

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Long Beach, CA 90802-4664

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LONG BEACH RECOVERY ACT SERVICES AGREEMENT

36553

THIS LONG BEACH RECOVERY ACT SERVICES AGREEMENT (“Agreement”) is made and entered into, as of April 5, 2023, for reference purposes only, by and between the CITY OF LONG BEACH (“City”), a municipal corporation, with its principal place of business at 411 West Ocean Blvd., Long Beach, California 90802, and TOUCHPHRASE DEVELOPMENT, LLC dba JULOTA (“CONTRACTOR”), a limited liability company with its principal place of business at 7208 S. Tucson Way, Ste. 120, Centennial, Colorado 80112.

WHEREAS, the American Rescue Plan Act (ARPA) was passed by Congress on March 10, 2021 and signed into law on March 11, 2021, to provide \$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments to respond to the Coronavirus Disease 2019 (COVID-19) public health emergency and bring back jobs;

WHEREAS, on March 16, 2021, the Long Beach City Council approved the Long Beach Recovery Act (LB Recovery Act), a COVID-19 recovery program that utilizes federal ARPA funds among other funding sources to support City programs in three main categories - Economic Recovery, Healthy and Safe Community, and Securing Our City’s Future;

WHEREAS, the purpose of this LB Recovery Act contract award to CONTRACTOR is to respond to the COVID-19 public health emergency; and

WHEREAS, as part of the Health and Safe Community category of the LB Recovery Act, City’s Department of Health and Human Services’ (Health Department’s) Community Crisis Response Team (CCRT) requires a case management system that is built for community crisis intervention teams, specifically one that hosts behavioral health case notes, captures calls for service and outcome data, and collects electronic consent forms that is outfitted for use for crisis intervention;

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1           WHEREAS, City did, by Resolution No. RES-23-005, determine that  
2 CONTRACTOR is the only company with crisis intervention case management software  
3 that is 42 CFR Part 2 compliant, which is required in order for City to comply with federal  
4 regulations; and

5           WHEREAS, by reason of the foregoing, no useful purpose would be served  
6 by advertising for bids to perform the specialized services, and to do so would constitute  
7 an idle and useless act and unnecessary expenditure of public funds;

8           WHEREAS, City desires to have CONTRACTOR perform these services  
9 related to the Program, and CONTRACTOR is willing and able to do so on the terms and  
10 conditions, including exhibits, in this Agreement;

11           NOW, THEREFORE, in consideration of the mutual terms, covenants, and  
12 conditions in this Agreement, the City and the CONTRACTOR agree as follows:

13           1.    PROGRAM.   The City agrees to provide funding to the  
14 CONTRACTOR for the development and implementation of the Community Crisis  
15 Response Program ("Program"). Exhibit 1 (consisting of the Software as a Service License  
16 Agreement; Exhibit A-1: Statement of Work No. 1; Appendix to the Statement of Work –  
17 No. 1; Exhibit B" Service Level Agreement; Exhibit C: Customer Trademark Guidelines;  
18 and Exhibit D: HIPAA Business Associate Agreement) is attached hereto and incorporated  
19 into this Contract by this reference. The anticipated scope of work for the Program is set  
20 forth in Exhibit "A-1". Inconsistent terms in the scope of work attached as Exhibit "A-1" will  
21 supersede and control inconsistent terms in this Agreement as to that scope of work only.

22           2.    FUNDS.   The CONTRACTOR hereby acknowledges and agrees that  
23 the City's total contribution for the CONTRACTOR'S approved Program shall not exceed  
24 Seventy-Five Thousand Dollars (\$75,000.00).

25           3.    FUNDING AMOUNT, INVOICING, AND METHOD OF PAYMENT.  
26 Funding shall be expended by CONTRACTOR for authorized eligible expenditures in  
27 accordance with the Program budget, delineated in Appendix 1 to the Statement of Work  
28 No. 1. Charges to City made by CONTRACTOR for services in performance of this

1 Agreement shall be based on CONTRACTOR'S Scope of Work, attached hereto as  
2 Exhibit "A-1." City shall pay CONTRACTOR in due course following receipt from  
3 CONTRACTOR and approval by City of invoices showing the goods and/or services or  
4 task performed, the time expended (if billing is hourly) and hourly rates, the name of the  
5 Program, and the City number assigned to this Agreement. CONTRACTOR shall certify  
6 on the invoices that CONTRACTOR has performed the services in full conformance with  
7 this Agreement and is entitled to receive payment. The payment schedule for the first  
8 year will be as follows:

9           \$13,450.00 shall be paid within thirty (30) days of the date of the kick-off  
10           meeting. The kick-off meeting is the first meeting that Julota and Customer  
11           will have after the execution of the SOW.

12           \$25,307.50 shall be invoiced upon delivery of sand box environment (as  
13           defined during the kick-off meeting).

14           \$25,307.50 shall be invoiced at the MVP Go-Live Date (as defined at the  
15           kick-off meeting) no later than 180 days before the end of term.

16           4.    AGREEMENT TERM. The term of this Agreement shall commence  
17           upon execution of this Agreement by the City Manager ("Commencement Date") and,  
18           subject to the termination provisions of paragraph 7, end on the earlier of one year from  
19           the Commencement Date, or the final disbursement of the full Grant amount and  
20           completion of any required close out activities and reports (the "Term"). CONTRACTOR  
21           shall not begin work until the Agreement term has commenced and until CONTRACTOR'S  
22           evidence of insurance has been delivered to and approved by City. The Term is subject  
23           to the termination provisions of this Agreement. In performance of the Program, all  
24           expenditures must be incurred by CONTRACTOR, and all services must be provided by  
25           CONTRACTOR within the Term. City will not be obligated to reimburse expenses incurred  
26           after the Agreement term, and CONTRACTOR will be obligated to repay City for any funds  
27           received but not expended within the Term.

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1           5.     AUDIT AND RECORD REQUIREMENTS. City shall have the right at  
2 all reasonable times (once per twelve (12) month period) during the term of this Agreement  
3 and for a period of two (2) years after termination or expiration of this Agreement to  
4 examine, audit, inspect, review, extract information from and copy all books, records,  
5 accounts and other documents of CONTRACTOR relating to CONTRACTOR's compliance  
6 with data privacy laws for the processing of personal information under this Agreement and  
7 all data to support any services with fees that are based upon usage.

8           6.     REPORTING REQUIREMENTS. CONTRACTOR shall coordinate its  
9 performance reporting with City's representative, Christina Boatwright, Resource  
10 Connections Office, Department of Health & Human Services, Collective Impact.  
11 CONTRACTOR shall provide any reports requested by City regarding performance of the  
12 Agreement as agreed upon by the Parties.

13           7.     TERMINATION. The City may, in its sole discretion, terminate this  
14 Agreement:

15                   A.     In the event CONTRACTOR fails to perform or comply with an  
16 obligation or a term, condition or provision of this Agreement, the City may notify the  
17 CONTRACTOR in writing of the delay or nonperformance, and if not cured in thirty  
18 (30) days, the City may terminate this Agreement in its entirety, or any part thereof,  
19 or the City may, upon written notice to CONTRACTOR, terminate this Agreement  
20 for cause, without further notice or opportunity to cure. Such notification will state  
21 the effective date of termination, and if no effective date is specified, the effective  
22 date will be the date of the notification.

23                   B.     City and CONTRACTOR may mutually agree to terminate this  
24 Agreement. City in its sole discretion will determine if, as part of the agreed  
25 termination, CONTRACTOR is required to return any or all the disbursed funds.

26                   C.     Termination is not an exclusive remedy but will be in addition  
27 to any other rights and remedies provided in equity, by law, or under this Agreement.  
28 Following termination by City, CONTRACTOR shall continue to be obligated to City

1 for the return of funds in accordance with applicable provisions of this Agreement.  
2 In the event of termination under this section, City's obligation to reimburse  
3 CONTRACTOR is limited to allowable costs incurred and paid by the  
4 CONTRACTOR prior to the effective date of termination, and any allowable costs  
5 determined by City in its sole discretion to be reasonable and necessary to cost-  
6 effectively wind up the Agreement. Termination of this Agreement for any reason  
7 or expiration of this Agreement shall not release the parties from any liability or  
8 obligation set forth in this Agreement that is expressly stated to survive any such  
9 termination or expiration.

10 D. Notwithstanding any expiration or termination of this  
11 Agreement, the rights and obligations pertaining to the funds, cooperation and  
12 provision of additional information, return of funds, audit rights, records retention,  
13 public information, and any other provision implying survivability shall remain in  
14 effect after the expiration or termination of this Agreement.

15 E. In the event of termination under this Section, City shall pay  
16 CONTRACTOR for services performed pursuant to the Agreement and fees up to  
17 the effective date of termination for which CONTRACTOR has not been previously  
18 paid.

19 8. CONFLICT OF INTEREST SAFEGUARDS. The CONTRACTOR will  
20 establish safeguards to prohibit its employees from using their positions for a purpose that  
21 constitutes or presents the appearance of personal or organizational conflict of interest or  
22 personal gain, whether for themselves or others, particularly those with whom they have  
23 family, business, or other ties. The CONTRACTOR will operate with complete  
24 independence and objectivity without actual, potential, or apparent conflict of interest with  
25 respect to its performance under this Agreement.

26 9. FRAUD, WASTE, AND ABUSE. The CONTRACTOR understands  
27 that City does not tolerate any type of fraud, waste, or misuse of funds. City's policy is to  
28 promote consistent, legal, and ethical organizational behavior, by assigning responsibilities

1 and providing guidelines to enforce controls. Any violations of law or standards of ethical  
2 conduct will be investigated, and appropriate actions will be taken. The CONTRACTOR  
3 understands and agrees that misuse of award funds may result in a range of penalties,  
4 including suspension of current and future funds, suspension or debarment from federal,  
5 state, and City grants, recoupment of monies provided under an award, and civil and/or  
6 criminal penalties.

7           10. SEVERABILITY. If any provisions of this Agreement are rendered or  
8 declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be  
9 modified or deleted in such manner so as to afford the party for whose benefit it was  
10 intended the fullest benefit commensurate with making this Agreement, as modified,  
11 enforceable, and the remainder of this Agreement and the application of such provision to  
12 other persons or circumstances shall not be affected thereby, but shall be enforced to the  
13 greatest extent permitted by applicable law.

14           11. AMBIGUITIES. To the extent the terms and conditions of this  
15 Agreement do not address a particular circumstance or are otherwise unclear or  
16 ambiguous, such terms and conditions are to be construed consistent with the general  
17 objectives, expectations and purposes of this Agreement and in all cases, according to its  
18 fair meaning. The parties acknowledge that each party and its counsel have reviewed this  
19 Agreement and that any rule of construction to the effect that any ambiguities are to be  
20 resolved against the drafting party shall not be employed in the interpretation of this  
21 Agreement. Any vague, ambiguous or conflicting terms shall be interpreted and construed  
22 in such a manner as to accomplish the purpose of the Agreement.

23           12. INDEPENDENT CONTRACTOR. In performing its services,  
24 CONTRACTOR is and shall act as an independent contractor and not an employee,  
25 representative or agent of City. CONTRACTOR shall have control of CONTRACTOR'S  
26 work and the manner in which it is performed. CONTRACTOR shall be free to contract for  
27 similar services to be performed for others during this Agreement. CONTRACTOR  
28 acknowledges and agrees that (a) City will not withhold taxes of any kind from

1 CONTRACTOR'S compensation; (b) City will not secure workers' compensation or pay  
2 unemployment insurance to, for or on CONTRACTOR'S behalf; and (c) City will not provide  
3 and CONTRACTOR is not entitled to any of the usual and customary rights, benefits or  
4 privileges of City employees. CONTRACTOR expressly warrants that neither  
5 CONTRACTOR nor any of CONTRACTOR'S employees or agents shall represent  
6 themselves to be employees or agents of City.

7 13. INSURANCE.

8 A. As a condition precedent to the effectiveness of this  
9 Agreement, CONTRACTOR shall procure and maintain, at CONTRACTOR'S  
10 expense for the duration of this Agreement, from insurance companies that are  
11 admitted to write insurance in California and have ratings of or equivalent to A:V by  
12 A.M. Best Company or from authorized non-admitted insurance companies subject  
13 to Section 1763 of the California Insurance Code and that have ratings of or  
14 equivalent to A:VIII by A.M. Best Company, the following insurance:

15 (a) Commercial general liability insurance (equivalent in scope to  
16 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than  
17 \$1,000,000 per each occurrence and \$3,000,000 general aggregate. This  
18 coverage shall include but not be limited to broad form contractual liability,  
19 cross liability, independent contractors liability, and products and completed  
20 operations liability. City, its boards and commissions, and their officials,  
21 employees and agents shall be named as additional insureds by  
22 endorsement (on City's endorsement form or on an endorsement equivalent  
23 in scope to ISO form CG 20 26 11 85), and this insurance shall contain no  
24 special limitations on the scope of protection given to City, its boards and  
25 commissions, and their officials, employees and agents. This policy shall  
26 be endorsed to state that the insurer waives its right of subrogation against  
27 City, its boards and commissions, and their officials, employees and agents.

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1 (b) Workers' Compensation insurance as required by the state that  
2 CONTRACTOR is located in or has employees in and employer's liability  
3 insurance in an amount not less than \$1,000,000. This policy shall be  
4 endorsed to state that the insurer waives its right of subrogation against  
5 City, its boards and commissions, and their officials, employees and agents.

6 (c) Cyber and privacy insurance (also known as cybersecurity,  
7 privacy, and media liability insurance). With coverage that does not exclude  
8 coverage for liability resulting from Contractor's or its subcontractors',  
9 employees', or agents' failure to protect private or confidential information  
10 of City or others from unauthorized access on or through the internet  
11 (except for unauthorized access from City's third-party subcontractors,  
12 employees, or agents and except for unauthorized access utilizing City's  
13 login credentials), making known to any person or organization material that  
14 violates a person or organization's right to privacy or publicity right, and  
15 failure to prevent the transmission of a computer virus to its authorized  
16 users of its web site or any private communication networks, on or through  
17 the internet in an amount not less than Five Million Dollars (\$5,000,000) per  
18 occurrence and Five Million Dollars (\$5,000,000) in general aggregate.

19 B. Any self-insurance program, self-insured retention, or  
20 deductible must be separately approved in writing by City's Risk Manager or  
21 designee and shall protect City, its officials, employees and agents in the same  
22 manner and to the same extent as they would have been protected had the policy  
23 or policies not contained retention or deductible provisions.

24 C. Each insurance policy shall be endorsed to state that coverage  
25 shall not be reduced, non-renewed or canceled except after thirty (30) days prior  
26 written notice to City, shall be primary and not contributing to any other insurance  
27 or self-insurance maintained by City, and shall be endorsed to state that coverage  
28 maintained by City shall be excess to and shall not contribute to insurance or self-



1 insurance maintained by CONTRACTOR. CONTRACTOR shall notify City in writing  
2 within five (5) days after any insurance has been voided by the insurer or cancelled  
3 by the insured.

4 D. If this coverage is written on a "claims made" basis, it must  
5 provide for an extended reporting period of not less than one hundred eighty (180)  
6 days, commencing on the date this Agreement expires or is terminated, unless  
7 CONTRACTOR guarantees that CONTRACTOR will provide to City evidence of  
8 uninterrupted, continuing coverage for a period of not less than three (3) years,  
9 commencing on the date this Agreement expires or is terminated.

10 E. CONTRACTOR shall require that all sub-contractors used by  
11 CONTRACTOR in the performance of these services maintain insurance in  
12 compliance with this Section unless otherwise agreed in writing by City's Risk  
13 Manager or designee.

14 F. Prior to the start of performance, CONTRACTOR shall deliver  
15 to City certificates of insurance and the endorsements for approval as to sufficiency  
16 and form. In addition, upon request, CONTRACTOR shall, within thirty (30) days  
17 prior to expiration of the insurance, furnish to City certificates of insurance and  
18 endorsements evidencing renewal of the insurance. CONTRACTOR shall make  
19 available at CONTRACTOR's office to City's Risk Manager or designee all books,  
20 records and other information relating to this insurance, during normal business  
21 hours.

22 G. The procuring or existence of insurance shall not be construed  
23 or deemed as a limitation on liability relating to CONTRACTOR's performance or as  
24 full performance of or compliance with the indemnification provisions of this  
25 Agreement.

26 14. INDEMNITY.

27 A. CONTRACTOR shall indemnify, protect and hold harmless  
28 City, its Boards, Commissions, and their officials, employees and agents

1 (“Indemnified Parties”), from and against any and all liability, claims, demands,  
2 damage, loss, obligations, causes of action, proceedings, awards, fines, judgments,  
3 penalties, costs and expenses, based upon a claim that the provision of the services  
4 by CONTRACTOR as set forth in the applicable scope of work (excluding any third-  
5 party software) violate, infringe or misappropriate any United States patent,  
6 copyright, trademark or trade secret (collectively “Claims” or individually “Claim”).

7 B. If a court of competent jurisdiction determines that a Claim was  
8 caused by the negligence or willful misconduct of Indemnified Parties,  
9 CONTRACTOR’S costs of defense and indemnity shall be (1) reimbursed in full if  
10 the court determines sole negligence by the Indemnified Parties, or (2) reduced by  
11 the percentage of willful misconduct attributed by the court to the Indemnified  
12 Parties.

13 C. The provisions of this Section shall survive the expiration or  
14 termination of this Agreement.

15 15. LAWS AND REGULATIONS. The CONTRACTOR shall be  
16 responsible for being fully informed of all City, state and federal laws, ordinances, codes,  
17 rules and regulations, which in any manner may affect this Agreement and the performance  
18 thereof.

19 16. REMEDIES NOT EXCLUSIVE. Unless otherwise provided in a scope  
20 of work, the express provision herein of certain measures that may be exercised by the  
21 City for its protection shall not be construed to preclude the City from exercising any other  
22 or further legal or equitable right to protect its interests.

23 17. JURISDICTION/VENUE. This Agreement shall be construed in  
24 accordance with the laws of the State of California, and the venue for any legal actions  
25 brought by any party with respect to this Agreement shall be the County of Los Angeles,  
26 State of California for state actions and the Central District of California for any federal  
27 actions. CONTRACTOR shall cause all work performed in connection with the Program to  
28 be performed in compliance with (1) all applicable laws, ordinances, rules and regulations

1 of federal, state, county or municipal governments or agencies (including, without limitation,  
2 all applicable federal and state labor standards, including the prevailing wage provisions of  
3 sections 1770 et seq. of the California Labor Code); and (2) all directions, rules and  
4 regulations of any fire marshal, health officer, building inspector, or other officer of every  
5 governmental agency now having or hereafter acquiring jurisdiction.

6           18. ASSIGNMENT. The CONTRACTOR may not assign rights or duties  
7 under an award, or subcontract delivery of services, without the prior written consent of the  
8 City. Such consent shall not relieve the CONTRACTOR of liability in the event of default  
9 by its assignee.

10           19. CONSTRUCTION OF AGREEMENT. The masculine shall be  
11 deemed to embrace and include the feminine and the singular shall be deemed to embrace  
12 and include the plural whenever required in the context of this Agreement.

13           20. NOTICES. Any notices to be given under this Agreement shall be  
14 given in writing. Such notices may be served by personal delivery, facsimile transmission  
15 or by first class regular mail, postage prepaid. Any such notice, when served by mail, shall  
16 be effective two (2) calendar days after the date of mailing of the same, and when served  
17 by facsimile transmission or personal delivery shall be effective upon receipt. For the  
18 purposes hereof, the address of City, and the proper person to receive any such notices  
19 on its behalf, is: Christina Boatwright, Resource Connections Office, Department of Health  
20 & Human Services | Collective Impact, 2525 Grand Ave| Long Beach, CA 90815; and the  
21 address of CONTRACTOR as indicated above.

22           21. TAX IMPLICATIONS AND CONSEQUENCES. The City makes no  
23 representations as to the tax consequences associated with the disbursement of funds  
24 related to this Agreement, and any determination related to this issue is the sole  
25 responsibility of the CONTRACTOR. CONTRACTOR acknowledges consulting with its  
26 own tax advisors or tax attorneys regarding this transaction or having had an opportunity  
27 to do so prior to signing this Agreement. CONTRACTOR acknowledges the City cannot  
28 provide advice regarding the tax consequences or implications of the funds disbursed to

1 CONTRACTOR under the terms of this Agreement.

2           22. OWNERSHIP OF DATA. All materials, information and data  
3 prepared, developed, assembled or recorded by CONTRACTOR or furnished to  
4 CONTRACTOR in connection with this Agreement, including but not limited to documents,  
5 estimates, calculations, studies, maps, graphs, charts, computer disks, computer source  
6 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,  
7 information, material, memorandum, binary files (e.g. user-submitted attachments), all  
8 tabular data, data gathered/generated during the course of CONTRACTOR providing end-  
9 user support, helpline phone recordings, and grant applicant/beneficiary information  
10 ("Data") shall be the exclusive property of City. Data shall be given to City, in a format  
11 identified by City, and City shall have the unrestricted right to use and disclose the Data in  
12 any manner and for any purpose without payment of further compensation to  
13 CONTRACTOR. Copies of Data may be retained by CONTRACTOR but CONTRACTOR  
14 warrants that Data shall not be made available to any person or entity for use without the  
15 prior approval of City. This warranty shall survive termination of this Agreement

16           23. DATA ACCESS. City strongly prefers programmatic access to  
17 software systems via a well-documented Application Programming Interface (API) using  
18 modern frameworks. Other preferred means of data access include direct connections with  
19 common BI tools (e.g. Tableau and PowerBI), Extract Transform Load (ETL) tools, and/or  
20 data warehouse utilities (e.g. Snowflake, Redshift, Azure Synapse.) Within seven (7)  
21 calendar days of a request by City, CONTRACTOR shall make available to the City all  
22 Data contained within any system(s) covered as part of this Agreement in a non-  
23 proprietary, machine-readable format.

24           24. CONFIDENTIALITY. CONTRACTOR shall keep all Data confidential  
25 and shall not disclose the Data or use the Data directly or indirectly, other than in the course  
26 of performing its services, during the term of this Agreement or following expiration or  
27 termination of this Agreement. In addition, CONTRACTOR shall keep confidential all  
28 information, whether written, oral or visual, obtained by any means whatsoever in the

1 course of performing its services for the same period of time. CONTRACTOR shall not  
2 disclose any or all of the Data to any third party, or use it for CONTRACTOR'S own benefit  
3 or the benefit of others except for the purpose of this Agreement.

4 25. BREACH OF CONFIDENTIALITY. CONTRACTOR shall not be liable  
5 for a breach of confidentiality with respect to Data that: (a) CONTRACTOR demonstrates  
6 CONTRACTOR knew prior to the time City disclosed it; or (b) is or becomes publicly  
7 available without breach of this Agreement by CONTRACTOR; or (c) a third party who has  
8 a right to disclose does so to CONTRACTOR without restrictions on further disclosure; or  
9 (d) must be disclosed pursuant to subpoena or court order.

10 26. COUNTERPART AND ELECTRONIC SIGNATURES. This  
11 Agreement may be executed in one or more counterparts, each of which shall constitute  
12 an original and all of which when taken together shall constitute one Agreement. The  
13 reference to "electronic signatures" in this Agreement shall include images of manually  
14 executed signatures transmitted by facsimile or other electronic format (including, without  
15 limitation, "pdf", "tif" or "jpg") and other electronic signatures (a.k.a. "eSignatures") or digital  
16 signatures (including, without limitation, DocuSign and Adobe Sign). The use of electronic  
17 signatures herein, or in any amendments to this Agreement, and any electronic records  
18 related to this Agreement (including, without limitation, any contract or other record created,  
19 generated, sent, communicated, received, or stored by electronic means), shall be of the  
20 same legal effect, validity and enforceability as a manually executed signature or use of a  
21 paper-based record-keeping system to the fullest extent permitted by applicable law

22 27. SIGNATURE AUTHORITY. By signing this Agreement, each  
23 individual executing this Agreement on behalf of the CONTRACTOR represents and  
24 warrants that such individual has been duly authorized by any necessary action of the  
25 CONTRACTOR to execute this Agreement on behalf of the CONTRACTOR and bind the  
26 CONTRACTOR to the terms of this Agreement.

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

TOUCHPHRASE DEVELOPMENT, LLC  
dba JULOTA

April 5, 2023

By Scott A. Cravens  
Name Scott A. Cravens  
Title CEO

April 5, 2023

By Michael Schaedel  
Name Michael Schaedel  
Title CTO

"CONTRACTOR"

CITY OF LONG BEACH, a municipal corporation

4/11/2023

By Sandra J. Jabum  
City Manager

"City"

EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Long Beach, CA 90802-4664

This Agreement is approved as to form on April 6, 2023.

DAWN MCINTOSH, City Attorney

By Marsha M. Yasuda  
Marsha M. Yasuda, Deputy

State of Colorado

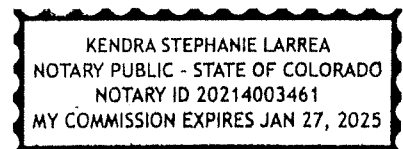
County of Arapahoe

The foregoing instrument was acknowledged

before me this 5<sup>th</sup> day of April 2023

by Scott A. Cravens and Michael Schaedel

Kendra Larrea  
Notary Public





## Exhibit 1

### Software as a Service (SaaS) License Agreement

This Software as a Service Agreement ("SaaS Agreement" or "Agreement"), effective on **March 23, 2023** ("Effective Date"), is made by and between TouchPhrase Development, LLC d/b/a Julota, which has a place of business at 102 S. Tejon St., Ste. 1100, Colorado Springs, CO 80903 ("Julota"), and City of Long Beach, a municipal corporation, which has a place of business at 411 West Ocean Blvd., Long Beach, CA 90802 ("Customer"), in exchange for the mutual promises contained herein, the receipt and legal sufficiency of which are acknowledged. Julota and Customer shall be collectively referred to as the "Parties".

Julota provides a platform for organizations: a) to provide services directly to individuals seeking assistance through it; b) to coordinate with other individuals or organizations to provide services to individuals seeking assistance that it does not provide directly; c) to cooperate with other organizations to identify services needed for individuals seeking assistance; or d) to assemble, monitor and direct Care Team(s) (defined below).

#### 1. DEFINITIONS.

**1.1 Care Team** means an individual or an organization used or assembled by or through Customer or on behalf of Customer or in conjunction with Customer to assist Customer, directly or indirectly, in providing to a Health Seeker (defined below) the assistance he or she seeks or requires.

**1.2 Community Partner** means any organization that provides services to a Help Seeker through Customer utilizing the Hosted Service.

**1.3 Customer Data** means any data collected through the provision of these services, excluding publicly available data and data previously obtained by Julota. Customer Data may include Personal Data. Customer Data is also referred to as "Data" in the Long Beach Recovery Act Services Agreement.

**1.4 Customer Website** means the website owned and operated by Customer as identified in the applicable Order Schedule.

**1.5 Documentation** means any user guide, help information and other documentation and information regarding the Hosted Service that is delivered by Julota to Customer in electronic or other form, if any, including any updates provided by Julota from time to time.

**1.6 Health Privacy Laws** means (i) the Health Insurance Portability and Accountability Act of 1996, as amended and including any implementing regulations ("HIPAA"); (ii) HITECH; (iii) 42 C.F.R. Part 2; and (iv) any other applicable federal or state statute, regulation, administrative or judicial ruling requiring a party to protect the confidentiality, privacy

and/or security of Personal Data and other healthcare-related information pertaining to Help Seekers.

**1.7 Help Seeker(s)** means the individual seeking assistance from or through the Customer for health or non-health related assistance.

**1.8 Hosted Service** means the real-time website service hosted by Julota and provided to Customer from time to time. The Hosted Service includes any change, improvement, extension or other new version thereof that is developed or otherwise made available to Customer.

**1.9 Julota API** means the Julota application programming interface, scripts, widgets, embeddable snippets and other tools that allow Customer to integrate the Customer's website or any other system of Customer with all or part of the Hosted Services.

**1.10 Output** means "Data Output" is all data created or generated through Customer's use of the Services. Data Output does not include the right to use the Data Output with or through the Services after the term of this SaaS Agreement expires. Data Output does not include Julota Property, which includes without limitation, any formatting of reports, code, formulas or any other intellectual property that is owned or licensed through a third party by Julota. Data Output is Customer Data.

**1.11 Personal Data** means any personal information that Julota collects, receives, or obtains, from Customer that does or can identify a specific individual or by or from which that specific individual may be identified, contacted or located, such as the individual's name, address, social security number, or any information that applicable law proscribes as personally identifiable information. Personal Data may include Protected Health Information (defined below).

**1.12 Platform** means all ideas, concepts, inventions, systems, platforms, software, interfaces, tools, utilities, templates, forms, content, graphics, techniques, methods, processes, algorithms, code, know-how, trade secrets and other technologies, implementations and information that are used by Julota in providing the Julota services, including any innovations, revisions, enhancements, upgrades or improvements of the foregoing.

**1.13 Protected Health Information or PHI** shall have the same meaning as the term "protected health information" as defined in HIPAA.

**1.14 Services** means, collectively, the Hosted Service, Platform, Julota API (if available or applicable), and Documentation, as described in the applicable SOW (defined below).

**2. SERVICES.** Subject to the terms and conditions of this Agreement, Julota will provide Customer with access to the Services as described in each Scope of Work, also referred to as a "Statement of Work" or "SOW". The first SOW will be Exhibit A-1 and each subsequent SOW will be designated "Exhibit A-\_\_\_", completing the blank for each subsequent SOW with the appropriate number, in ascending numerical order. The first SOW is attached as Exhibit A-1. Each SOW will be subject to the terms of this Agreement. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of a SOW, the terms and conditions of the SOW shall govern as to that SOW only. Customer's use of the Services is subject to this Agreement and the applicable SOW.

### **3. LICENSE GRANT.**

**3.1 License Grant to Customer.** Subject to the terms and conditions of the Long Beach Recovery Act Services Agreement and this Agreement, Julota grants Customer (defined in the applicable SOW), during the term of the applicable SOW and the term of this Agreement (whichever period is shorter), a non-exclusive, non-transferable right and license to access and use the Services as provided for in the applicable SOW. The Services will also be provided pursuant to the service levels set forth in the Service Level Agreement ("SLA"), which is attached as Exhibit B.

**3.2 License Restrictions for Customer.** Customer shall not, directly or indirectly, permit any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Services; (ii) modify, translate, or create derivative works based on the Services; (iii) rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use the Services; (iv) make the use of the Services available to anyone other than for its own internal purposes; (v) use the Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; (vi) remove any proprietary notices from the Services or any other Julota materials furnished or made available hereunder; (vii) publish or disclose to third parties any evaluation of the Services; (viii) use the Services in automatic, semi-automatic or manual tools designed to create virus signatures, virus detection routines, or any other data or code for detecting malicious code or data; or (ix) use the Services to build a competitive product or service, or copy any features, functions or graphics of the Services.

**3.3 API License.** If provided for in the applicable SOW, Julota hereby grants Customer, during the term of the applicable SOW, a nonexclusive, nontransferable, nonassignable, license to access and use the Julota API solely in connection with its use of the Services.

**3.4 License Grant to Julota.** Customer grants Julota, during the term of this Agreement and the applicable SOW, a non-exclusive, non-transferable, non-sublicensable license for it to use Customer Data and its trademarks (the "Marks") for the sole purpose of providing the Services as set forth in this Agreement. Customer reserves all ownership and other

rights in the Customer Data and the Marks not expressly included herein and nothing in this Agreement shall be deemed to convey or transfer to Julota any ownership rights in or to the Customer Data or the Marks. Notwithstanding the foregoing, Customer understands that it may not be the exclusive owner of Customer Data.

**3.5 License Restrictions for Julota.** Julota's license to the Marks is subject to the following restrictions: (i) all of Julota's uses of the Marks must be preapproved by Customer; (ii) Julota shall not use any Marks in such a way as to give the impression that they are the property of anyone other than Customer; (iii) Julota will only use the Marks for the provision of the Services and will not use the Marks for marketing purposes; and (iv) Julota shall comply with Customer's trademark guidelines, if any, and any other reasonable requirements established by Customer concerning the style, design, display, and use of its Marks. Customer's trademark guidelines, if any, are attached as Exhibit C.

**4. PRIVACY.** Julota may collect or store Customer Data, which may contain Personal Data concerning Help Seekers in connection with the provision of the Services. Julota will comply with its non-disclosure obligations set forth in this Agreement. The Parties agree to comply with the requirements of all Health Privacy Laws. The Parties agree that Julota will serve as a Business Associate with respect to certain Services it provides to Customer. Accordingly, as it applies to such Services, the Parties shall execute and abide by the terms set forth in the business associate agreement attached hereto and incorporated herein as Exhibit D ("BAA").

### **5. PASSWORDS / SECURITY / DISCLOSURE.**

**5.1 Passwords.** Customer is responsible for maintaining the confidentiality of its passwords. Except for the gross negligence or willful acts of Julota, Customer is responsible (and as between Julota and Customer is solely responsible) for any and all activities that occur under its account and all charges incurred from use of the Services accessed with Customer's passwords. Customer agrees to, as soon as reasonably possible, notify Julota of any unauthorized use of Customer's account or any other breach of security known to Customer. Julota shall have no liability for any loss or damage arising from Customer's failure to comply with these requirements.

**5.2 Security.** Julota will maintain the Services at a third-party hosting facility and will implement industry standard security precautions, which are intended to prevent unauthorized access to Customer Data. Customer acknowledges that, notwithstanding such security precautions, use of, or in connection to, the internet provides the opportunity for unauthorized third parties to circumvent such precautions and gain access to the Services and Customer Data.

**5.3 Disclosure.** Customer agrees that Julota and its agents, which have agreed to confidentiality obligations at least as restrictive as Julota's obligations in the Long Beach



Recovery Act Services Agreement, can access Customer Data and its account information in order to respond to its service requests and/or as necessary, in Julota's sole discretion, to provide Customer with the Service. Julota will not otherwise disclose such data except if compelled by law, permitted by Customer, or pursuant to the terms of the BAA and the terms of Julota's Privacy Policy, which is available at [www.Julota.com/privacy-policy/](http://www.Julota.com/privacy-policy/) (the "Privacy Policy") and is incorporated into this Agreement. The terms of the Long Beach Recovery Act Services Agreement and this Agreement shall supersede any inconsistent terms in the Privacy Policy.

**5.4 Permission to Disclose.** By submitting any Help Seeker's Personal Data to the Hosted Services and providing said Personal Data to Julota for processing, Customer warrants that it has: (i) legal authority to disclose such Personal Data in compliance with Health Privacy Laws and (ii) if required by Health Privacy Laws, this Agreement, or Julota's Privacy Policy or other policies, the necessary permissions, authorizations and consents from the Help Seekers that it enters Personal Data about through the Services and for the viewing and processing of their Personal Data and Customer Data by Julota, its agents, third-party service providers, other organizations utilizing the Hosted Services to provide assistance to Help Seekers, and Care Teams as set forth herein.

## **6. OWNERSHIP.**

**6.1** With the exception of Customer Data, the Platform, the Hosted Services, and all information, reports, studies, object and source code (including without limitation the Services and all modifications, enhancements, additions, upgrades, or other works based thereon or related thereto), flow charts, product documentation, diagrams, specifications, methods and other tangible or intangible material of any nature whatsoever produced through or as a result of or related to any product, service or deliverable (collectively, "Works") or development of any data analytics or usage models hereunder, and all patents, copyrights, trademarks and other proprietary rights related to such Works and models, shall be the sole and exclusive property of Julota, its Affiliates (defined below) or their third party providers (collectively, "Julota Property"). Nothing in the Agreement shall convey to Customer any title to or ownership of any Julota Property. Customer hereby irrevocably assigns and transfers to Julota, its Affiliates or their third-party providers all rights, title, and interest in any such Works and models. "Affiliate" means an entity that controls, is controlled by, or under common control with a party, where "control" means the direct or indirect ownership of more than 50% of the voting securities of such entity or party. No rights are granted to Customer hereunder other than as expressly set forth herein.

**6.2** Customer acknowledges and agrees that Julota shall have the right to utilize data capture, syndication, and analysis tools, and other similar tools, to extract, compile, synthesize, and analyze any non-personally and non-Customer identifiable data or information resulting from Customer's use

of the Service ("Statistical Data"). Statistical Data does not include any Personal Data and may be collected by Julota for any lawful business purpose without a duty of accounting to Customer, provided that the Statistical Data is used only in an aggregated form, without specifically identifying the source of the Statistical Data. Except for the limited rights granted herein, at no time shall Julota acquire any ownership, license, rights or other interest in or to the Customer Data, all of which shall, as between Customer and Julota, be and remain the confidential and proprietary information of Customer. The terms in this SaaS Agreement on the ownership of Customer Data supersede and replace the terms in the Long Beach Recovery Act Services Agreement.

**6.3** Julota shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual license to incorporate into the Service or otherwise use Statistical Data, any suggestions, enhancement requests, recommendations or other feedback Julota receives from Customer.

## **7. CUSTOMER OBLIGATIONS.**

**7.1 Process.** Customer shall assign two (2) representatives who will be responsible for all communications with Julota related to the use of the Services.

**7.2 Conduct.** Customer is and will be solely responsible for its actions and the actions of its authorized users while using the Services. Customer is and will also be solely responsible for the actions of each Care Team and each of the Care Team's officers, directors, members, employees, agents, contractors, subcontractors and individual(s) related to Customer's use of the Services or the provision of assistance to any Help Seeker. Customer is and will be responsible for all claims made by a Care Team related to any transaction related to the Services. Customer acknowledges and agrees that Julota is not liable for, or responsible to, remediate any issues found on Customer's network or in Customer's web traffic through the Services. In addition to the conduct restricted in Section 3.2 (License Restrictions for Customer), Customer agrees, on behalf of itself and its authorized user(s) to: (i) abide by all laws and regulations including, without limitation, all laws applicable to any service Customer provides or any Care Team provides to a Help Seeker and all laws applicable to the transmission of technical data exported from the United States through the Services and to wireless e-mail marketing and advertising; (ii) not to upload or distribute in any way content that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Services or another's computer or mobile device; (iii) not to use the Services for illegal, fraudulent, unethical or inappropriate purposes; (iv) not to interfere or disrupt networks connected to the Services or interfere with the ability of others to access or use the Services; (v) not to distribute, promote or transmit through the Services any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene, pornographic, indecent, defamatory, hateful, racially, ethnically, unwanted or otherwise objectionable material of any kind or nature; (vi) not to transmit or post any material that

encourages conduct that could constitute a criminal offense or give rise to civil liability; (vii) not to interfere with another customer's use and enjoyment of the Services or another entity's use and enjoyment of similar services; (viii) not to engage in, or permit others to engage in, contests, chain letters or post or transmit "junk mail," "spam," "chain letters," or unsolicited mass distribution of e-mail; and (ix) to comply with all regulations, policies and procedures of networks connected to the Services, Julota, or Julota's service providers, as the same may be promulgated from time to time. Julota may remove any violating data on the website posted or stored using the Services or transmitted through the Services, without notice to Customer; however, Julota has no obligation to do so.

**7.3** If necessary to comply with applicable law in order to permit Julota's processing of Customer Data, Customer shall maintain privacy policies on its website and shall deliver printed hard copies of its privacy policies to each Help Seeker prior to entering any information about the Help Seeker through the Services. Customer will ensure that its practices for storing and safeguarding Help Seeker related information are consistent with industry privacy, security standards and all applicable legal requirements. To the extent required by applicable law, Customer must obtain the necessary authorizations and its privacy policy must include the following disclosures and terms sufficient to allow for: (i) the collection and processing of data from Help Seekers, including any Personal Data from a Help Seeker; (ii) Julota's processing of Health Seeker data; (iii) the use of Personal Data belonging to Help Seekers as contemplated in the provision of the Services and in the applicable SOW; (iv) the maintenance and retention of Personal Data after assistance is rendered by Customer to a Help Seeker; (v) the processing and sharing of Personal Data and other data of Help Seekers with other organizations utilizing the Hosted Services and by Care Teams; and (vi) the sharing and utilizing of each Help Seeker's Personal Data and the aggregate data derived therefrom by Julota. Customer shall be solely responsible for complying with any legal requirements for obtaining and maintaining documentation of any and all legally required written permissions, consents or authorizations from Help Seekers before a Help Seeker's Personal Data is provided to Julota or placed on the Platform. Any and all information provided by Customer to Julota via the Hosted Services or any other Services relating to any Help Seeker's permissions, consents or authorizations shall be accurate and valid. Customer shall notify Julota, on a form provided and/or approved by Julota, of any restrictions on the use or disclosure of a Help Seeker's Personal Data that Customer is required to abide by to the extent that such restriction may affect Julota's use or disclosure of that Help Seeker's Personal Data. Customer shall notify Julota of any changes in, or revocation of, the permission, authorization or consent by a Help Seeker for Customer to disclose such Help Seeker's Personal Data on the Platform. Notwithstanding the foregoing revocation or change in authorization, Julota may retain copies of that data in read only format in order to comply

with its statutory or regulatory requirements or to defend against a claim or complaint.

## **8. FEES AND TAXES.**

**8.1 Fees.** Subject to Section 3 of the Long Beach Recovery Act Services Agreement, Customer agrees to pay Julota the fees set forth on the applicable SOW for the Services, in accordance with the fees, charges, and billing terms set forth in this Agreement (collectively, "Fees"). All Fees are quoted in United States currency. Except as otherwise provided in this Agreement, Fees are non-refundable.

**8.2 Additional Charges.** Customer shall pay travel and living expenses and other out-of-pocket expenses reasonably incurred by Julota in connection with the Services. As applicable, such out-of-pocket expenses shall be incurred in accordance with Julota's then-current corporate travel and expense policy. If an out-of-pocket expense is listed in an Exhibit, such expense may be changed to reflect changes issued by the applicable vendor. All expenses incurred by Julota for which it seeks reimbursement from Customer must be preapproved in writing by Customer to be eligible for reimbursement.

**8.3 Payments.** Subject to Section 3 of the Long Beach Recovery Act Services Agreement, unless stated otherwise on the applicable SOW, all Fees are due and payable by Customer within thirty (30) days after the invoice date. Customer shall also pay all sums expended (including, without limitation, reasonable legal fees) in collecting overdue payments.

**9. TERM.** Subject to Section 4 of the Long Beach Recovery Act Services Agreement, this Agreement commences on the Effective Date and shall continue for one year, unless earlier terminated in accordance with this Agreement. Following the initial Term, City reserves the option to renew the term for three additional one-year periods at the City Manager's discretion, unless either party provides written termination notice 60 days prior to the end of the Term. Notwithstanding the foregoing, if the term of an SOW would continue past the termination of this Agreement, the term of this Agreement shall be extended to coincide with the termination of the outstanding SOW.

## **10. TERMINATION.**

**10.1 Breach.** Except as otherwise provided in this Section 10, either party shall have the right to terminate this Agreement or the applicable SOW upon written notice if the other party has breached a material term of this Agreement or the applicable SOW and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach.

**10.2 Insolvency.** Either party shall have the right to terminate this Agreement if (i) the other party has a receiver appointed for it or its property; (ii) any proceedings are

commenced by the other party under a Chapter 7 bankruptcy; or (iii) the other party is liquidated or dissolved.

**10.3 Failure to Pay/Customer Conduct.** Julota shall have the right to suspend or terminate access to the Services, at its sole option, with or without notice to Customer, if: (i) any payment is delinquent by more than sixty (60) days, or (ii) if Customer breaches Sections 3.2, 5 or 7 of this Agreement

**10.4 Immediate Termination.** Julota may immediately suspend or terminate this Agreement or the applicable SOW, in its sole and absolute discretion, if Customer violates Section 7.2 of this Agreement or violates or misappropriates Julota's intellectual property rights related to the Services.

**10.5 Effect of Termination.** Termination of this Agreement will terminate all SOWs. Termination of an individual SOW will only terminate that SOW and will not result in the termination of this Agreement, unless the SOW provides otherwise. Julota shall not be liable to Customer or any third party for suspension or termination of Customer's access to, or right to use, the Services under this Agreement. If Customer terminates this Agreement or an SOW pursuant to Section 10.1 or if Julota terminates this Agreement or an SOW without cause, Customer will be obligated to pay the balance due for the Services up to the date of termination. If Julota terminates this Agreement or an SOW pursuant to Section 10.1 or if Customer terminates this Agreement or SOW without cause, Customer shall pay any unpaid fees through the date of termination and shall pay any unpaid fees covering the remainder of the term of all SOWs, if the Agreement is terminated, or the applicable SOW, if only the SOW is terminated. Upon the effective date of termination of this Agreement for any reason, Customer's access to the Services will terminate and Customer shall cease accessing and using the Services immediately and Julota shall cease use immediately of any Marks. With the exception of Statistical Data, upon termination of this Agreement, Julota will export all Customer Data to an industry standard format and return it to Customer. Sections 3.2, 4, 5, 6, 8 through 16 and 18 of this Agreement shall survive termination for any reason.

**11. RESERVED.**

**12. WARRANTY.**

**12.1 Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS," AND, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, JULOTA MAKES NO AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, IMPLIED WARRANTIES OR MERCHANTABILITY, WITH RESPECT TO THE USE, MISUSE, OR INABILITY TO USE THE SERVICES (IN WHOLE OR IN PART) OR ANY OTHER PRODUCTS OR SERVICES PROVIDED TO CUSTOMER BY JULOTA, OR OTHERWISE UNDER THESE TERMS. WITHOUT LIMITING THE FOREGOING, JULOTA DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR

FREE. JULOTA DISCLAIMS ALL LIABILITY FOR ANY MALFUNCTIONING, IMPOSSIBILITY OF ACCESS, OR POOR USE CONDITIONS OF THE SERVICE DUE TO INAPPROPRIATE OR DEFECTIVE EQUIPMENT, DISTURBANCES RELATED TO INTERNET SERVICE PROVIDERS, TO THE SATURATION OF THE INTERNET NETWORK, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMMUNICATIONS LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, OR ALTERATION OF, USER COMMUNICATIONS, PROBLEMS RELATED TO THE SERVICES OR ITS USE, LOSS OF PERSONAL CONTENT, OR ANY OTHER REASONS. JULOTA ALSO EXPLICITLY DISCLAIMS ANY WARRANTIES RELATED TO BUSINESS RESULTS THAT MAY BE OBTAINED BY USE OF THE SERVICES AND SPECIFICALLY STATES NO SUCH REPRESENTATIONS ARE OR HAVE BEEN MADE TO CUSTOMER. CUSTOMER WILL BE SOLELY RESPONSIBLE FOR (I) ESTABLISHING AND MAINTAINING AN INTERNET CONNECTION SUFFICIENT FOR THE SERVICES TO FUNCTION PROPERLY, (II) THE CONTENT AND EFFICACY OF ALL MARKETING INITIATIVES, AND (III) FULFILLING ALL ITS OBLIGATIONS TO HELP SEEKERS IN CONNECTION WITH THE USE OF THE SERVICES. CUSTOMER WILL FOLLOW PROPER BACK-UP PROCEDURES FOR ANY OTHER PROGRAMMING AND ALL DATA TO PROTECT AGAINST LOSS OR ERROR RESULTING FROM THE USE OF ANY EQUIPMENT OR THE SERVICES. CUSTOMER AGREES THAT JULOTA AND THE PLATFORM AND SERVICES DO NOT MAKE CLINICAL, MEDICAL OR OTHER DECISIONS OR RECOMMEND, ENDORSE OR MAKE ANY MEDICAL, CLINICAL OR RELATED REPRESENTATIONS OR WARRANTIES. CUSTOMER ASSUMES ALL RESPONSIBILITY IN CONNECTION WITH DISCLOSING CUSTOMER DATA ON THE PLATFORM.

**12.2 Open Source.** Parts of the software for the Services may be subject to the GPL (General Public License) for open source software, and all warranties are disclaimed for such parts by the Free Software Foundation, Inc. See the GNU General Public License for more details. Similarly, parts of such software may be subject to the MIT License for open source software, and therefore, the following restrictions: MIT grants permission, free of charge to any person obtaining a copy of the software and associated documentation files, to deal in the software without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sublicense, and/or sell copies of the software, and to permit persons to whom the software is furnished to do so, subject to the following conditions and notwithstanding anything to the contrary in this Agreement: the software is provided "AS IS" without warranty of any kind, express or implied, including but not limited to, the warranties of merchantability, fitness for a particular purpose and non-infringement. In no event shall the authors or copyright holders be liable for any claim, damages or other liability, whether in an action of contract, tort or otherwise, arising from,

out of or in connection with the software or the use of other dealings in the software.

**12.3 Mutual Warranties.** Each party represents and warrants that: (i) it does not have any contractual obligations that would prevent it from entering into this Agreement; and (ii) it will comply with all laws and regulations directly applicable to its performance of its obligations under this Agreement or its use of the Services.

**13. INDEMNIFICATION.** Julota's indemnification obligations set forth in Section 14 of the Long Beach Recovery Act Services Agreement are contingent upon (i) Julota being promptly notified in writing of such claim or suit by Customer, (ii) Julota or its designee having sole control of such defense or settlement, and (iii) Customer giving information and assistance reasonably requested by Julota or its designee. In addition, to the extent that use of the Services is enjoined, Julota may at its option either (a) procure for Customer the right to use the Services, (b) replace the Services with other suitable products, or (c) refund the prepaid portion of the Fee(s) paid by Customer for the Services or the affected part thereof. Julota shall have no liability under this Section 13 or otherwise to the extent a claim or suit is based upon (1) use of the Services in combination with software or hardware not provided by Julota if infringement would have been avoided in the absence of such combination, (2) modifications to the Services not made by Julota, if infringement would have been avoided by the absence of such modifications, or (3) use of any version other than a current release of the Services, if infringement would have been avoided by use of a current release. Notwithstanding the foregoing, Julota may not enter into a settlement agreement under this Section 13 that requires the Customer to admit liability or wrongdoing.

THIS SECTION 13 STATES JULOTA'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR VIOLATION, INFRINGEMENT AND INTELLECTUAL PROPERTY MISAPPROPRIATION CLAIMS BASED ON THE SERVICES.

#### **14. LIMITATION OF LIABILITY.**

**14.1 Limitation on Direct Damages.** EXCEPT AS IT RELATES TO JULOTA'S INDEMNIFICATION OBLIGATIONS AND EXCEPT AS EXPRESSLY SET FORTH BELOW IN THIS SECTION 14.1, IN NO EVENT SHALL JULOTA'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE GREATER OF THE TWO: 1) THE FEES PAID BY THE CUSTOMER FOR SERVICES FOR THE PERIOD OF TWELVE (12) MONTHS PRIOR TO THE EVENT; 2) THE AMOUNT ACTUALLY PAID ON THE CLAIM DUE EACH CUSTOMER; EITHER OF WHICH DIRECTLY GAVE RISE TO THE DAMAGES CLAIMED, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. NOTWITHSTANDING THE FOREGOING LIMITATIONS ON

LIABILITY, IF INSURANCE PROCEEDS ARE PAID OUT ON AN INSURANCE CLAIM MADE BY JULOTA AND ARE AVAILABLE TO BE PAID TO CUSTOMER FOR DAMAGES IN EXCESS OF THE FOREGOING LIMITATIONS ON LIABILITY, SAID AMOUNTS WILL BE ALLOCATED TOWARD CUSTOMER'S LOSS, SUBJECT TO THE RIGHTS OF OTHER TENANTS ON JULOTA'S MULTI-TENANT PLATFORM. CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT ANY RIGHTS IT MAY HAVE TO INSURANCE PROCEEDS ARE NOT EXCLUSIVE.

**14.2 Waiver of Consequential Damages.** IN NO EVENT SHALL JULOTA BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF JULOTA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**14.3 No Liability for Wrongful Third-Party Disclosures.** Notwithstanding anything to the contrary herein, Julota will have no liability to Customer or any other organization or individual related to the wrongful disclosure by Customer, the Care Team, a Community Partner or any director, officer, employee, agent or service provider of the foregoing.

**15. NON-SOLICITATION.** During the term and for a period of twelve (12) months thereafter, Julota and Customer shall not knowingly, directly or indirectly, solicit, recruit, employ or contract with any employees of one another.

**16. INSURANCE.** Subject to Section 14 of the Long Beach Recovery Act Services Agreement, which will supersede the obligations set forth in this SaaS Agreement, Julota will maintain (and shall cause each of its agents, independent contractors and subcontractors performing any services hereunder to maintain) at its sole cost and expense at least the following insurance covering its obligations under this Agreement:

**16.1 Commercial General Liability.** With coverage of not less than One Million Dollars (\$1,000,000) each occurrence (for bodily injury and for damage to property); including coverage for premises and operations, contractual liability, broad form property damage and products and completed operations and Three Million Dollars (\$3,000,000) in the aggregate.

**16.2 Cyber and privacy insurance (also known as cybersecurity, privacy, and media liability insurance).** With coverage that does not exclude coverage for liability resulting from the Julota's or its subcontractors', employees', or agents' failure to protect private or confidential information of Customer or others from unauthorized access on or through the internet (except for unauthorized access from Customer's third-party subcontractors, employees, or agents and except for unauthorized access utilizing Customer's login credentials), making known to any person or organization

material that violates a person or organization's right to privacy or publicity right, and failure to prevent the transmission of a computer virus to its authorized users of its web site or any private communication networks, on or through the internet in an amount not less than Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in general aggregate.

**16.3 Workers' Compensation.** As applicable, workers' compensation coverage as required by the Labor Code of the State of California and Employer's liability insurance with minimum limits of One Million Dollars (\$1,000,000) per accident or occupational illness. The policy shall be endorsed with a waiver of the insurer's right of subrogation against the Customer and its insurers, officials, employees, and agents.

**16.4 Policy Terms.** Such insurance, except Workers' Compensation insurance, shall name Customer as an additional insured. A blanket endorsement or an additional insured endorsement evidencing the policy shall be provided to Customer upon execution. Julota shall provide Customer with written notice of any policy cancellation within thirty (30) days of the receipt of such notice. Julota shall obtain replacement insurance policies meeting the requirements herein.

## **17. GENERAL.**

**17.1 Dispute Resolution.** Before initiating legal action against the other party relating to a dispute herein, the Parties agree to work in good faith to resolve disputes and claims arising out of this Agreement. To this end, each party may request that the other party designate an officer or other management employee with authority to bind such party to meet to resolve the dispute or claim. If the dispute is not resolved within 30 days of the commencement of informal efforts under this paragraph, either party may pursue formal legal action. This paragraph will not apply if expiration of the applicable time for bringing an action is imminent and will not prohibit a party from pursuing injunctive or other equitable relief to which it may be entitled.

**17.2 Relationship of the Parties.** The Parties to this agreement are independent entities, and no agency, partnership franchise, joint venture or employee-employer relationship is intended or created by this Agreement.

**17.3 Assignment.** Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of Julota (not to be unreasonably withheld). Notwithstanding the foregoing, either Party may assign this Agreement in its entirety (including all SOWs), without consent of the other Party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided that, in the case of Customer, the assignment is not to a direct competitor of Julota. In the event that either Party assigns its rights or obligations hereunder, in violation of this Section, either Party may at its election, terminate this Agreement, provided it does so within sixty (60) days of the date that written notice of the

assignment is provided to the non-assigning Party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**17.4 Entire Agreement.** The Long Beach Recovery Act Services Agreement this Agreement, including all SOWs, exhibits and addenda hereto, constitutes the entire agreement between the Parties. The order of priority of the documents is as follows: the Long Beach Recovery Act Services Agreement (except as expressly stated otherwise in this Agreement, and then this SaaS Agreement, including all SOWs, exhibits and addenda. The foregoing listed documents supersede all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any SOW, exhibit or addendum hereto, the terms of such SOW, exhibit, or addendum shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or other order documentation (excluding SOWs) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void. Further, notwithstanding the foregoing, terms of the SOW that conflict with or are inconsistent with this Agreement, which conflict with statutory or regulatory requirements will not control or supersede this Agreement and such terms will be deemed waived.

**17.5 Force Majeure.** Neither party shall be in default if its failure to perform any obligation under this Agreement is caused solely by supervening conditions beyond that party's reasonable control including, without limitation, acts of God, civil commotion, war, strikes, labor disputes, third party Internet service interruptions or slowdowns, vandalism or "hacker" attacks, acts of terrorism or governmental demands or requirements (other than from Customer).

**17.6 No Third-Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any third-party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.

**17.7 Headings.** The headings of the sections of this Agreement are for reference only and shall not modify, define or limit any of the terms or provisions of this Agreement.

**17.8 Severability.** If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, that provision will be enforced to the maximum extent permissible so as to affect the intent of the parties and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**17.9 Construction.** This Agreement has been negotiated by the Parties and will be fairly interpreted in accordance with its terms and without any strict construction in favor or against any party.

**17.10 Counterparts and Signatures.** This Agreement and any SOWs, exhibits, addenda and amendments may be executed in counterparts, each of which shall be deemed an original and which shall together constitute one instrument. Each party may execute this Agreement and any SOWs, exhibits, addenda Exhibit or amendment hereto in the form of an electronic record utilizing electronic signatures, as such terms are defined in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.). Customer and its affiliates will not dispute the validity or authenticity of electronic signatures submitted to Julota by Customer or its affiliates, nor will Customer or its affiliates dispute the legal authority, validity or authenticity of those who sign with such electronic signatures to bind Customer and its affiliates. Electronic signatures by Customer and its affiliates, as well as signatures by either party transmitted by facsimile or electronically via PDF or similar file delivery method, shall have the same effect as an original signature.

**17.11 Federal Government End Use Provisions.** If Customer is a U.S. federal government end user, the Services are a "Commercial Item" as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as those terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, these Services are licensed to You with only those rights as provided under the terms and conditions of this Agreement.

**EXHIBIT A-1**

**Statement of Work No. 1**

**Service and Fees**

Any capitalized term used but not defined in this Statement of Work No. 1 ("SOW") shall have the meaning first assigned to it in the Agreement.

**A. License and Deliverables:**

1. **Services:** Julota will license to Customer access to a web-based and mobile integrated software for tracking services provided to Help Seekers on the Platform, which is called "Julota Reach." Customer and its authorized users may access the Services for the purpose of providing long-term Health Seeker contact, tracking, monitoring and care. Customer will, through the administration panel of Julota Reach, create and authorize new authorized users. Julota Reach software will allow Customer and its authorized users to communicate action steps necessary to integrate and coordinate the care of Help Seekers.
2. **Authorized users:** Authorized users may be individuals from Customer's organization or Care Teams and their employees. Customer may authorize an unlimited number of authorized users to access Julota Reach through Customer's license.
3. **Usage and Storage:** The amount of usage of the Hosted Services (not including enrollments) and data storage is unlimited.
4. **Excess Hosted Service Usage Fee:** \$0
5. **Service Levels:** Julota will provide general support for Julota Reach as provided for in the SLA attached as Exhibit "B" to the Agreement.

**B. Term, Fees and Expenses:**

1. The Term, fees and expenses will be as provided in Appendix 1 to this Statement of Work.
2. **Payment:** All payments shall be paid within 30 days of the date on the invoice. Payments should be made payable to "Julota" and sent to the following address:

Julota  
Attention: Accounting Department  
102 S. Tejon St., Suite 1100  
Colorado Springs, CO 80903

Contact: [accounting@julota.com](mailto:accounting@julota.com)

**C. Schedule:**

Upon execution of the Agreement, provided the fee for the Initial Term is paid upon execution of the Agreement, Julota will commence the planning and execution of the Services with the intent of launching the Services for Customer by **June 30, 2023**.

**D. Service Changes:**

Julota reserves the right, in its sole discretion, to make any changes to the Services that it deems necessary or useful to:

1. maintain or enhance (i) the quality or delivery of the Services for its customers, (ii) the competitive strength of or market for Julota's services, or (iii) the cost efficiency or performance of the Services; or
2. to comply with applicable Law.

Notwithstanding the foregoing, in no event will such Julota initiated changes result in increased cost to Customer during the term of this SOW.

Customer understands that daily and weekly Julota initiated changes may occur without advance notice and such changes are for the purpose of bug fixes and minor improvements.

During the term of this SOW, Julota shall provide to Customer at no additional charge the following:

1. any and all changes that it develops with respect to the Services, unless such changes are considered optional to the Customer and bear additional costs to Julota outside of costs for Julota initiated implementation and development;
2. any and all changes required by federal or state governmental, or professional regulatory mandates related to the Customer's use of the Services; and
3. the Documentation associated with any changes.

Without limiting the foregoing, Customer may, at any time during the Term, request in writing changes to the Services. The Parties shall evaluate the requested changes and, if agreed, implement all such requested changes in accordance with a mutually agreed change order. No requested changes will be effective unless and until memorialized in a written change order signed by both Parties.

**E. Subcontractors:**

Julota may from time to time in its discretion engage third parties to perform Services (each, a "Subcontractor")

**F. On-Site Resources:**

Any Julota personnel visiting Customer's facilities shall comply with all applicable Customer policies regarding access to, use of, and conduct within such facilities. Customer will provide copies of such policies to Julota upon request.

**G. Customer Acknowledgments:**

Customer shall be responsible for purchasing, acquiring and installing all hardware associated with the Agreement and this SOW. Customer shall also be responsible for all training. Julota has no responsibility related to any of the hardware, including, but not limited to, in-store hardware (iPads, cables, cases, etc.). Julota may advise Customer regarding proper deployment of Services, but such advice is without warranty and provided "As Is".

**H. Definitions:**

1. "Dataset Migration" is the process of selecting, preparing, extracting, and transforming data from one computer storage system to another."
2. "Monthly Active Client(s)" is a Help Seeker whose name has been added to the Hosted Services, through Customer's subscription to the Services, for a service, encounter or enrollment for a particular month.

E



**Appendix 1 to the Statement of Work No. 1**

Any capitalized term used but not defined in this Appendix 1 to the Statement of Work No. 1 ("Appendix") shall have the meaning first assigned to it in the SOW and, to the extent not defined in the SOW, then the meaning assigned to it in the Agreement.

The terms for Julota will provide the Services according to the following:

1. **Term:** The "Term" of the SOW shall be for one (1) year from the Effective Date and ending 11:59:59 p.m. MT on **March 22, 2024** (the "Initial Term"), after which date the City reserves the option to renew for three additional one year periods at the city Manager's discretion at the then current pricing of Julota for the renewed Services (each, a "**Renewal Term**"), or until such time as either party elects not to renew this SOW by providing written notice of non-renewal to the other party at least 60 days prior to the expiration of the Initial Term or the current Renewal Term.

2. **Fees** (the following fees do not include applicable taxes):

**Implementation Fee Schedule:**

	<b>Units:</b>	<b>Price per Unit:</b>	<b>Total:</b>
Implementation Package Per Hub	1	\$ 5,400	\$ 5,400
Workflow understanding and guidance	0	Included	Included
Modules per hub	0	Included	Included
PDF Workflow Training Documents	0	Included	Included
Premium Launch Support (7 days)	0	Included	Included
Sixty-minute video training session	0	Included	Included
Custom Forms and Assessments	0	Included	Included
Dataset Migration	0	Included	Included
Onboarding Community Partner	0	\$ 200	\$ 0
Surveys	1	\$ 1,250	\$ 1,250
Interfaces one-way	2	\$ 1,250	\$ 2,500
Interfaces 2-directional	0	\$ 2,400	\$ 0
CJIS / SAMHSA 42 CFR Part 2 Workflow Validation	1	\$ 6,300	\$ 6,300
Champion Discount	1	\$ -2,000	\$ -2,000
<b>TOTAL ONE-TIME FEES:</b>			<b>\$ 13,450</b>

**Recurring Annual Fees Schedule (non-refundable):**

	<b>Units:</b>	<b>Price per Unit:</b>	<b>Total:</b>
Julota Base Platform License			\$ 18,500
Hubs	1	\$ 5,600	\$ 5,600
Service - CCR	1	\$ 365	\$ 365
Community Partner Organizations	0	\$ 100	\$ 0
Community Resource Organizations	25	\$ 0	\$ 0
Interfaces one-way	2	\$ 1,250	\$ 2,500
Interfaces 2-directional	0	\$ 2,400	\$ 0
Active Clients Per Month (converted to annual )	1200	\$ 5.00	\$ 6,000
Module—Client Notification	0	\$ 1,200	\$ 0
Module—Surveys	1	\$ 950	\$ 950
Module—Clinical	1	\$ 950	\$ 950
Module - SAMHSA 42 CFR Part 2	0	\$ 5,000	\$ 5,000
Module - CJIS	0	\$ 5,000	\$ 0
Data Extraction	1	\$ 1,250	\$ 1,250
<b>TOTAL RECURRING FEES:</b>			<b>\$ 41,115</b>

**Julota Basic Support Services:**

	<b>Units:</b>	<b>Price per Unit:</b>	<b>Total:</b>
Yearly Julota Basic Support Service	1	\$ 5,000	\$ 5,000
Included for each Hub:			
Access to Implementation Specialists up to 3 hours per month:	1	Included	Included
Help Desk access via web portal	1	Included	Included
Email access	1	Included	Included
Severity response for critical issues via hotline - 4 hours	1	Included	Included
* Post-implementation Development time charged \$225/hour	1	Included	Included
<b>YEARLY SUPPORT FEES:</b>			<b>\$ 5,000</b>

**Julota Project Manager Consultant:**

	<b>Units:</b>	<b>Price per Unit:</b>	<b>Total:</b>
Julota Project Manager Consultant	1	\$ 10,500	\$ 10,500
Included for each Hub:			
Provide technical consulting	1	Included	Included
Provide business consulting	1	Included	Included
Provide product expertise	1	Included	Included
Produce and manage client-facing documentation	1	Included	Included
Direct Implementation to client goals and timelines	1	Included	Included
<b>ONE-TIME CONSULTANT FEES:</b>			<b>\$ 10,500</b>
<b>Champion Discount</b>			<b>-\$ 6,000</b>

**Implementation Fees + Recurring Fees + Support Fees + Consultation + Discount = \$ 64,065**

3. For the completion of the Dataset Migration, Customer is responsible for providing its "data dictionary," which provides the name of the data fields in the old system, the definition of each data field, and the name of the field it is being moved to on Julota's system.
4. If Customer exceeds the estimated number of Monthly Active Clients during a year, it will not be charged for additional Monthly Active Clients, but Julota reserves the right to adjust the fee for Monthly Active Clients in the following year.
5. The rates set forth in the 'Annual Fees Schedule' are not a commitment by Julota to provide the Services at the same rate in any subsequent Term and may be increased by Julota.
6. Additional services listed above may be purchased at any time by Customer by providing written notice to Julota requesting the additional services. The rates set forth above in the "Recurring Annual Fees Schedule" are valid if ordered during the Term for Non-Recurring Term subscriptions and during the Initial Term for Auto-Renew Term subscriptions. Thereafter, the rates will be at the then current rates set by Julota.
7. The fees in the "Recurring Annual Fees Schedule" are based upon anticipated usage for the first year of the Term and then based on anticipated or actual usage for any additional years following the first year of the Term.

**EXHIBIT B**  
**Service Level Agreement**

In performing the Services for Customer, Julota's level of performance shall be at least equal to or exceed the Service Levels set forth in this Service Level Agreement (this "SLA") at all times during the Term of the applicable Statement of Work.

A. **Definitions.** Unless otherwise defined in this Addendum, the capitalized terms in this Addendum have the following meaning. Defined terms that are not defined in this Addendum will have the same meaning as in the Agreement.

1. **"Authorized User"** is a person who has been granted authority to use the Services by the Customer Representative.
2. **"Availability"** means that the Services are readily available to Customer and operating without material Error, excluding any Outages and "Low" level incidents (defined below).
3. **"Customer Representative"** means the single person that Customer has designated in writing to Julota to be its Customer Representative. Customer may change the Customer Representative by written notice to Julota. Only one person may be designated as Customer Representative at any time. In addition to the authority designated in this Addendum, the Customer Representative is awarded all rights designated to Authorized Users (e.g., the ability to contact the Support Desk). Only the Authorized Users may contact the Support Desk.
4. **"Emergency Maintenance"** means the downtime required by Julota for upgrading or maintaining the Services; provided, that Julota has given Customer at least twenty-four hours prior written notice of such downtime, provided that Emergency Maintenance does not exceed five (5) hours per month, and provided that Emergency Maintenance does not occur more than six (6) times per year.
5. **"Failure"** means any failure of Julota to meet a Service Level requirement; but excludes those failures attributable to a Force Majeure event.
6. **"Monthly Availability Percentage"** means the amount equal to the total number of minutes (multiply the number of calendar days in any given month by the product of 24 times 60) in the applicable calendar month, minus the total Outage time for that month, then divided by the total number of minutes.
7. **"Outage"** means the period (measured in minutes) that the Services are not readily available to Customer and/or are operating with material Error; but shall not include: (i) Scheduled Downtime (which will not exceed ten (10) hours in aggregate per month); (ii) emergency maintenance activities which will not exceed five (5) hours per month; (iii) periods of unavailability attributable to Customer's negligent acts or omissions; or (iv) Customer's failure to timely respond to Julota in connection with the resolution of any Problem.
8. **"Regular Release"** means releases of minor product updates for upgrading or maintaining the Services; provided that there shall be no more than two regular releases per week and downtime for these weekly releases does not exceed fifteen (60) minutes for each release.
9. **"Scheduled Downtime"** means the downtime required by Julota for upgrading or maintaining the Services; provided, that (i) such downtime occurs between the hours of 22:00 MT USA and 5:00 MT USA (or such other hours that Customer has previously and specifically approved in writing); and (ii) Julota has provided five (5) business days prior written notice of such downtime. This may also be referred to as "Scheduled Maintenance". (iii) not to exceed 4 hours each month.
10. **"Support Desk"** is a resource that provides administrative support and technical support to Authorized Users.

B. **Technical Support.**

1. **Contact Methods.** Julota will make available to the Authorized Users two means of contacting the Support Desk: an email ("Support Email") and Web Portal.
  1. Email Support: [Julota-Support@julota.com](mailto:Julota-Support@julota.com)
  2. Web Portal: <http://support.julota.com>
2. **User Support Hours.** Unless otherwise stated, standard user support hours are Monday – Friday from 8 AM to 5 PM local time with the exception of state and Federal holidays. In the event calls or emails are received outside of

User Support Hours, Julota will address the Authorized User's query during User Support Hours with the exception of Critical events (as discussed below).

3. Technical support will be limited to the permissions of the Authorized User, which will be determined by the Customer Representative pursuant to the "Protocol Authorization Form," a sample of which is attached as "Annex A" in blank format. The permissions will be defined in the Protocol Authorization Form. The Protocol Authorization Form will set forth the Authorized User's permissions granted to him or her.
4. At the time that the Authorized User contacts the Support Desk, the Authorized Users permissions will be verified in order to determine the scope of support that may be granted. If an Authorized User does not have sufficient permissions (e.g., they are attempting to report an issue for an area that they do not have the authority to access, the event will be deemed unreported).

**C. Severity Levels and Response Times.** The following are a description of the service levels and the service level response times:

1. **Critical.** An incident with a severity level of "Critical" is defined as one that produces an emergency situation (e.g., system down) in which the Services are substantially or completely non-functional or inoperable. In the event of a Critical incident, the Authorized User shall contact the Support Desk to report the problem. If the reported event is Critical and outside of User Support Hours, the Authorized User shall contact the Support Desk via the hotline, which is monitored 24x7x365, excluding State and Federal holidays. The Support Desk will contact the Authorized User, who reported the incident within four (4) hours to diagnose and begin remediation of the event and will use commercially reasonable efforts to resolve the event as soon as is reasonably possible under the circumstances. Any Authorized User may contact the support desk to report a Critical incident, even if the issue in question relates to a portion of Julota that is not under the purview of the Authorized User's permissions. In this case, the Support Desk will take the report of the issue, but will not contact the reporting user with resolution, but instead, will contact the Customer Representative to report resolution.
2. **High.** An incident with a severity level of "High" is defined as one that produces a detrimental situation in which the Services are usable, but materially incomplete; performance (response time) of the Services is degraded substantially such that there is a severe impact on use under reasonable loads; one or more mainline functions or commands is inoperable; or the use is otherwise significantly impacted. If the reported event is a High severity, the Support Desk will contact the Authorized User who reported the event within eight (8) User Support Hours to diagnose and begin remediation of the event, and will use commercially reasonable efforts to resolve the event with five (5) business days. Any authorized user may contact the support desk to report any issue, even if the issue in question relates to a portion of Julota that is not under the purview of the authorized user's permissions. Notwithstanding the foregoing, if the Authorized User that reported the event is not under the purview of the Authorized User's permissions, the Support Desk will take the report of the issue, but will not contact the reporting user with resolution, but instead, will contact the Customer Representative to report resolution.
3. **Low.** An incident with severity level of "Low" is defined as one that produces an inconvenient situation in which the Services are usable but do not provide a function in the most convenient or expeditious manner and the Authorized User suffers little or no significant impact. If the reported event is Low severity, Julota will attempt to resolve the event in a commercially reasonable manner in future maintenance releases. Only the Authorized User may contact the support desk to report the issue.

	Basic Services	Premium Services	Elite Services
Coverage	Business Hours	Business Hours	24/7
Response Time			
Critical	4 hours via hotline	2 hours via hotline	1 hour via hotline
High	2 business days via email or web portal	1 business day via email or web portal	½ business day via email or web portal
Low	3 business days via email or web portal	1 business day via email or web portal	1 business day via email or web portal

**D. Availability and Responsiveness Customer**

1. **Monthly Availability Percentage.** Julota shall maintain Availability of the hosting Services in accordance with at least the following Monthly Availability Percentage (as defined in this **Exhibit B** below):

Monthly Availability Percentage
99%

2. **Failure to meet Monthly Availability Percentage.** In the event of a Failure by Julota to meet the Monthly Availability Percentage set forth above in any calendar month during the Term, Julota shall issue Customer a service credit ("**Service Credit**") as follows:

Performance Level	Monthly Availability Percentage	Service Credit
1	Between 97% and 99.8%	2% of the monthly subscription fees paid in the month preceding the Failure.
2	Between 95% and 96.99%	3% of the monthly subscription fees paid in the month preceding the Failure.
3	Less than 94.99%	5% of the monthly subscription fees paid in the month preceding the Failure.

Customer shall have the right to immediately terminate this Agreement upon written notice to Julota if a) the Monthly Availability Percentage falls below 85% for one calendar month, or b) the Monthly Availability

Percentage falls below 94.99% for two consecutive calendar months, or c) if the Monthly Availability Percentage falls below 94.99% for five or more calendar months per calendar year.

**E.**     Plan Coverage

Coverage	Basic Services	Premium Services	Elite Services
Help Desk via Email/Portal Support (standard support hours)	X	X	X
Email Access via Email/Portal Support (standard support hours)	X	X	X
Training (one on one training: maximum 4 hours/month)			X
Post Implementation Development	X (\$225/hour)	X (\$175/hour)	X (\$150/hour)
Telephone support from 8:00 am – 5:00 pm (local time zone)		X	
Telephone support—24/7 dedicated phone line for all hub users.			X
Travel—if training not provided virtually			X (charged at cost)
10 Community Partners engaged, trained, on boarded, and supported once contract provided per year.			X

**EXHIBIT C**

**Customer Trademark Guidelines**

Julota<sup>®</sup> Is a registered trademark of TouchPhrase Development, LLC

Connecting Your Community<sup>®</sup> Is a registered trademark of TouchPhrase Development, LLC

Exhibit D

HIPAA Business Associate Agreement

This HIPAA Business Associate Agreement ("Agreement") is entered into and effective on **March 23, 2023** ("Effective Date") by and between City of Long Beach, CA ("Customer") and TouchPhrase Development, LLC d/b/a Julota ("Business Associate").

WHEREAS, Customer is subject to the "HIPAA Rules," which for purposes of this Agreement shall include the Privacy Rule, Security Rule, Breach Notification Rule and Enforcement Rule (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended; and

WHEREAS, Business Associate may maintain, transmit, create or receive Protected Health Information ("PHI") of individuals in the course of providing services to Customer. A description of the services that Business Associate will perform for the Customer is set forth in the SaaS Agreement entered into between the parties.

THE PARTIES THEREFORE AGREE TO THE FOLLOWING:

1. Definitions

Terms used, but not otherwise defined, in this Agreement, shall have the same meaning as those terms as defined in the HIPAA Rules. The parties recognize that electronic PHI is a subset of PHI, all references to PHI in this Agreement shall include electronic PHI.

2. Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as required by law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement and to comply with the HIPAA Security Rule (Subpart C of 45 CFR Part 164).

(c) Business Associate agrees to mitigate, to the extent practicable, any harmful effects that are known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

(d) Business Associate agrees to report to Customer any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware, including a Breach of Unsecured PHI as required by 45 CFR 164.410.

(e) Business Associate agrees, in accordance with 45 CFR 164.502(e)(1)(ii) and 45 CFR 164.308(b)(2) to ensure that any individual or entity that subcontracts with Business Associate to create, receive, maintain or transmit PHI received from, or created or received by Business Associate on behalf of Company agrees to the same restrictions and conditions that apply through the HIPAA Rules and this Agreement to Business Associate with respect to such information.

(f) To the extent that Business Associate maintains a designated record set on behalf of Customer, Business Associate agrees to provide access, at the request of Customer, as necessary to allow Customer to meet the requirements under 45 CFR 164.524.

(g) To the extent that Business Associate maintains a designated record set on behalf of Customer, Business Associate agrees to make any amendment(s) to PHI that the Customer directs as necessary for compliance with 45 CFR 164.526.

(h) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Customer available to the Customer, or at the request of the Customer to the Secretary, within a reasonable time of such request for purposes of the Secretary determining Customer's compliance with the HIPAA Rules.

(i) If Business Associate is required to make a disclosure of information because of a legal requirement, it will track such a disclosure and will provide information to Customer that would be necessary for Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.



(j) Business Associate agrees that it will use or disclose only the minimal amount of PHI necessary to accomplish the intended purpose.

(k) Business Associate agrees to alert Customer of any Security Incident of which it becomes aware.

(l) To the extent Business Associate is to carry out one of Customer's obligations under the Privacy Rule, Business Associate agrees to comply with the requirements of the HIPAA Rules that apply to Customer in the performance of such obligation.

3. Permitted Uses and Disclosures by Business Associate

(a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Customer as requested by Customer provided that such use or disclosure would not violate the HIPAA Rules if done by Customer.

(b) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(c) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to Customer as permitted by 45 CFR 164.504(e)(2)(i)(B).

(d) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

4. Obligations of Customer

(a) Customer shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(b) Customer shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Customer shall notify Business Associate of any restriction to the use or disclosure of PHI that Customer has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5. Permissible Requests by Customer

Except as otherwise permitted by this Agreement, Customer shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Customer.

6. Term and Termination

(a) Term. The Term of this Agreement shall be effective as of the Effective Date and shall continue in full force and effect until termination as set forth below.

(b) Termination. This Agreement may be terminated at any time and for any reason by either party or at such time that Business Associate ceases providing services to Customer. This Agreement will be terminated automatically and without notice upon termination or expiration of the SaaS Agreement. In the event of termination or expiration of this Agreement, to the extent feasible, Business Associate will return or destroy all PHI received from Customer.

(c) Continued Safeguard of Information. Depending on the nature of Business Associate's Services, the parties may mutually agree that immediate return or destruction of the information is infeasible. Under such circumstances, Business

Associate will extend the protections of this Agreement for as long as the information is maintained and will limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. When the information is no longer needed by Business Associate, the information will be returned or destroyed. The Business Associate's obligations to continue to safeguard PHI shall survive the termination of the Agreement.

7. Miscellaneous

(a) No Third-Party Beneficiary Rights. Nothing express or implied in this Agreement is intended to give, nor shall anything herein give any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

(b) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required.

(c) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Customer to comply with the HIPAA Rules.