

Memorandum of Understanding

This is a Memorandum of Understanding (“MOU”), dated as of _____, 20__ (“Effective Date”), between _____ (“Client”), a [California nonprofit corporation], and _____ (“Collaborator”), a [California nonprofit corporation].

Background

Client is a nonprofit organization whose mission is [insert mission]. Collaborator’s mission is described in **Exhibit A** (the “Project Plan”). Client and Collaborator wish to work together on a project (the “Project”) as described in the Project Plan and on the basis set out in this MOU.

Client and Collaborator agree as follows:

1. Project

1.1 Objectives and Activities

Project objectives and activities, and Client’s and Collaborator’s respective Project responsibilities, are set out in the Project Plan. Client and Collaborator will each carry out such responsibilities in accordance with this MOU.

1.2 Project Contacts

Client and Collaborator will each appoint one individual to act as principal contact person and to coordinate activities in connection with the Project. The initial appointees are identified in the Project Plan. Client and Collaborator each may change its contact person at any time and will so advise the other.

1.3 Cooperation

Client and Collaborator acknowledge that the effectiveness of a collaboration depends in large part on the information provided and the actions undertaken by both parties. To that end, Client and Collaborator will cooperate in the performance of the Project, including, without limitation, providing timely access to relevant information and personnel.

1.4 External Communications

The Project Plan sets out the external communication plan for the Project. For consistency of communication, except as contemplated by the Project Plan or as required by law, neither Client nor Collaborator will issue any public statement (including statements on its website) relating to the Project, or use each other’s trademarks or logo in any promotional materials, or in any website, press release, or public communication, without obtaining the other’s prior written consent.

1.5 Responsibility for Own Actions

Client and Collaborator will each have sole responsibility for the planning, management, and implementation of its own activities relating to Project execution, including, without limitation, managing its Project budget, hiring, assigning, and managing employees, and paying expenses.

1.6 Contracts with Other Parties

Client and Collaborator may each be required to enter into contracts with third parties in order to carry out its respective Project responsibilities. These contracts will be the sole responsibility of the entity entering into the contract; neither Client nor Collaborator will assume any liability for or guarantee the performance of the other in conjunction with any of these contracts.

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1.7 Project Changes

If either Client or Collaborator believes the Project Plan should be adjusted in any respect, it will so advise the other of the proposed changes. Client and Collaborator will discuss the proposed adjustment and, if they agree on an adjustment, confirm and document the adjustment in the form provided as **Exhibit B**.

2. Funding

2.1 Funding Source

The Project is funded by the source ("Funder") identified in the Project Plan and under a funding agreement attached as **Exhibit C** ("Funding Agreement"). Except as contemplated by this MOU or the Funding Agreement, Client and Collaborator will each be responsible for their own expenses incurred in carrying out the Project.

2.2 Funding Agreement Terms and Conditions

Client and Collaborator's work on the Project, as described in this MOU or otherwise, will be subject to the terms and conditions of the Funding Agreement. Client and Collaborator will comply with all provisions of the Funding Agreement relevant to their respective activities, including, without limitation, funds use, reporting, licensing, and attribution requirements. If there are any inconsistencies between the Funding Agreement and this MOU, including the Project Plan, the Funding Agreement will control.

2.3 Funding Procedures

The Project Plan sets out understandings between Client and Collaborator regarding, responsibility for reporting and other interactions with the Funder, funds disbursement procedures, and other matters relating to disbursement of funds under the Funding Agreement.

2.4 Funder Changes

Client and Collaborator understand that the Funder may request changes that affect the Project. Both parties will cooperate with each other to incorporate such changes, which may require executing an adjustment to the Project Plan in accordance with Section 1.7 or an amendment to this MOU in accordance with Section 7.2.

3. Data Collection, Confidentiality, and Recordkeeping

3.1 Project Evaluation

Each of Client and Collaborator may collect, analyze, and disseminate data about the Project to evaluate the Project's effectiveness, comply with external reporting obligations, and carry out its communication activities.

3.2 Reporting

Client and Collaborator will each provide the other with such reports about Project activities as contemplated by the Project Plan and Funding Agreement, and such other information as the other may reasonably request.

3.3 Confidentiality

In working together on the Project, Client and Collaborator may share non-public information ("Confidential Information") with one another and with the Funder, including information about financial, funding and other matters. Client and Collaborator will each use the other party's Confidential Information only in connection with activities under this MOU and the Funding Agreement and will keep this information confidential. Confidential Information does not include information that is subject to customary exceptions under a non-disclosure agreement, such as information generally available to the public, information already known by the receiving party before entering into this MOU, or information independently developed. All Confidential Information furnished under this MOU is and will remain the property of the furnishing party.

3.4 Recordkeeping

Client and Collaborator will each maintain records relating to its Project responsibilities in a manner such that the other can evaluate compliance with this MOU and the Funding Agreement, and will make those records available for review by the other on reasonable notice during the term of this MOU and for a period of three years after its termination.

3.5 Sharing Information

Client and Collaborator will each reasonably cooperate with one another in providing information relating to its activities under this MOU in connection with any requests from the Funder under the Funding Agreement, any of either party's other funders, or financial or tax audit, or similar matter, in which the other is engaged.

3.6 Organizational Developments

Client and Collaborator will each notify the other promptly of: (a) any changes in its management team or key personnel responsible for carrying out its activities relating to the Project; (b) any loss of its tax-exempt status; or (c) any other development that has or could have a material adverse effect on its financial condition or otherwise materially affect its ability to carry out the Project. If requested by either Client or Collaborator, then the other party will promptly provide its annual financial statements and such other financial and other information as reasonably requested.

4. Intellectual Property

4.1 Name and Logo

Client and Collaborator may use the other's name, logo, and other marks (collectively, "marks") on Project materials and for external communication purposes as set out in the Plan. For clarity, Client will obtain no rights to Collaborator's marks, and Collaborator will obtain no rights to Client's marks, other than the limited rights set out in this Agreement.

4.2 Materials Developed by Each Party

In carrying out the Project, Client and Collaborator may share and permit use of existing proprietary know-how, methodologies, curricula, documents and other materials (collectively, "materials"). Client and Collaborator grant to each other a royalty-free, non-exclusive, non-transferable, non-sublicenseable, and revocable license to use and distribute such materials for the sole purpose of carrying out the Project as contemplated by the Plan. For clarity, Client and Collaborator each owns, and will continue to own, all right, title and interest, including all copyright rights, in and to its own existing materials. It is further understood and agreed that each party retains all rights, title, and interest in and to any materials it exclusively creates for the Project.

4.3 Material Developed Jointly

Unless otherwise specified in the Plan, Client and Collaborator will jointly own any new materials developed in connection with the Project that were not developed independently but are jointly conceived and created ("Joint Works"). Neither Client nor Collaborator may convey or license any rights in or to the Joint Works without the express prior written consent of the other party. Following termination of this MOU for any reason, either party may use the Joint Works, internally, in connection with activities consistent with the purpose of this Project. Neither party may disclose Joint Works to third parties unless such party (a) obtains written consent from the other party, and (b) if requested by the other party, removes any trademark, service mark, or other identifier of the other party from the Joint Works. Client and Collaborator agree that there will be no liability or accounting for profits or revenues made on account of the exercise of any of the rights granted in connection with Joint Work Product.

4.4 No Infringement

Client and Collaborator each warrant to the other that their respective Project materials will not violate, infringe, or misappropriate any copyright, right of privacy, right of

publicity, trademark, trade name, trade secret, or other common law or statutory intellectual property or other right of any nature of any third party.

4.5 Other Funding Arrangement Requirements

Other funding agreements may require Client or Collaborator to share Project data with or license Project materials to other funders. Client and Collaborator will advise the other about any such requirements, and, to the extent necessary to comply with such requirements, and subject to Section 2.2, grant to the other royalty-free licenses to provide data and materials to such funders.

5. Insurance and Indemnification

5.1 Insurance

Client and Collaborator will carry or obtain the insurance, if any, specified in the Project Plan.

5.2 Indemnification

Client and Collaborator will each defend, indemnify and hold the other and the other's directors, officers, employees, agents, and assigns (collectively, "Indemnified Parties") harmless against all claims, liabilities, losses, damages, and expenses, including reasonable attorney's fees and expenses, resulting from (a) its own performance of activities under or breach of this MOU or the Funding Agreement; (b) any claims by employees, clients, subcontractors, suppliers, creditors, tax authorities or other persons in a relationship with it; or (c) actions by one party that cause the other to be in breach of the Funding Agreement. Neither Client nor Collaborator will have any obligation to indemnify the other to the extent the liability is caused by its own gross negligence, willful misconduct, or breach of its obligations under this MOU.

6. Termination

6.1 Expiration

This MOU will terminate on the completion date set out in the Project Plan unless terminated under any of the other provisions of this Section 6.

6.2 Mutual Agreement

This MOU may be terminated by a writing signed by both Client and Collaborator that states their intent to terminate this MOU and the date upon which such termination will take effect.

6.3 [Termination on Notice

Either Client or Collaborator may on its own terminate the Project and this MOU at any time by providing written notice of that decision to the other. Such a termination will be effective 30 days after receipt of notice by the non-terminating party.]

6.4 Termination for Breach

If either party breaches any of its obligations under this MOU, the non-breaching party may provide the breaching party with written notice of the breach. If the breaching party fails to cure the breach within 15 days after receipt of such notice, the non-breaching party may terminate this MOU upon delivery to the breaching party of a written notice to that effect, with the termination effective upon receipt of such notice by the breaching party. The non-breaching party may in its reasonable discretion determine whether the breach has been cured.

6.5 [Termination for Reputational Concerns

Either Client or Collaborator may immediately terminate this Agreement by giving written notice to the other if it reasonably believes that the other party has engaged or is engaging in conduct, or has been alleged to have engaged in conduct, including, without limitation, conduct involving harassment or discrimination, of a nature which reflects or could reflect materially and unfavorably upon the reputation of the

terminating party. Such a termination will be effective upon delivery of the notice by the terminating party.]

6.6 Termination by Client

Either party may in its sole discretion terminate this MOU at any time if (a) one party uses the funds provided under the Funding Agreement for any purpose other than as stated in the Project Plan or Funding Agreement; (b) one party makes any misrepresentation in any report or other document delivered or statement made to the other party or Funder; or (c) the Funding Agreement terminates by reason of Funder action or otherwise. The terminating party will send the other party a written notice to that effect, with the termination effective 5 days after the terminating party delivers it.

6.7 Effect of Termination

Upon the expiration or termination of this MOU, Client and Collaborator will promptly cease any use of the other's materials, names, logos, and other marks, except as permitted under Section 4.6. If the MOU terminates, Client and Collaborator will cooperate in transition activities and will use reasonable efforts to minimize interruption and any adverse impacts of the termination. Collaborator upon Client's request will repay to Client any unused portion of the funds within 30 days after the effective date of termination. Sections 3.3, 3.4, 3.5, 4, 5.2, 6.7 and 7 will survive the expiration or termination of this MOU.

7. General Provisions

7.1 Entire Agreement

This MOU, together with the Project Plan and other exhibits, expresses Client's and Collaborator's final, complete, and exclusive agreement, and supersedes any and all prior or contemporaneous written and oral agreements, arrangements, negotiations, communications, course or dealing or understanding between Client and Collaborator relating to its subject matter. If there are any inconsistencies between the Project Plan and this MOU, this MOU will control.

7.2 Amendment

This MOU may be amended only as stated in and by a writing signed by both Client and Collaborator which recites that it is an amendment to this MOU.

7.3 Severability

If any provision of this MOU is held illegal, invalid, or unenforceable, all other provisions of this MOU will nevertheless be effective, and the illegal, invalid, or unenforceable provision will be considered modified such that it is valid to the maximum extent permitted by law.

7.4 Waiver

Any waiver of the provisions of this MOU must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this MOU will not be considered a waiver of any later breach or of the right to enforce any provision of this MOU.

7.5 Assignment

Neither party may, directly or indirectly, assign its rights or delegate its duties under this MOU to anyone else without the prior written consent of the other party, except that either may assign all of its rights and obligations under this MOU without the other's prior written consent in connection with a merger, acquisition, reorganization, sale or transfer of substantially all of its assets, or other operation of law.

7.6 Independence

Client and Collaborator are and will remain independent contracting parties. The arrangements contemplated by this Client do not create a partnership, joint venture, employment, fiduciary, or similar relationship for any purpose. Neither Client nor

Collaborator has the power or authority to bind or obligate the other to a third party or commitment in any manner. Any use of the term “partner” or comparable term in any communication is solely for convenience.

7.7 Notices

Notices, approvals, and consents under this MOU must be in writing and delivered to Client and Collaborator by mail, courier, fax, or email to the contact person identified in the Project Plan.

7.8 Governing Law

This MOU is governed by California law.

7.9 Counterparts

This MOU may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument. Transmission by fax or PDF of executed counterparts will constitute effective delivery.

* * * * *

Client and Collaborator signed this MOU as of the date stated in its first paragraph.

[insert legal name of Client]

[insert legal name of Collaborator]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A

Project Plan

Collaborator data and contact person

Collaborator name	
Collaborator's mission	
Collaborator address	
Collaborator contact person	Name: Title: E-mail: Telephone:

Client data and contact person

Client address	
Client contact person	Name: Title: E-mail: Telephone:

Project objectives and activities

Project name (if any)	
Project objective	
Project core activity	
Project period and expected completion date	
Project external communication plan	
Project key performance measures	
Project client[s] or beneficiaries	

Client responsibilities

Client activities	
Client deliverables	
Client reporting	
Client insurance obligations	

Collaborator responsibilities

Collaborator activities	
Collaborator deliverables	
Collaborator reporting	
Collaborator insurance obligations	

Joint Work Product (if applicable)

[Ownership]	<i>[describe applicable terms for ownership]</i>
[Distribution]	<i>[describe applicable terms for distribution]</i>
[Credit and recognition]	<i>[describe applicable terms for attribution]</i>

Funding

Funding source	
Deposit of funds	[Client][Collaborator] will receive the funds from the Funder and hold them in a restricted account for exclusive Project use.
Disbursement of funds	<i>[describe applicable invoicing and other procedures for disbursement]</i>
Other terms (if applicable)	<i>[state other financial terms]</i>
Reporting to Funder	<i>[describe reporting requirements]</i>

Use of Name and Logos

Project materials	<i>[describe use if any on materials]</i>
External communications	<i>[describe use if any for promotional purposes]</i>

Exhibit B

Project Plan Adjustment

Date of adjustment	
Reason for change(s)	
[Modified Objectives]	
[Modified Activities]	
[Modified Responsibilities]	
[Other Terms]	

This document is a Project Plan Adjustment and is an amendment to the Memorandum of Understanding, dated _____, 20__, between [name of Client] and [name of Collaborator].

Agreed and confirmed as of the date stated above.

[insert legal name of Client]

[insert legal name of Collaborator]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit C

Funding Agreement

[Attach Funding Agreement here]