department  
1900 Grant Street, Suite 400  
Denver, CO 80203

## V. TERM AND DEFAULT

- A. **Term of Agreement.** This Agreement shall remain in full force and effect through June 30, 2021 (the "Initial Term") unless it is terminated by mutual agreement of the Parties or as otherwise provided below.
- B. **Non-Allocation of Funds.** The terms of this Agreement, and the services to be provided hereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated, at any time by giving NFP thirty (30) days advance written notice.
- C. **Early Termination.** The Parties agree that they intend to and will engage in mutual efforts to keep this Agreement in force for the Initial Term, because it requires approximately three years for the initial group of Clients to complete the Program. Recognizing, however, that circumstances beyond the control of the Parties may compel one Party to desire termination before completion of the Initial Term or an extension thereof, either Agency or NFP may terminate this Agreement at any time by giving the other party written notice of not less than sixty (60) days, except as provided in Section V (B) above.
- D. **Default.** A party shall be in default under this Agreement if a party (i) breaches a material provision of this Agreement, which breach is not cured to the non-breaching party's reasonable satisfaction within thirty (30) days of written notice given to the breaching party by the non-breaching party or (ii) the bankruptcy of a party.
- E. **Remedies upon Default.** The Parties shall use commercially reasonable efforts to take steps necessary to cause the breaching party to cure the applicable default. If such default is not cured to the reasonable satisfaction of the other party, and both of the Parties do not agree to terminate this Agreement, the Parties shall proceed in accordance with the dispute resolution process set forth in Section VI.
- F. **Effect of Termination.**
1. If this Agreement is terminated by notice of one party to the other, Agency will pay NFP for all work performed up to the date of termination. Payment shall be due within forty-five (45) days of termination.
  2. If this Agreement is terminated through the dispute resolution process, the rights and obligations of each of the Parties upon termination shall be spelled out in the dispute resolution process.
  3. Upon termination of this Agreement, regardless of the timing, cause, or mechanism of such termination:
    - a) Agency will no longer have access to the NFP DCS;
    - b) Agency shall stop enrolling new Clients;
    - c) Agency shall work with the NFP nurse consultant to develop a transition plan, including a plan to provide continuity of care for current Clients;

- d) NFP may retain a record of all data which has been collected by Agency while implementing the Program and may use that data and reports derived from it to evaluate the overall progress in national replication of the Program;
- e) Agency and NFP will continue to comply with all relevant state, federal laws and all other provisions of this Agreement with respect to maintaining Client confidentiality;
- f) All materials in Agency's possession that utilize the Nurse-Family Partnership logo, tag line, or other protected marks must be returned to NFP or destroyed;
- g) All copies of Proprietary Property that have been provided to Agency by NFP or that have come into Agency's possession from other sources must be returned to NFP or destroyed; and
- h) Agency will cease to implement the Program and will cease to represent that it is implementing the Program.

VI. DISPUTE RESOLUTION. If a dispute arises relating to this Agreement, the Parties shall attempt to resolve that dispute at the lowest possible level. If the dispute cannot be resolved at that level, the dispute shall be elevated to the Director, Program Development, of NFP and the Program Supervisor. If these persons cannot resolve the dispute, it shall be elevated to the next organizational level of NFP and Agency. If the dispute is not resolved through the foregoing process within a reasonable period of time, not to exceed any period of time that could reasonably be deemed to have a detrimental impact on the implementation of the Program by Agency, either party may initiate dispute resolution through any avenue permitted in law or in equity.

VII. HOLD-HARMLESS. NFP agrees to indemnify, save, hold harmless, and at Agency's request, defend the Agency, its officers, agents and employees from any and all costs and expenses, including attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to Agency in connection with the performance, or failure to perform, by NFP, its officers, agents or employees under this Agreement, and from any and all costs and expenses, including attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to any person, firm or corporation who may be injured or damaged by the performance, or failure to perform, of NFP, its officers, agents or employees under this Agreement.

VIII. ASSIGNMENT; SUBCONTRACTING. Except as provided herein, this Agreement and the rights, obligations, interests and benefits hereunder shall not be assigned, transferred, pledged or hypothecated in any way to any third party, including financing institutions, without the prior written consent of NFP. Agency shall not respond to social impact bond or "pay for success" solicitations or enter into contracts or funding arrangements that link Program implementation performance to repayment of funding and name the Program as the targeted service without NFP's prior written consent. Agency shall not engage or utilize the services of any subcontractor to perform any of Agency's services hereunder without the prior written consent of NFP.

#### IX. INSURANCE

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

- 1) Commercial General Liability. Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and an annual aggregate of Three Million Dollars (\$3,000,000). This policy shall be issued on a per occurrence basis. Agency may require specific coverages

including completed operations, products liability, contractual liability, Explosion-Collapse-Underground (ECU), fire legal liability or any other liability insurance deemed necessary because of the nature of this Agreement.

- 2) Automobile Liability. Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000) per person, One Million Dollars (\$1,000,000) per accident, and for property damages of not less than Fifty Thousand Dollars (\$50,000), or such coverage with a combined single limit of One Million Dollars (\$1,000,000). No vehicles owned by NFP will be used in connection with this Agreement. Coverage will include only non-owned and hired vehicles used in connection with this Agreement.
  - 3) Professional Liability. If NFP employs licensed professional staff (e.g. Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence, Three Million Dollars (\$3,000,000) annual aggregate.
  - 4) Worker's Compensation. A policy of worker's compensation insurance as may be required by California Labor Law.
  - 5) Cyber Liability. Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by NFP in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. Coverage should include breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
  - 6) Payment for additional Cyber Liability Coverage. Agency agrees to pay, for the term of this Agreement, the added premium cost for additional cyber liability coverage above NFP's standard limit of \$1,000,000 per occurrence or claim, \$1,000,000 aggregate. Agency will be billed by NFP's Accounting Department for this cost on both a prorated and annual basis.
- B. NFP shall obtain endorsements to the Commercial General Liability insurance naming the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance maintained by Agency, its officers, agents and employees shall be excess only and not contributing with insurance provided under NFP's policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to Agency.
- C. Within thirty (30) days from the date NFP executes this Agreement, NFP shall provide certificates of insurance and endorsement as stated above for the foregoing policy, as required herein, to the County of Fresno, Department of Public Health, P.O. Box 11867, Fresno, California, 93775, Attention: Contracts Section – 6<sup>th</sup> Floor, stating that such insurance coverages have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for any premiums on the policies with the exception of its responsibility to pay for the cost of additional Cyber Liability coverage; and that such Commercial General Liability insurance names the County of Fresno, its officers, agents and employees, individually and collectively, as

additional insured, but only insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by Agency, its officers, agents and employees, shall be excess only and not contributing with insurance provided under NFP's policies herein; and that such insurance shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to Agency.

D. In the event NFP fails to keep in effect at all times insurance coverage as herein provided, the Agency may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

E. The policy shall be with admitted insurers licensed to do business in the State of California. Insurance purchased shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.

X. **CONFIDENTIALITY.** All services performed by NFP under this Agreement shall be in strict conformance with all applicable laws and regulations relating to confidentiality and shall be bound by all terms of the Business Associate Agreement attached as Exhibit D.

XI. **NONDISCRIMINATION.** During the performance of this Agreement, NFP shall not unlawfully discriminate against any employee or applicant for employment, or recipient of services, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex, pursuant to all applicable State and Federal statutes and regulations.

## **XII. MISCELLANEOUS PROVISIONS.**

A. Consents. Whenever a Party's consent or approval is required under this Agreement, such consent or approval shall not be unreasonably withheld. If consent or approval is required by an employee of a Party, the Party who employs such employee shall cause the employee to give or withhold such consent or approval in accordance with this paragraph. If no response is received by the requesting Party within ten business days after delivery of the applicable request, consent shall be deemed given.

B. Notices. All notices and other communications that are required or permitted to be given to the Parties under this Agreement shall be sufficient in all respects if given in writing and delivered by overnight courier or certified mail, postage prepaid, return receipt requested, or when sent by electronic mail, receipt confirmed, to the receiving party at the following addresses:

### **For NFP:**

Original to:  
Nurse-Family Partnership  
1900 Grant Street, Suite400  
Denver, CO 80203  
Attention: Chief Executive Officer  
Telephone: 303-327-4274  
Facsimile: 303-327-4260  
Email:  
Frank.Daidone@NurseFamilyPartnership.org

With a copy to:  
Nurse-Family Partnership  
1900 Grant Street, Suite400  
Denver, CO 80203  
Attention: Dir., Legal & Compliance  
Telephone: 303-327-4271  
Facsimile: 303-327-4260  
Email:  
Elizabeth.Jasper@NurseFamilyPartnership.org

**For Agency:**

Original to:  
County of Fresno, Department of Public  
Health  
Attention: David Pomaville, Director

PO Box 11867  
Fresno CA 93775  
Telephone: (559) 600-3200  
Email: dpomaville@fresnocountyca.gov

**With a Copy to:**

County of Fresno, Department of Public  
Health  
Attention: Rose Mary Rahn, Division  
Manager

PO Box 11867  
Fresno CA 93775  
Telephone: (559) 600-3330  
Email: rrahn@fresnocountyca.gov

or to such other address as such party may have given to the other by notice pursuant to this Paragraph. Notice shall be deemed given on the delivery or refusal date, as specified on the return receipt in the case of certified mail or on the tracking report in the case of overnight courier.

- C. Binding Upon Successors and Assigns. This Agreement, and all covenants, terms, provisions, and agreements contained herein, shall be binding upon and shall inure to the benefit of the Parties' respective successors and permitted assigns.
- D. Waivers. No covenant, term, or condition, or the breach thereof, shall be deemed waived, except by written consent of the party against whom the waiver is claimed; and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.
- E. Responsibility for Debts and Obligations. Neither party shall be responsible either directly or indirectly for any of the debts or obligations of the other party except as provided under this Agreement.
- F. No Third-Party Beneficiary. This Agreement does not create any third party beneficiary rights in any person or entity, including without limitation, financing institutions.
- G. Authority to Contract. The undersigned individuals represent that they are fully authorized to execute this Agreement on behalf of the respective Parties and make all representations, warranties, and covenants set forth herein. The Parties represent and warrant that the execution, delivery, and performance of this Agreement have been duly authorized by all necessary corporate actions of the Parties and do not violate any laws or any provisions of any agreement to which the Parties are bound.
- H. No Joint Venture. Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership among the Parties. No party shall have the power to control the activities or operations of another party and their status is, and at all times shall continue to be, that of independent contractors with respect to each other. No party shall hold itself out as having authority or relationship in contravention of this Paragraph.
- I. Attorneys' Fees. If a party shall commence any action or proceeding against another party in order to enforce the provisions of this Agreement, or to recover damages as a result of the alleged breach of any of the provisions of this Agreement, the prevailing party shall be entitled to recover all reasonable costs in connection therewith, including reasonable attorneys' fees.

- J. Severability. If any term or provision of this Agreement shall, to any extent, be determined to be invalid or unenforceable by a court or body of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- K. Applicable Law and Venue. This Agreement shall be governed by and construed according to the internal laws of the State of California. By execution of this Agreement, each party submits and irrevocably waives any objection to in personam jurisdiction in the State of California and the forum and convenience of the state and federal courts thereof. Venue for any action arising out of or related to this Agreement shall only be in Fresno County, California.
- L. Survival. The terms and conditions of this Agreement shall survive the expiration or termination of this Agreement to the full extent necessary for their enforcement and for the protection of the party in whose favor they operate.
- M. Counterparts and Facsimile Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement. A facsimile or electronic signature to this Agreement shall be deemed an original and binding upon the party against whom enforcement is sought.
- N. Entire Agreement. This Agreement (together with Exhibits hereto, which are hereby incorporated by this reference) constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior or contemporaneous agreements, whether written or oral, among themselves or their agents and representatives relating to the subject hereof. This Agreement may be altered, amended, or revoked only by an instrument in writing signed by all the Parties hereto.

**IN WITNESS THEREOF**, the Parties hereto have caused this Agreement to be executed as of the date set forth herein by their duly authorized representatives.

**For NFP:**  
Nurse-Family Partnership

By:   
Signature

Frank Daidone, President & CEO  
(Printed Name & Title)

Date: FEB 15 2019

**For Agency:**  
County of Fresno, a Political Subdivision of the State of California

By:   
Signature

Nathan Magsig, Chairperson of the Board  
of Supervisors of the County of Fresno  
(Printed Name & Title)

Date: 5-14-19

By: Susan Bishop  
Signature

Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California  
(Printed Name & Title)

Date: 5-14-19

**FOR ACCOUNTING USE ONLY:**

Fund/Subclass: 0001/10000  
Organization: 56201718/56201706  
Account/Program: 7295/0

### **EXHIBIT A. NURSE-FAMILY PARTNERSHIP MODEL ELEMENTS**

When the Program is implemented in accordance with these Model Elements, the Parties can reasonably have a high level of confidence that results will be comparable to those measured in research. Conversely, if implementation does not incorporate these Model Elements, results may be different from Research results.

- Element 1. Client participates voluntarily in the Nurse-Family Partnership program.
- Element 2. Client is a first-time mother.
- Element 3. Client meets low- income criteria at intake.
- Element 4. Client is enrolled in the program early in her pregnancy and receives her first home visit by no later than the end of the 28<sup>th</sup> week of pregnancy.
- Element 5. Client is visited one-to-one: one Nurse Home Visitor to one first-time mother/ family.
- Element 6. Client is visited in her home, as defined by the client, or in a location of the Client's choice.
- Element 7. Client is visited throughout her pregnancy and the first two years of her child's life in accordance with the standard NFP visit schedule or an alternative visit schedule agreed upon between the Client and nurse.
- Element 8. Nurse Home Visitors and Nursing Supervisors are registered professional nurses with a minimum of a Baccalaureate degree in nursing.
- Element 9. Nurse Home Visitors and Nursing Supervisors participate in and complete education required by NFP NSO. In addition, a minimum of one current NFP administrator participates in and completes the Administrator Orientation required by NFP.
- Element 10. Nurse Home Visitors, using professional knowledge, nursing judgment, nursing skills, screening tools and assessments, frameworks, guidance and the NFP E-Guidelines Guidelines to individualize the Program to the strengths and risks of each family and apportion time across defined Program domains.
- Element 11. Nurse home visitors and supervisors apply nursing theory, nursing process and nursing standards of practice to their clinical practice and the theoretical framework that underpins the Program, emphasizing Self-Efficacy, Human Ecology and Attachment theories, through current clinical methods.
- Element 12. A full time Nurse Home Visitor carries a caseload of 25 or more active Clients.
- Element 13. NFP agencies are required to employ a NFP nurse supervisor at all times.

- Element 14. Nursing Supervisors provide Nurse Home Visitors clinical supervision with reflection, demonstrate integration of the theories, and facilitate professional development essential to the Nurse Home Visitor role through specific supervisory activities including 1:1 clinical supervision, case conferences, team meetings and field supervision.
- Element 15. Nurse Home Visitors and Nurse Supervisors collect data as specified by NFP and ensure that it is accurately entered into the NFP data collection system in a timely manner.
- Element 16. Nurse Home Visitors and Nurse Supervisors use data and NFP reports to assess and guide Program Implementation, enhance Program quality and demonstrate Program Fidelity and inform clinical practice and supervision.
- Element 17. Agency is located in and operated by an organization known in the community for being a successful provider of prevention services to low-income families.
- Element 18. Agency convenes a long-term Community Advisory Board that reflects the community composition and meets at least quarterly to implement a community support system for the program and to promote program quality and sustainability.
- Element 19. Adequate organizational support and structure shall be in place to support Nurse Home Visitors and Nurse Supervisors to implement the Program with Fidelity to the Model.

## **EXHIBIT B. NURSE-FAMILY PARTNERSHIP SUPPORT FOR AN AGENCY**

To help Agency implement the Program with Fidelity to the Model, NFP provides the following support to Agency:

- I. NFP provides support to help Agency prepare to implement the Program including:
  - A. Materials to help Agency:
    1. Select and set up Agency's work space;
    2. Establish telecommunications and computer capabilities;
    3. Recruit and hire Program Supervisors, Nurse Home Visitors, and administrative support staff;
    4. Establish a network of sources who may refer low-income, first-time mothers to Agency;
    5. Facilitate enrollment of Clients;
    6. Establish a network of social services which can provide support to Agency's Clients;
    7. Work with media;
    8. Inform the community and build support for Agency, the Program, and Program Benefits;
    9. Establish strong, stable, and sustainable funding for Agency operations.
  - B. An NFP DCS users' manual, which provides instructions describing what data must be collected for NFP DCS by Agency staff, how that data must be entered into NFP DCS, and how reports can be obtained. NFP may modify the NFP DCS users' manual from time to time and will provide Agency with updated versions on a timely basis.
  - C. Access to an Internet-based discussion forum with other entities that are implementing the Program.
  - D. A visit to Agency by a member of NFP staff to offer direct consultation on Program implementation.
- II. NFP provides ongoing support to Agency via telephone and email during Program implementation and operation, including:
  - A. Consultation with respect to topics such as, developing community support, keeping interested constituencies informed about progress and results, planning and implementing expansion, and sustaining and increasing funding;
  - B. Clinical consultation for Program Supervisors and Nurse Home Visitors;
  - C. Consultation regarding data collection, entry, management, and interpretation.
  - D. On-site consultation as is mutually deemed necessary and appropriate.
- III. NFP provides a description of education programs, both required and optional, and a schedule of upcoming education events and locations. NFP may modify the specific names, descriptions, and content of education programs, as well as their schedule and locations from time to time and will inform Agency of such modifications on a timely basis.
- IV. NFP provides education to Program Supervisors and Nurse Home Visitors at dates and locations to be determined by NFP. Education will cover the following topics:
  - A. The Program, Program Benefits, and Model Elements;
  - B. Nursing scope of practice as it relates to Program delivery and is outlined in Exhibit G, attached and incorporated into this Agreement by this reference
  - C. Use of the NFP DCS, including data collection, entry, management, and interpretation;

- D. Implementation of the Program using the NFP E-Guidelines and associated tools and materials;
  - E. Knowledge and skills needed by the NFP Program Supervisor; and
  - F. Other aspects of the Program that NFP believes are warranted for successful Program implementation by the staff at Agency.
- V. NFP provides E-Guidelines and other materials to help Program Supervisors and Nurse Home Visitors implement the Program with Fidelity to the Model Elements. NFP may modify the E-Guidelines from time to time and will provide Agency with updated versions on a timely basis.
- VI. NFP provides support for Agency's use of the NFP DCS, including:
- A. Monitoring the Agency's data collection and entry activity and quality and providing feedback to Agency as appropriate;
  - B. Maintaining and supporting NFP DCS software;
  - C. Upgrading NFP DCS software when deemed necessary by NFP; and
  - D. Technical assistance via telephone or e-mail to support Agency's use of the NFP DCS.
- VII. NFP provides implementation reports and evaluation reports at such times as NFP deems commercially reasonable and necessary to meet the needs of Agency and entities to which Agency may be obligated to provide such information. Subject to applicable federal and state laws, if any, such reports cover:
- A. Agency activity. Reports designed primarily for Program Supervisors and Nurse Home Visitors to help them manage Nurse Home Visitor activity.
  - B. Quality improvement. Reports aimed to help Agency improve Fidelity to the Model including reports designed (i) to assist Program Supervisors and Nurse Home Visitors identify and prioritize actions for improving Program outcomes, and (ii) to help NFP staff assess how Agencies are performing with respect to Fidelity to the Model.
  - C. Program outcomes. Reports designed to help Program Supervisors and funding decision makers assess the effectiveness of the Program as applied to Agency's particular circumstances.
  - D. These reports are available on a pre-defined schedule or from the NFP DCS Website on demand. NFP may modify the Program Reports from time to time.
- VIII. NFP will provide art work and color and usage guidelines to help Agency develop and produce communications materials that properly use the NFP trademark, logo, tag lines, and other copyrighted or otherwise protected language, images, and materials controlled by NFP.
- IX. NFP will periodically assess the extent to which Agency is implementing the Program with Fidelity to the Model. When such assessment indicates opportunities for Agency to improve its results by strengthening Fidelity to the Model, NFP staff will meet with Agency supervision and mutually develop an improvement plan. From time to time, NFP may engage either internal or external auditors to evaluate the performance of the Agency. Agency will cooperate fully with any quality audit that is undertaken by or on behalf of NFP.

## **EXHIBIT C. FEES FOR NURSE-FAMILY PARTNERSHIP SERVICES**

NFP FEES FOR THE FIRST THREE YEARS OF SERVICES PROVIDED UNDER THIS AGREEMENT WILL BE AS FOLLOWS, SUBJECT TO CHANGE IN ACCORDANCE WITH SECTION IV:

| Nurse Home Visitor Education Fee (Invoiced upon completion of the face-to-face session)                                               |           |             |                                                                               |                        |
|---------------------------------------------------------------------------------------------------------------------------------------|-----------|-------------|-------------------------------------------------------------------------------|------------------------|
| Price Effective Date                                                                                                                  | End Date  | Unit Price  | Unit of Measure                                                               |                        |
| 7/1/2018                                                                                                                              | 6/30/2019 | \$4,668.00  | One time per NHV or Supervisor                                                |                        |
| 7/1/2019                                                                                                                              | 6/30/2020 | \$4,808.00  |                                                                               |                        |
| 7/1/2020                                                                                                                              | 6/30/2021 | \$4,952.00  |                                                                               |                        |
| NFP Program Supervisor Education Fee (Invoiced upon completion of the first face-to-face session)                                     |           |             |                                                                               |                        |
| Price Effective Date                                                                                                                  | End Date  | Unit Price  | Unit of Measure                                                               |                        |
| 7/1/2018                                                                                                                              | 6/30/2019 | \$843.00    | One time per Supervisor                                                       |                        |
| 7/1/2019                                                                                                                              | 6/30/2020 | \$868.00    |                                                                               |                        |
| 7/1/2020                                                                                                                              | 6/30/2021 | \$895.00    |                                                                               |                        |
| NFP Agency Administrator Education Fee (Invoiced upon completion of the first face-to-face session)                                   |           |             |                                                                               |                        |
| Price Effective Date                                                                                                                  | End Date  | Unit Price  | Unit of Measure                                                               |                        |
| 7/1/2018                                                                                                                              | 6/30/2019 | \$551.00    | One time per Administrator                                                    |                        |
| 7/1/2019                                                                                                                              | 6/30/2020 | \$568.00    |                                                                               |                        |
| 7/1/2020                                                                                                                              | 6/30/2021 | \$585.00    |                                                                               |                        |
| NHV Educational Materials Fee (Invoiced upon completion of the face-to-face NHV Education session)                                    |           |             |                                                                               |                        |
| Price Effective Date                                                                                                                  | End Date  | Unit Price  | Unit of Measure                                                               |                        |
| 7/1/2018                                                                                                                              | 6/30/2019 | \$593.00    | One time per NHV Trainee                                                      |                        |
| 7/1/2019                                                                                                                              | 6/30/2020 | \$611.00    |                                                                               |                        |
| 7/1/2020                                                                                                                              | 6/30/2021 | \$629.00    |                                                                               |                        |
| Annual Program Support Fee (Invoiced annually on the Price Effective Date)                                                            |           |             |                                                                               |                        |
| Price Effective Date                                                                                                                  | End Date  | Unit Price  | Unit of Measure                                                               |                        |
| 7/1/2018                                                                                                                              | 6/30/2019 | \$8,088.00  | Per Program Supervisor Position<br>per Year                                   |                        |
| 7/1/2019                                                                                                                              | 6/30/2020 | \$8,328.00  |                                                                               |                        |
| 7/1/2020                                                                                                                              | 6/30/2021 | \$8,580.00  |                                                                               |                        |
| Annual Nurse Consultation Fee for Each First Program Supervisor at a Location<br>(Invoiced annually on the Price Effective Date)      |           |             |                                                                               |                        |
| Price Effective Date                                                                                                                  | End Date  | Unit Price  | Unit of Measure                                                               |                        |
| 7/1/2018                                                                                                                              | 6/30/2019 | \$9,696.00  | Per Program Supervisor Position<br>per Year                                   |                        |
| 7/1/2019                                                                                                                              | 6/30/2020 | \$9,984.00  |                                                                               |                        |
| 7/1/2020                                                                                                                              | 6/30/2021 | \$10,284.00 |                                                                               |                        |
| Annual Nurse Consultation Fee for Each Additional Program Supervisor at a Location<br>(Invoiced annually on the Price Effective Date) |           |             |                                                                               |                        |
| Price Effective Date                                                                                                                  | End Date  | Unit Price  | Unit of Measure                                                               |                        |
| 7/1/2018                                                                                                                              | 6/30/2019 | \$5,820.00  | Per Program Supervisor Position<br>per Year                                   |                        |
| 7/1/2019                                                                                                                              | 6/30/2020 | \$6,402.00  |                                                                               |                        |
| 7/1/2020                                                                                                                              | 6/30/2021 | \$6,594.00  |                                                                               |                        |
| Program Supervisor Expansion or Replacement Fee (Invoiced at the time of hire)                                                        |           |             |                                                                               |                        |
| Price Effective Date                                                                                                                  | End Date  | Unit Price  | Unit of Measure                                                               |                        |
| 7/1/2018                                                                                                                              | 6/30/2019 | \$3,174.00  | One time per Expansion or Replacement Program<br>Supervisor<br>per Occurrence |                        |
| 7/1/2019                                                                                                                              | 6/30/2020 | \$3,264.00  |                                                                               |                        |
| 7/1/2020                                                                                                                              | 6/30/2021 | \$3,360.00  |                                                                               |                        |
| Data Transmission is an<br>OPTIONAL service (Invoiced on<br>the Price Effective Date)<br>Price Effective Date                         |           | End Date    | Unit Price                                                                    |                        |
| 7/1/2018                                                                                                                              |           | 6/30/2019   | \$624.00                                                                      | Quarterly transmission |
| 7/1/2019                                                                                                                              |           | 6/30/2020   | \$648.00                                                                      | Quarterly transmission |
| 7/1/2020                                                                                                                              |           | 6/30/2021   | \$668.00                                                                      | Quarterly transmission |

## **EXHIBIT D. HIPAA BUSINESS ASSOCIATE ADDENDUM**

- I. NFP is considered a Business Associate of Agency, as NFP either: (A) performs certain functions on behalf of or for Agency that may involve the use or disclosure of protected individually identifiable health information by Agency to NFP, or the creation or receipt of PHI by NFP on behalf of Agency; or (B) provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, financial or social services for Agency involving the disclosure of PHI.
- II. Agency and NFP mutually agree to incorporate the terms of this Exhibit into the Agreement to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and HIPAA's implementing regulations, Title 45, Parts 160 and 164 of the Code of Federal Regulations ("Security and Privacy Rule"), as amended by HITECH. If any conflict exists between the terms of the Agreement and this Exhibit, the terms of this Exhibit shall govern.
- III. This Exhibit is specific to those services and programs included in the Agreement where it has been concluded that NFP is performing specific functions on behalf of Agency that have been determined to be covered under the HIPAA Security and Privacy Rule. NFP's activities within the Agreement may include, but are not limited to the following: (i) data analysis, processing or administration, (ii) quality assurance, (iii), billing, and (iv) other management or administrative functions where NFP may not otherwise be subject to the HIPAA Security and Privacy Rule, including also health services functions.
- IV. Definitions:
  - A. Protected Health Information (PHI) means any information, whether oral or recorded in any form or medium, including Electronic Health Records (EHR), that: (i) relates to the past, present or future physical or mental condition of any Individual; the provision of health care to an Individual; or the past, present or future payment of the provision of health care to an Individual; and (ii) identifies the Individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual. PHI includes demographic information unless such information is de-identified according to the Security and Privacy Rule.
  - B. Individual means the person who is the subject of PHI, and shall include a person who qualifies under the Security and Privacy Rule as a personal representative of the Individual.
- V. Capitalized terms used in this Exhibit, but not otherwise defined, shall have the same meaning as those terms in the Security and Privacy Rule, as amended from time to time.
- VI. Prohibition on Unauthorized Use or Disclosure of PHI: NFP shall not use or disclose any PHI received from or on behalf of Agency except as permitted by the Security or Privacy Rule, or as required by law, or as otherwise authorized in writing by Agency.
- VII. Use and Disclosure of Protected Health Information: Except as described in Section IV, NFP may use or disclose PHI only for the following purpose(s):
  - A. For the proper management and administration of the functions and activities related to the provision of healthcare services specified within the Agreement.
  - B. For meeting its obligations as set forth in any agreements between the parties evidencing their business relationship.

- C. As would be permitted by the HIPAA Security and Privacy Rule if such use or disclosure were made by Agency or as required by applicable law, rule or regulation.
  - D. For Data Aggregation purposes for the Health Care Operations of Agency.
  - E. For use in NFP's operations as described in the Agreement.
- VIII. Disclosures of PHI shall, to the extent practicable, be limited to the applicable limited data set and to the minimum necessary information to accomplish the intended purpose of the use, disclosure or request unless otherwise determined by guidance of the Secretary of the U.S. Department of Health and Human Services ("Secretary").
- IX. Use of PHI for Certain of NFP's Operations: NFP may use and/or disclose PHI it creates for, or receives from, Agency to the extent necessary for NFP's proper management and administration, or to carry out NFP's legal responsibilities, only if:
- A. The disclosure is required by law.
  - B. NFP obtains reasonable assurances, evidenced by written contract, from any person or organization to which NFP shall disclose such PHI that such person or organization shall:
    - 1. Hold such PHI in confidence and use or further disclose it only for the purpose for which NFP disclosed it to the person or organization, or as required by law; and
    - 2. Notify NFP, who shall in turn promptly notify Agency, of any instance which the person or organization becomes aware of in which the confidentiality of such PHI was breached.
- X. Safeguarding of PHI: NFP shall develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to prevent the improper use or disclosure of all PHI, in any form or media, received from or created or received by Agency on behalf of, Agency. NFP shall document and keep these security measures current, consistent with HIPAA Security regulations. NFP shall cooperate and respond in good faith to any reasonable request from Agency to discuss and review NFP's safeguards.
- XI. Subcontractors and Agents: If NFP provides any PHI which was received from, or created for Agency, to a subcontractor or agent, then NFP shall require such subcontractor or agent to agree to the same restrictions and conditions as are imposed on NFP by this Exhibit and by sections 164.502 and 164.504(e) of Title 45 of the Code of Federal Regulation, as amended from time to time. NFP shall keep Agency informed of the identities of all subcontractors having access to PHI created, received, maintained or transmitted on behalf of Agency.
- XII. Access to PHI: At the direction of Agency, NFP agrees to provide access to any PHI held by NFP which Agency has determined to be part of Agency's Designated Record Set, in the time and manner designated by Agency. This access will be provided to Agency or, as directed by Agency, to an Individual, in order to meet the requirements under the Security and Privacy Rule.
- XIII. Reporting of Unauthorized Disclosures or Misuse of PHI: NFP shall report to Agency any unauthorized acquisition, access, use or disclosure of PHI. NFP shall make the report to Agency within ten (10) business days after NFP learns of such use or disclosure. NFP's report shall identify: (i) each individual protected by this Exhibit whose PHI has been, or is reasonably believed by NFP to have been, accessed, acquired or disclosed, (ii) the nature of the unauthorized use or disclosure, (iii) the PHI used or disclosed, (iv) who made the unauthorized use or received the unauthorized disclosure, (v) what NFP has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (vi) what

corrective action NFP has taken or shall take to prevent future similar unauthorized use or disclosure. NFP shall provide such other information, including a written report, as reasonably requested by Agency.

XIV. Mitigating Effect of Unauthorized Disclosure or Misuse of PHI: NFP agrees to mitigate, to the extent practicable, any harmful effect that is known to NFP of a misuse or unauthorized disclosure of PHI by NFP in violation of the requirements of this Exhibit.

XV. Notification Requirements In the event of Unauthorized Disclosure or Misuse of PHI. In the event of a Breach, NFP agrees to take the following steps within 60 days:

- A. Provide written notice by first-class mail to the Individual or next of kin if the Individual is deceased, at the last known address of the Individual or next of kin, or if specified as a preference by the Individual, by electronic mail.
- B. If contact information is insufficient to provide notice to an individual, provide a substitute form of notice; and, where there are 10 or more Individuals with insufficient contact information, make a conspicuous posting as required by the Secretary as provided on the Secretary's official web site.
- C. If the Breach involves the PHI of more than 500 Individual residents of the state, notify prominent media outlets.
- D. Include in notice to individuals: (i) a brief description of what happened; (ii) a description of the type of information involved; (iii) steps Individuals should take to protect themselves from potential harm resulting from the Breach; a description of what is being done to investigate the Breach, mitigate losses and protect against further breaches; and (iv) contact procedures for Individuals to obtain further information.
- E. Comply with any other notice requirements of the Security and Privacy Rule, the ARRA of 2009 or guidance statements of the Secretary, as amended from time to time.

XVI. Log of Unauthorized Disclosure or Misuse of PHI: NFP shall maintain a log of any Breach covered by this Exhibit and shall annually submit such log to the Secretary of the U.S. Department of Health and Human Services as required by section 13400 of the ARRA of 2009 and to Agency. NFP shall provide immediate notice to the Secretary and Agency of any breach of the PHI of 500 or more Individuals.

XVII. Accounting to Agency and to Government Agencies: NFP shall make its internal practices, books, and records relating to the use and disclosure of PHI available to Agency, or at the request of Agency, to the Secretary or his/her designee, in a time and manner designated by Agency or the Secretary or his/her designee, for the purpose of determining NFP's compliance with the Security and Privacy Rule. NFP shall promptly notify Agency of communications with the Secretary regarding PHI provided by or created by Agency and shall provide Agency with copies of any information NFP has made available to the Secretary under this provision.

XVIII. Prohibition on Sale of Electronic Health Records or Protected Health Information: NFP shall not receive remuneration in exchange for any EHR or PHI of an Individual received from or on behalf of Agency.

XIX. Term and Termination: In addition to the rights of the parties established by the Agreement, if Agency reasonably determines in good faith that NFP has materially breached any of its obligations under this Addendum, Agency, in its sole discretion, shall have the right to:

- A. exercise any of its rights to reports, access and inspection under this Exhibit; and/or
- B. require NFP to submit to a plan of monitoring and reporting, as Agency may determine necessary to maintain compliance with this Exhibit, and/or

- C. provide NFP with a 30-day period to cure the breach; or
- D. terminate the Agreement immediately.

XX. Before exercising any of these options, Agency shall provide written notice to NFP describing the violation and the action it intends to take.

XXI. Return or Destruction of PHI: The Parties agree that the return or destruction of PHI or Health Information is not feasible, due to data integrity and ongoing Program evaluation. Therefore, NFP shall extend the protections of this Exhibit to PHI and Health Information received from or created on behalf of Agency, and limit further uses and disclosures of such PHI, for so long as NFP maintains the PHI.

XXII. Miscellaneous:

- A. Automatic Amendment: Upon the effective date of any amendment to the regulations promulgated by the Secretary with regard to PHI, this Exhibit shall automatically amend so that the obligations imposed on NFP remain in compliance with such regulations.
- B. Interpretation: Any ambiguity in this Exhibit shall be resolved in favor of a meaning that permits Agency to comply with the Security and Privacy Rule.

XXIII. The Parties acknowledge that, in the course of providing the services to Agency under the terms of the Agreement, NFP will be enabling the Prevention Research Center for Family and Child Health ("PRC"), an organization which is part of the University of Colorado at Denver and Health Sciences Center, to access data that may be PHI for the purposes of research, analysis, and reporting. NFP will ensure that PRC and its employees and NFP's agents, employees, subcontractors or others to whom it provides PHI received by or created by NFP on behalf of Agency agree to the same restrictions and conditions that apply to NFP with respect to such information. NFP also agrees to take all reasonable steps to ensure that its employees', agents', or subcontractors' actions or omissions do not cause NFP to breach the terms of this Addendum. NFP will use all appropriate safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Agreement and Exhibit.

## **EXHIBIT E. AGENCY RESPONSIBILITIES**

To ensure that the Nurse-Family Partnership Program is implemented with Fidelity to the Model, Agency will undertake the following actions during initial implementation and ongoing operation:

I. Agency shall:

- A. Identify, from its top tier leadership, a Program Administrator to support Program implementation within the community;
- B. Set up and maintain an appropriate work space for staff who are to implement the Program;
- C. Establish and maintain appropriate telecommunications and computer capabilities for staff;
- D. Recruit, hire, and retain Program Supervisors, Nurse Home Visitors, and administrative support staff;
- E. Establish, maintain, keep current and improve its network of referral sources who will refer low-income, first-time mothers to Agency;
- F. Enroll Clients that meet the criteria specified in the Model Elements.
- G. Establish, maintain, keep current and improve its network of social services and community resources that can provide support to Agency's Clients;
- H. Work with media to ensure timely and accurate communication to the public about the Program and its implementation by Agency;
- I. Inform the community and build support for Agency, the Program, and Program Benefits, including educating local, state and/or federal policymakers;
- J. Establish and maintain strong, stable, and sustainable funding for Agency operations and seek new funding streams to sustain and expand the Program.
- K. Utilize NFP's Internet-based discussion forum to share learning with other entities that are implementing the Program.

II. Agency will keep NFP informed of implementation issues that may impact Program sustainability, ability to reach Program capacity, and attain Model Fidelity.

III. Agency will ensure that all Administrators, Program Supervisors, Nurse Home Visitors, and administrative staff attend, participate in, and/or complete education programs required by NFP, do so on a timely basis, and, upon completion, demonstrate a level of competence deemed satisfactory by NFP in its reasonable discretion.

IV. Agency will ensure that no Nurse Home Visitor is assigned a case load or makes a Client visit (except in the company of an NFP-educated Nurse Home Visitor) until after she/he has completed Unit II on the Program, Program Benefits, Model Elements, use of the NFP DCS, and implementation of the Program for mothers who are pregnant.

V. Agency will implement the Program in accordance with the E-Guidelines including:

- A. Ensure enrollment of 25 first-time mothers per full-time Nurse Home Visitor within nine months of beginning implementation and make best efforts to maintain that level of enrollment on an ongoing basis;
- B. Ensure that each full-time Nurse Home Visitor carries a caseload of at least 25 active families; and
- C. Ensure that the essential Program content as described in the E-Guidelines is addressed with Clients by Nurse Home Visitors.

VI. Agency will ensure the availability of appropriate, fully functioning computer systems and software at Agency for use of the NFP DCS and to communicate with NFP by email.

VII. Agency will ensure that Program Supervisors and Nurse Home Visitors (a) collect required data on Client visits and enter it into the NFP DCS completely and accurately within five (5) business days of visiting the Client, and (b) enter any other data for NFP DCS completely and accurately on or before the last day of each calendar month, taking all appropriate steps to maintain Client confidentiality and obtain any necessary written permissions or agreements for data analysis or disclosure of protected health information, in accordance with HIPAA (Health Insurance Portability and Accountability Act of 1996) regulations, including, but not limited to, authorizations, data use agreements, and business associate agreements, as necessary. Failure of Agency to comply with any applicable provision of HIPAA will constitute a breach of this Agreement.

VIII. Agency will ensure that Program Supervisors:

A. Aim to develop a supportive relationship with the Nurse Home Visitors she/he supervises;

B. Meet one-on-one with each Nurse Home Visitor at least weekly to provide clinical supervision using reflection, preferably in person but by telephone where travel constraints limit nurse or Program Supervisor mobility; and

C. Run activity reports and quality improvement reports from the NFP DCS on a timely basis (typically monthly); use such reports to assess areas where systems, organizational, or operational changes are needed to enhance the overall quality of program operations; and develop and implement action plans based on these assessments, team meetings and case conferences, in accordance with the Model Elements.

IX. Agency will ensure that Administrators:

A. Support the Team as appropriate;

B. Review annual outcome and fidelity measures to assess the status of implementation;

C. Review capacity and sustainability regularly;

D. Take advantage of NFP's ongoing distance learning opportunities related to Administrator Orientation, and

E. Make best efforts to develop a robust, supportive, active CAB.

X. Agency will develop a Community Advisory Board with diverse representation (for example, health, mental health, education, criminal justice, youth, business, social services, faith-based leaders, other prominent community organization leaders) to ensure broad-based community support for Agency's implementation of the Program.

XI. NFP will periodically assess the extent to which Agency is implementing the Program with Fidelity to the Model. When such assessment indicates opportunities for Agency to improve its results by strengthening Fidelity to the Model, NFP staff will meet with Agency supervision and mutually develop a plan to do so.