

**APPENDIX C – PAYOR CONTRACTS**

**[Attached]**

**EXECUTION COPY**

---

**PAYOR AGREEMENT**

ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION OF BOSTON

Dated as of June 4, 2018

---

## TABLE OF CONTENTS

<b>ARTICLE I. DEFINITIONS/CONSTRUCTION.....</b>	<b>5</b>
Section 1.1 Defined Terms. ....	5
Section 1.2 Appendices and Schedules. ....	5
<b>ARTICLE II. TERM OF AGREEMENT; SERVICES .....</b>	<b>6</b>
Section 2.1 Effective Date. ....	6
Section 2.2 Project Launch Date. ....	6
<b>ARTICLE III. REPRESENTATIONS AND WARRANTIES.....</b>	<b>6</b>
Section 3.1 PAVE’s Representations and Warranties. ....	6
Section 3.2 City Representations and Warranties and Covenants.....	7
<b>ARTICLE IV. OBLIGATIONS AND RESPONSIBILITIES OF THE PARTIES.....</b>	<b>7</b>
Section 4.1 PAVE’s Obligations and Responsibilities. ....	7
Section 4.2 City Obligations and Responsibilities. ....	8
Section 4.3 Confidential Information. ....	9
Section 4.4 Payor Steering Committee.....	10
Section 4.5 Publicity.....	10
Section 4.6 Books and Records; Audit Rights. ....	10
Section 4.7 Funding Shortfall. ....	11
<b>ARTICLE V. OUTCOMES AND OUTCOME PAYMENTS.....</b>	<b>11</b>
Section 5.1 Calculation of Outcomes and Outcome Payments. ....	11
Section 5.2 Maximum Payments.....	11
Section 5.3 Outcome Payments.....	11
Section 5.4 No Third Party Rights.....	11
<b>ARTICLE VI. MODIFICATION .....</b>	<b>12</b>
Section 6.1 Generally. ....	12
<b>ARTICLE VII. TERMINATION OF AGREEMENT .....</b>	<b>12</b>
Section 7.1 Termination Rights.....	12
Section 7.2 Effect of Termination. ....	13
<b>ARTICLE VIII. MISCELLANEOUS .....</b>	<b>14</b>
Section 8.1 Notices. ....	14
Section 8.2 Entire Agreement.....	15
Section 8.3 Captions. ....	15
Section 8.4 Remedies Cumulative.....	15

Section 8.5 Non-Waiver. .... 16

Section 8.6 Severability..... 16

Section 8.7 Survival of Covenants, Representations and Warranties..... 16

Section 8.8 Governing Law. .... 16

Section 8.9 Costs. .... 16

Section 8.10 Counterparts..... 16

Section 8.11 Assignment. .... 16

Section 8.12 Independent Contractor. .... 17

Section 8.13 Further Assurances. .... 17

Section 8.14 Time of the Essence..... 17

Section 8.15 Construction..... 17

Section 8.16 Electronic Signatures and Electronic Records..... 18

This Payor Agreement (this “Agreement”), dated as of June 4, 2018 is entered into by and between the Economic Development and Industrial Corporation of Boston (the “EDIC”), as fiscal agent for the Neighborhood Jobs Trust (the “NJT”), and Payor Alliance for Veterans Employment, LLC (“PAVE”). The EDIC and PAVE are referred to herein as the “Parties” and each as a “Party”. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Appendix A.

WHEREAS, Social Finance, Inc., on behalf of PAVE, accepted a \$3,000,000 grant from the U.S. Department of Veterans Affairs (the “VA”) in September 2016 by executing the Veterans Grant Program Grant Agreement (the “VA Grant”), as included in Appendix B, for purposes of providing a portion of the Outcome Payments for the Project (as defined below);

WHEREAS, the VA Grant is in support of the Veterans Coordinated Approach to Recovery and Employment Project (the “Project”), in which the highest priority and goal is to provide supported employment services to Veterans with service-connected Post-Traumatic Stress Disorder (“PTSD”) via four Project Teams, as set forth in Schedule 1 (Operating Responsibilities) to the Pay for Success Agreement (the “PFS Agreement”) among PAVE, Veterans CARE Managing Member, LLC (“Veterans CARE Managing Member”), and Veterans Coordinated Approach to Recovery and Employment, LLC (“Veterans CARE”), and attached hereto as Appendix C;

WHEREAS, PAVE is a limited liability company which partners with participating municipalities to secure matching public/private funds towards the goal(s) of the Project, and Social Finance, Inc. is a 501(c)(3) nonprofit organization which partners with governments, nonprofits, foundations, impact investors, and financial institutions to create innovative financing solutions to improve social outcomes;

WHEREAS, in order to meet the VA Grant’s requirement to secure one-for-one cash match for the VA Grant, PAVE is securing matching funds related to each of the Project Teams, in an aggregate amount of \$3,000,000;

WHEREAS, the EDIC and PAVE are entering into this Agreement in order to provide up to \$750,000 in matching funds to be used by PAVE for Outcome Payments related to certain Project Teams served by the Boston VA Research Institute, Inc. (BVARI) in proximity to the Jamaica Plain Boston Healthcare System VA Medical Center (the “City of Boston Project Site”);

WHEREAS, the EDIC serves as the fiscal agent of the NJT, including dispersal of NJT funds;

WHEREAS, the EDIC is authorized to enter into this Agreement, and to make Outcome Payments, when due, in accordance with this Agreement and the PFS Agreement;

WHEREAS, PAVE will enter into similar agreements (together with this Agreement, the “Payor Contracts”) with other payors related to the other Project Teams (together with the EDIC, collectively, the “Payors”) pursuant to which each of the Payors will provide matching funds at the times and in the aggregate amounts set forth in the related Payor Contracts to match the VA

Grant, to be used by PAVE as Outcome Payments for the related Project Teams, all in accordance with the PFS Agreement;

WHEREAS, operating costs for the Project will be funded by the proceeds of loans to and/or investments in Veterans CARE (the “Financing”), such Financing to be repaid from Outcome Payments;

WHEREAS, Veterans CARE will enter into an agreement (the “Intervention Agreement”) with the Tuscaloosa Research and Education Advancement Corporation (“TREAC”), a nonprofit corporation affiliated with the Tuscaloosa VAMC (“TVAMC” and collectively with TREAC, the “Implementation Coordinating Center”), pursuant to which the Implementation Coordinating Center will facilitate implementation of a supported employment intervention known as Individual Placement and Support (“IPS”), to be delivered to Veterans with PTSD by dedicated employment specialists via the Project Teams, all as more fully described in the PFS Agreement, Schedule 1 (Operating Responsibilities);

WHEREAS, Veterans CARE will enter into an agreement (the “Evaluator Agreement”) with Westat, Inc. (the “Evaluator”), an independent third party, to measure four different Outcomes, including a Fidelity Score Outcome, Earnings Outcome, Days Worked Outcome and Job Satisfaction Outcome, all as more fully described in the PFS Agreement, Schedule 2 (Project Evaluation);

WHEREAS, Veterans CARE Managing Member will determine the Outcome Payments, if any, attributable to the City of Boston Project Site, and the amount of such Outcome Payments to be paid by the EDIC, in accordance with the PFS Agreement, Schedule 3 (Calculation of Outcome Payments), and provide an invoice for such amount to PAVE; and

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the Parties agree as follows:

## **ARTICLE I. DEFINITIONS/CONSTRUCTION**

### Section 1.1 Defined Terms.

In this Agreement, capitalized terms have the meaning assigned to them in this Agreement and in Appendix A – Index of Defined Terms, a copy of which is attached hereto and incorporated by this reference.

### Section 1.2 Appendices and Schedules.

The following additional Appendices and Schedules are attached hereto: During the term of the Agreement, conflicts between the various documents shall be resolved in the following order of precedence, such documents constituting the entire Agreement between the parties:

*Appendix B:* VA Grant, included herein for reference purposes only;

*Appendix C:* PFS Agreement, including the following Schedules thereto, hereby incorporated into this Agreement in its entirety:

*Schedule 1:* Operating Responsibilities

*Schedule 2:* Project Evaluation

*Schedule 3:* Calculation of Outcome Payments

*Schedule 4:* Governance and Reporting

*Schedule 5:* Publicity;

## **ARTICLE II. TERM OF AGREEMENT; SERVICES**

### **Section 2.1** **Effective Date.**

This Agreement will become effective as of the date first written above (the “Effective Date”), and will remain in effect until October 29, 2021 (the “Term”), unless earlier terminated pursuant to Section 7.1.

### **Section 2.2** **Project Launch Date.**

TREAC will oversee the implementation of IPS described more fully in the PFS Agreement, Schedule 1 (Operating Responsibilities), at the City of Boston Project Site, following the satisfaction of the Financing Condition on a date to be agreed to by the Management Committee (the “Service Commencement Date”) in accordance with the PFS Agreement.

## **ARTICLE III. REPRESENTATIONS AND WARRANTIES**

### **Section 3.1** **PAVE’s Representations and Warranties.**

(a) Organization and Good Standing. PAVE is a limited liability company validly existing under the laws of the State of Delaware and has full corporate power and authority to conduct its business as presently conducted and to enter into and perform under this Agreement, the other Payor Contracts and the PFS Agreement.

(b) Authority for Agreement. The execution, delivery and performance by PAVE of this Agreement and the performance by PAVE under this Agreement have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by PAVE and, assuming the due authorization, execution and delivery by the EDIC, and subject to the effect of applicable Laws (e.g., bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to the rights of creditors generally), constitutes a legal, valid and binding obligation of PAVE, enforceable against PAVE in accordance with its terms. The execution and performance of this Agreement by PAVE will not violate any provision of Law and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under or

require a consent or waiver under, PAVE's organizational documents or any decree, judgment, or order applicable to PAVE.

(c) No Litigation. No litigation, arbitration or administrative proceeding is presently in progress or, to PAVE's knowledge, pending or threatened in writing against PAVE or any of its assets which might reasonably be expected to materially adversely affect the ability of PAVE to perform its obligations under this Agreement.

### Section 3.2 EDIC's Representations and Warranties.

(a) Authority for Agreement. The execution, delivery and performance by EDIC of this Agreement, have been duly authorized by all necessary governmental action. This Agreement has been duly executed and delivered by EDIC and, assuming the due authorization, execution and delivery by PAVE, and subject to the effect of applicable Laws (e.g., bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to the rights of creditors generally), constitutes a legal, valid, and binding obligation of EDIC, enforceable against EDIC in accordance with its terms. The execution and performance of this Agreement by EDIC will not violate any provision of Law or any decree, judgment or order applicable to EDIC. There is no condition, subsequent or precedent, required to be fulfilled for the authorization provided EDIC to be in full force and effect.

(b) No Litigation. No claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the EDIC's knowledge, pending or threatened against such Party which will or might reasonably be expected to materially adversely affect the ability of the EDIC to perform under this Agreement.

(c) Governmental Consents. Upon a majority vote of the NJT Trustees, no further consent, approval, order, or authorization of, or registration, qualification, designation, declaration or filing with, any Governmental Authority is required in connection with the execution, delivery and performance of this Agreement by the EDIC or the payment of Outcome Payments hereunder.

## **ARTICLE IV. OBLIGATIONS AND RESPONSIBILITIES OF THE PARTIES**

### Section 4.1 PAVE's Obligations and Responsibilities.

Without limiting the generality or effect of any other provision of this Agreement, PAVE will:

- (a) use its reasonable efforts to perform its responsibilities and to take such actions in each case as are required to be taken by it in this Agreement;
- (b) in rendering its services hereunder, comply with all Laws applicable to it and its subsidiaries;
- (c) enter into the other Payor Contracts and the PFS Agreement, and without the prior written consent of the EDIC, which consent may not be unreasonably withheld, conditioned



or delayed, subsequently not (i) amend such PFS Agreement in any manner that will materially affect the EDIC's obligations hereunder, or (ii) terminate the PFS Agreement;

(d) obtain the prior written consent of the EDIC, which consent may not be unreasonably withheld, conditioned or delayed, before giving consent to Veterans LLC to (i) any amendments to the Intervention Agreement or the Evaluator Agreement, which would have a material effect on Outcomes, Outcome Payments or the EDIC's obligations hereunder; (ii) the termination of either the Intervention Agreement or the Evaluator Agreement; or (iii) the substitution of TREAC, TVAMC or the Evaluator under the applicable agreement;

(e) upon receiving notice from Veterans CARE of a Material Breach of the Intervention Agreement or the Evaluator Agreement, promptly provide such notice to the EDIC, and provide ongoing information about Veterans CARE's efforts to cause TREAC, TVAMC or the Evaluator, as applicable, to remedy such Material Breach, or, if necessary, to replace TREAC, TVAMC or the Evaluator, as applicable; and

(f) promptly notify the EDIC of any Material Breach of the VA Grant, the other Payor Contracts, or the PFS Agreement, and use reasonable efforts to (i) cause the applicable breaching party to remedy such Material Breach, or (ii) replace such breaching party in accordance with the applicable agreement.

#### Section 4.2 EDIC's Obligations and Responsibilities.

Without limiting the generality or effect of any other provision of this Agreement, EDIC will comply with the following:

(a) Request funds from the NJT, beginning in fiscal year 2020 and ending in fiscal year 2022, in the amounts set forth in Table 1 below, in an aggregate amount not to exceed \$750,000. EDIC shall make funds available from the NJT. EDIC shall apply such amounts to make Outcome Payments, as set forth in Section 5.3 hereof. Any amounts received by EDIC from NJT shall be held in trust by EDIC until applied to make Outcome Payments in accordance with this Agreement and/or transferred to PAVE to be held in trust to make Outcome Payments. Any amounts held by EDIC shall be available until the completion of the project and final payment of Outcome Payments.

(b) Keep PAVE reasonably informed of the status of any relevant budget, legislative or other EDIC actions related to the NJT related to the availability of funds for this Agreement or Pay for Success projects generally.

(c) By each Deposit Date listed in Table 1 below, hold in trust or transfer to PAVE the amounts necessary to meet the applicable FY Minimum Cumulative Deposit at such Deposit Date (each such deposit, a "Deposit") from amounts received in accordance with Section 4.2(a) above, which amounts may be altered by unanimous approval of the Payor Steering Committee should Project funding needs decrease:

**Table 1**

Fiscal Year	Deposit Date	Minimum Deposit	FY Minimum Cumulative Deposit
FY20	September 1, 2019	\$225,000	\$225,000
FY21	September 1, 2020	\$250,000	\$475,000
FY22	September 1, 2021	\$275,000	\$750,000

(d) The EDIC acknowledges that PAVE has no obligation to furnish to it any information regarding the identity of any Funding Partner or any term of the Financing without the applicable Funding Partner's prior written consent.

(e) PAVE acknowledges that any Outcome Payments and any payments made in accordance with Section 7.2 under this Agreement are subject to the availability of funds held in the NJT.

#### Section 4.3 Confidential Information.

(a) Confidential Information Generally. Subject at all times to the Massachusetts Public Records Law (M.G.L. Chapter 66) and the Massachusetts Fair Information Practices Law (M.G.L. Chapter 66A), each Party agrees to maintain all Confidential Information provided to it by another Party as confidential and to not disclose such information to any Persons other than to its representatives or as otherwise required by Law.

(b) PAVE acknowledges that EDIC must comply with the Freedom of Information Act, M.G.L. Chapter 66 ("Massachusetts Public Records Law") which requires the disclosure of documents in the possession of the EDIC upon request of any citizen, unless the content of the document falls within certain categories of exemption, as defined by M.G.L. Chapter 4, Section 7. In no event will EDIC be liable for disclosing any information pursuant to a judicial or administrative order, or as the result of a good faith belief on the part of the EDIC that the information in question must be disclosed pursuant to the Massachusetts Public Records Law.

(c) Acknowledgment; Requests for Disclosure. If a Person files a request under the Massachusetts Public Records Law or any similar applicable Law for any documentation or information related to the Project (a "Request"), EDIC shall promptly, and in any event not more than five days following the receipt of the Request, notify PAVE of the Request and allow PAVE ten days within which to object to EDIC, and any relevant judicial or administrative body, to the

disclosure of any of the requested information. If, following receipt of PAVE's objection to the release of the requested information, EDIC reasonably determines that the information sought by the Request should be disclosed, EDIC shall promptly notify PAVE of such determination, and, subject to Law, shall refrain from making such disclosure for not less than five days following Notice to PAVE in order to afford PAVE an opportunity to seek an injunction or other appropriate remedy if PAVE believes that EDIC's determination is erroneous. The term "days" as used in this Section 4.4(c), shall be determined in the manner provided in the Massachusetts Public Records Law.

(d) Notice. PAVE shall endeavor to clearly mark each page of all documents which PAVE wishes to designate as Confidential Information "Confidential Information" and may also include a reference to this Agreement; provided, however, that PAVE's failure to mark any document shall not foreclose PAVE from asserting that a document should be designated as Confidential Information.

(e) Certain Required Disclosures. Nothing in this Agreement shall limit or restrict EDIC from disclosing, to the extent required by applicable Law, any information, communication, or record to the United States Congress or the Massachusetts State Auditor; provided that EDIC shall use all reasonable measures to prevent further dissemination of such information to the extent such information is Confidential Information.

#### Section 4.4 Payor Steering Committee.

The EDIC shall appoint a representative to the Payor Steering Committee as set forth in the PFS Agreement, Schedule 4 (Governance and Reporting). The rights and responsibilities of the Payor Steering Committee members are set forth in the PFS Agreement, Schedule 4 (Governance and Reporting).

#### Section 4.5 Publicity.

News releases or any other similar public announcements regarding the Project or this Agreement may not be released or made by any Party prior to following the procedures outlined in the PFS Agreement, Schedule 5 (Publicity); provided, however, that any Party may make any public announcement that its counsel advises is required by Law or legal process, in which case, to the extent practicable, it will consult with the other Party with respect to the timing and content thereof.

#### Section 4.6 Books and Records; Audit Rights.

PAVE will establish and maintain books, records and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds in connection with the Project. PAVE will retain all records, financial records, supporting documents, statistical records and any other documents (including electronic storage media) pertinent to this Agreement for a period of three years after termination of the Agreement, or until any litigation based on the terms of this Agreement or the PFS Agreement has concluded, or, if an audit has been initiated and audit findings have not been resolved at the end of three years, the records will be retained until resolution of the audit findings. PAVE will assure that these records will be subject at all

reasonable times to inspection, review, or audit by federal, state, or other personnel duly authorized by the EDIC. EDIC and the Massachusetts State Auditor or any of its/their duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers and records of PAVE involving transactions related to the Agreement.

#### Section 4.7 Funding Shortfall.

Upon being notified of a Funding Shortfall by Veterans CARE in accordance with the PFS Agreement, PAVE will notify the EDIC of such shortfall and any actions being taken to remedy any such Funding Shortfall.

### **ARTICLE V. OUTCOMES AND OUTCOME PAYMENTS**

#### Section 5.1 Calculation of Outcomes and Outcome Payments.

Outcome Payments are contingent upon the Evaluator's determinations as to whether the Outcomes have been met in accordance with the PFS Agreement, Schedule 2 (Project Evaluation). Upon such a determination that one or more of the Outcomes have been met, Veterans CARE Managing Member shall calculate the applicable Outcome Payments in accordance with the PFS Agreement, Schedule 3 (Calculation of Outcome Payments).

#### Section 5.2 Maximum Payments.

The maximum total amount payable by the EDIC to PAVE for cumulative Outcome Payments related to the City of Boston Project Site is \$750,000.00.

#### Section 5.3 Outcome Payments.

The EDIC will make the Outcome Payments to PAVE related to the City of Boston Project Site, which payments will be calculated and become due in accordance with the PFS Agreement, Schedule 3 (Calculation of Outcome Payments). If an Outcome Payment is payable by the EDIC in accordance with said Schedule 3, the EDIC will make such Outcome Payment in full within 30 days of receipt of an invoice from PAVE, without deduction or setoff, by electronic wire transfer of immediately available funds to a bank account designated by PAVE reasonably in advance of the payment due date. The EDIC will be obligated to make any such Outcome Payments regardless of whether the VA has met its obligations with respect to amounts due under the VA Grant with respect to the City of Boston Project Site, and regardless of whether any of the other Payors have met their respective payment obligations with respect to other Project Teams.

#### Section 5.4 No Third Party Rights.

The Parties agree that nothing in this Agreement, including this Article V shall be deemed to create or give to any third party any claim or right of action against any Party, provided that the EDIC acknowledges that PAVE will collaterally assign the right to payment set forth in this Payor Contract to Veterans CARE, which in turn will assign the right to payment to the Funding Partners (the "Assignees"), as collateral for the obligations of Veterans CARE to the Funding Partners, and the EDIC hereby consents to such collateral assignments. The EDIC agrees that no amendment to

the PFS Agreement that affects the amount or timing of Outcome Payments thereunder shall be valid without the prior written consent of each Assignee. Each Assignee shall be a third party beneficiary of the Outcome Payment provisions of this Payor Contract and shall be entitled to enforce the payment provisions hereof.

## **ARTICLE VI.        MODIFICATION**

### Section 6.1    Generally.

This Agreement or any part of it may only be modified, revised, supplemented, abrogated, extended, waived, or amended in writing agreed to and signed by all Parties. In the event of any change in Federal or state Law or regulation which affects a Party's responsibilities, this Agreement shall be automatically amended to reflect such changes. Thereafter, the Parties mutually agree to enter into good faith negotiations to enter into a written amendment to reflect such changes.

## **ARTICLE VII.        TERMINATION OF AGREEMENT**

### Section 7.1    Termination Rights.

This Agreement may be terminated as follows and may not be terminated for any other reason or under any other theory whatsoever:

(a) Funding or Deposit Failure: By PAVE, if EDIC fails to request from NJT the amounts necessary to comply with Section 4.2(a) or Section 4.2(c) hereof, or otherwise fails to comply with the provisions of Section 4.2(a) or Section 4.2(c) hereof, or if the EDIC fails to make the requisite amount of funds available from the NJT or any other source such that EDIC is unable to comply with the funding schedule set forth in Section 4.2(c) hereof.

(b) Payment Failure: By PAVE, if the EDIC fails to make an Outcome Payment when due in accordance with Section 5.3.

(c) EDIC Breach: By PAVE, if PAVE shall provide notice of Material Breach to the EDIC with respect to any of its other obligations hereunder, and EDIC shall then have 60 days to Cure such Material Breach, provided that PAVE shall extend such 60 day period if the EDIC is working in good faith to Cure such Material Breach. If the EDIC fails to Cure such Material Breach within such 60 day period, or such extended period, then PAVE may terminate this Agreement.

(d) Mutual Consent: Automatically upon the written mutual consent of the Parties, which consent may not be unreasonably withheld, conditioned, or delayed, in accordance with the terms of such written mutual consent to termination.

(e) PAVE Breach: By the EDIC, if the EDIC shall provide notice of Material Breach to PAVE with respect to its obligations hereunder, and PAVE shall then have 60 days to Cure such Material Breach, provided that the EDIC may extend such 60 day period if PAVE is working in good faith to Cure such Material Breach. If PAVE fails to Cure such Material Breach

within such 60 day period, or such extended period, then the EDIC shall request the Management Committee to replace PAVE. If the Management Committee fails to replace PAVE within 30 days, the EDIC may terminate this Agreement.

(f) Early termination of PFS Agreement: This Agreement shall terminate upon an early termination of the PFS Agreement in accordance with Section 8.1 thereof.

#### Section 7.2 Effect of Termination.

The remedies provided in this Section 7.2 are the exclusive and sole remedy of any Party in connection with a termination of this Agreement, provided that all such remedies are subject to the Wind-Up procedures set forth in Section 7.2(e) below, including the applicable provisions of Section 8.2 of the PFS Agreement as referenced below.

(a) Mutual Consent. Upon a termination of this Agreement pursuant to Section 7.1(d) (Mutual Consent), this Agreement will terminate at the time and under such conditions as are agreed to by the Parties, provided that the EDIC will remain obligated to make any Outcome Payments due, including Early Outcome Payments, in accordance with Section 7.2(e) below.

(b) Funding or Deposit Failure; Payment Failure; EDIC Breach. Upon a termination by PAVE pursuant to Section 7.1(a) (Funding or Deposit Failure), Section 7.1(b) (Payment Failure) or Section 7.1(c) (EDIC Breach), (each an “EDIC Termination”), this Agreement will terminate, effective upon the date set forth in such notice of termination. Upon issuance of the notice of termination by PAVE, no additional Program Participants will be enrolled in IPS at the City of Boston Project Site, provided that any Enrolled Program Participants will continue to receive IPS services for a period of time to be determined by the Management Committee. The EDIC will remain obligated to make any Outcome Payments, including Early Outcome Payments, in accordance with Section 7.2(e) below.

(c) PAVE Material Breach. Upon a termination by the EDIC pursuant to Section 7.1(e) (PAVE Breach), no additional Program Participants will be enrolled in IPS at the City of Boston Project Site, provided that any Enrolled Program Participants will continue to receive IPS services for a period of time to be determined by the Management Committee. The EDIC will remain obligated to make any Outcome Payments, including Early Outcome Payments, in accordance with Section 7.2(e) below.

(d) Early Termination of PFS Agreement. Upon an early termination of the PFS Agreement in accordance with Article VIII thereof, this Agreement will terminate in accordance with the provisions set forth in Section 8.2 of the PFS Agreement, provided that the EDIC, the VA and other Payors shall consent to the early termination of the PFS Agreement as set forth therein, which consent may not be unreasonably withheld, conditioned, or delayed. The EDIC will remain obligated to make any Outcome Payments, including Early Outcome Payments, in accordance with Section 7.2(e) below.

(e) Wind-Up.

(i) Following receipt of a notice of termination in accordance with this Article VII, the EDIC will pay to PAVE the amounts set forth below:

(A) An Outcome Payment, which will consist of the following:

1. Outcome Payments owed by the EDIC but not yet made; and
2. For Program Participants working with the City of Boston Project Site for whom Outcomes have not yet been calculated by the effective date of termination of this Agreement, the EDIC shall pay an Early Outcome Payment in accordance with a timeline agreed to by the Parties, calculated as set forth in the PFS Agreement, Schedule 3 (Calculation of Outcome Payments).

(B) Solely in the case of a City of Boston Termination, the EDIC will pay in addition to the amounts set forth in Section 7.2 (e)(i)(A) above, the full amounts applicable to the EDIC set forth in the Wind-Up Budget in accordance with Section 8.2(e) of the PFS Agreement.

(ii) The payments to be made under Section 7.2(e)(i) shall be made under a schedule to be reasonably agreed to by the Parties, taking into account the EDIC's budget process and the anticipated schedule of expenditures required to facilitate an orderly wind-up of this Agreement.

## **ARTICLE VIII. MISCELLANEOUS**

### **Section 8.1 Notices.**

All notices and other communications among the Parties will be in writing and will be deemed to have been duly given (a) when delivered in person, (b) five days after posting in the United States mail having been sent registered or certified mail return receipt requested, (c) when delivered by FedEx or other nationally recognized overnight delivery service, or (d) when delivered by fax or email, addressed as follows:

In the case of the EDIC to:

Midori Morikawa, Director of Workforce Policy & Planning  
Mayor's Office of Workforce Development  
43 Hawkins Street-Floor 3B

Boston, MA 02114-2907

In the case of PAVE to:

Payor Alliance for Veterans Employment, LLC  
c/o Social Finance, Inc.  
10 Milk Street, Suite 1010  
Boston, MA 02108  
Attention: Navjeet Bal  
Email: nbal@socialfinance.org

with a copy (which will not constitute notice) to:

Jones Day  
1755 Embarcadero Road  
Palo Alto, CA 94303  
Attention: Stephen E. Hall  
Email: sehall@jonesday.com

or to such other address or addresses as the Parties, may from time to time designate in writing.

#### Section 8.2 Entire Agreement.

This Agreement (including the Schedules, Exhibits and Appendices hereto, which are incorporated by reference) constitutes the entire agreement between the Parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein will be binding or valid, and this Agreement may not be changed, modified, or altered in any manner except by an instrument in writing executed by both Parties hereto. Neither this Agreement nor any interest herein may be transferred by the Parties and such transfer will be null and void and will be cause to annul this Agreement. To the extent there are any conflicts or inconsistencies between this Agreement and any Schedule or Appendix, the provisions of this Agreement shall govern and control.

#### Section 8.3 Captions.

The captions contained in this Agreement are intended for convenience and reference purposes only and do not modify or restrict any provision herein.

#### Section 8.4 Remedies Cumulative.

Except as otherwise expressly provided by this Agreement, all remedies available to PAVE or the EDIC for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy will not exclude the exercise of any other remedy. Notwithstanding any other provision of this Agreement, no Party will be entitled to recover compensation or make a claim under this Agreement in respect of any loss that it has incurred to the extent that it has already been compensated in respect of that loss pursuant to this Agreement or otherwise by the other Party.



#### Section 8.5 Non-Waiver.

The failure of either Party to exercise any right or to require strict performance of any provision will not waive or diminish such Party's right thereafter to exercise such right or to require strict performance of any provision nor will a waiver of any breach or default of the Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself. No waiver of any of the provisions of this Agreement will be binding unless executed in writing by the Party making the waiver.

#### Section 8.6 Severability.

In the event that any one or more of the provisions of this Agreement shall for any reason be declared unenforceable under the Laws or regulations in force, such provision will not have any effect on the validity of the remainder of this Agreement, which will then be construed as if such unenforceable provision had never been written or was never contained in this Agreement.

#### Section 8.7 Survival of Covenants, Representations and Warranties.

Other than Section 4.3 (Confidential Information), Section 4.6 (Books and Records, Audit Rights), Article VI (Modification), Section 7.2 (Effect of Termination), no covenant, representation or warranty of the Parties herein will survive the termination or expiration of this Agreement.

#### Section 8.8 Governing Law.

This Agreement will be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to any choice of law or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of the law of any jurisdiction other than the Commonwealth of Massachusetts.

#### Section 8.9 Costs.

Each Party will bear its own expenses incurred in connection with the negotiation and execution of this Agreement and each other agreement, document and instrument contemplated by this Agreement and the performance by it hereunder.

#### Section 8.10 Counterparts.

This Agreement may be executed in counterparts, each of which when executed and delivered will constitute an original but all counterparts together will constitute one and the same instrument.

#### Section 8.11 Assignment.

Except as set forth in Section 5.4 hereof, no Party may assign its respective rights or obligations under this Agreement without the prior written consent of the other Parties, which shall not be unreasonably withheld. This Agreement is binding upon and inures to the benefit of the Parties and their successors and assigns.

Section 8.12 Independent Contractor.

Nothing contained in this Agreement, and no action by any Party, shall be deemed to: (i) create between them an employer-employee or principal-agent relationship or partnership, joint venture, association, or syndicate; or (ii) confer on any party any right, power or authority to enter into any agreement or commitment, whether express or implied, or to incur any obligation or liability on behalf of the other party. Neither Party shall hold itself out as the agent of the other Party, nor imply, nor fail to correct a misunderstanding, that there is an agency relationship between it and the other Party.

Section 8.13 Further Assurances.

The Parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with this Agreement or the PFS Agreement and that do not involve the vesting of rights or the assumption of obligations other than those provided for in this Agreement, in order to give full effect to the Agreement and carry out the intent thereof.

Section 8.14 Time of the Essence.

Time is of the essence with respect to all provisions of this Agreement that specify a time for performance; provided, that, this provision shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

Section 8.15 Construction.

Unless the context of this Agreement otherwise requires, (a) words of any gender include each other gender, (b) words using the singular or plural number also include the plural or singular number, respectively, (c) the terms “hereof,” “herein,” “hereby,” “hereto” and derivative or similar words refer to this entire Agreement, (d) when a reference is made in this Agreement to an Article, Section, Schedule, Exhibit or Appendix, such reference is to an Article or Section of, or a Schedule, Exhibit or Appendix to, this Agreement, (e) the word “including,” “include” or “includes” means “including, without limitation,” (f) the words “Person” or “Persons” refers to a natural person and/or an entity of any type, and (g) the word “or” will be disjunctive but not exclusive. The word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends, and such phrase will not mean simply “if.” References to agreements and other documents will be deemed to include all subsequent amendments and other modifications thereto. References to statutes will include all regulations promulgated thereunder, and references to statutes or regulations will be construed to include all statutory and regulatory provisions consolidating, amending or replacing the statute or regulation. The language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent and no rule of strict construction will be applied against any Party. Whenever this Agreement refers to a number of days, such number will refer to calendar days unless Business Days are specified. All accounting terms used herein and not expressly defined herein will have the meanings given to them under United States generally accepted accounting principles.

Section 8.16 Electronic Signatures and Electronic Records.

Each Party consents to the use of electronic signatures by each other Party. This Agreement and any other documents requiring a signature under this Agreement, may be signed electronically by the Parties. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in formation.

By execution of this Agreement, the Parties agree to the terms and conditions of this Agreement.

**PAYOR ALLIANCE FOR VETERANS  
EMPLOYMENT, LLC:**

By: \_\_\_\_\_  
Name: Navjeet K. Bal  
Title: Treasurer

**ECONOMIC DEVELOPMENT  
AND INDUSTRIAL CORPORATION OF BOSTON**

By: \_\_\_\_\_  
Brian P. Golden, Director  
as Fiscal Agent of the Neighborhood Jobs Trust

**NEIGHBORHOOD JOBS TRUST**

By: \_\_\_\_\_  
Name: Trinh Nguyen  
Title: Trustee

## **Appendix A – Index of Defined Terms**

“Agreement” has the meaning given to such term in the preamble of the Agreement.

“Business Days” has the meaning set forth in Appendix A to the PFS Agreement.

“City of Boston Project Site” has the meaning given to such term in the recitals of the Agreement.

“City of Boston Termination” has the meaning set forth in Section 7.2(b) of the Agreement.

“Confidential Information” has the meaning given to such term in Section 4.3 of the Agreement.

“Cure” means, with respect to a particular set of facts and circumstances constituting a Material Breach, that Party has taken actions such that there is no longer a Material Breach or taken all steps reasonably necessary that there is no continuing Material Breach, including by implementing appropriate procedures or controls.

“Disclosing Party” has the meaning set forth in Section 4.3 of the Agreement.

“Early Outcome Payment(s)” has the meaning set forth in the PFS Agreement, Schedule 3 (Calculation of Outcome Payments).

“EDIC” means the Economic Development and Industrial Corporation of Boston, a public body politic and corporate established under Chapter 1097 of the Acts and Resolves of 1971, with its principal office at 43 Hawkins Street, Boston, Massachusetts 02114

“Effective Date” has the meaning set forth in Section 2.1 of the Agreement.

“Enrolled” or “Enrollment” has the meaning set forth in the PFS Agreement, Schedule 1 (Operating Responsibilities).

“Evaluator” has the meaning given to such term in the recitals of the Agreement.

“Evaluator Agreement” has the meaning given to such term in the recitals of the Agreement.

“Financing” has the meaning given to such term in the recitals of the Agreement.

“Financing Condition” has the meaning set forth in Appendix A of the PFS Agreement.

“Funding Partners” means the individuals and entities that have provided or are possible sources of funding to Veterans CARE for the Project, and which, if such funding is provided, will be entitled to receive their respective portions of the Outcome Payments pursuant to their agreements with and rights with respect to Veterans CARE.

“Funding Shortfall” has the meaning set forth in Section 4.7 of the PFS Agreement.

“Governmental Authority” means any (i) federal, state, local or municipal governmental authority, quasi-governmental authority of any nature or any political subdivision thereof (including any taxing authority, agency, branch, board, commission, bureau, official, or entity and any court, arbitral body or other tribunal); or (ii) body entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority.

“Implementation Coordinating Center” has the meaning set forth in the recitals to this Agreement.

“Intervention Agreement” means the agreement dated as of the date set forth therein between Veterans CARE, TREAC and TVAMC, as it may be amended from time to time.

“IPS” has the meaning given to such term in the recitals to the Agreement.

“Law(s)” means any written law, statute, constitutional provision, treaty, code, ordinance, rule or regulation or other similar requirement of any Governmental Authority and any directive, policy or binding guideline of the EDIC or a federal Governmental Authority.

“Management Committee” is described in the PFS Agreement, Schedule 4 (Governance and Reporting).

“Massachusetts Public Records Law” has the meaning given to such term in Section 4.3 of the Agreement.

“M.G.L.” means “Massachusetts General Laws”.

“Material Breach” means a material breach of this Agreement, the PFS Agreement, the VA Grant Agreement, the Intervention Agreement or the Evaluator Agreement by a party thereto that would reasonably be expected to materially adversely impact any of the Outcomes or the amount or timing of any of the Outcome Payments.

“NJT” has the meaning given to such term in the preamble of the Agreement.

“Outcomes” has the meaning set forth in the PFS Agreement, Schedule 2 (Project Evaluation).

“Outcome Payment(s)” has the meaning set forth in the PFS Agreement, Schedule 3 (Calculation of Outcome Payments).

“Program Participant(s)” has the meaning set forth in the PFS Agreement, Schedule 1 (Operating Responsibilities).

“Parties” or “Party” have the meaning given to such terms in the preamble of the Agreement.

“PAVE” has the meaning given to such term in the preamble of the Agreement.

“PAVE Breach” has the meaning set forth in Section 7.2(c) of the Agreement.

“Payor Contracts” has the meaning given to such term in the recitals to the Agreement.

“Payors” has the meaning given to such term in the recitals to the Agreement.

“Payor Steering Committee” is described in the PFS Agreement, Schedule 4 (Governance and Reporting).

“Person” or “Persons” have meaning given to such terms in the Section 8.15 of the Agreement.

“PFS Agreement” has the meaning given to such term in the recitals to the Agreement.

“Project” has the meaning given to such term in the recitals of the Agreement.

“Project Teams” means, collectively, the following four project teams, each of which will include two IPS Specialists and one IPS Coordinator (as more fully described in Schedule 1 (Operating Responsibilities)):

- (i) the Central/Western Massachusetts Project Team means the team delivering services via the Veterans Education & Research Association of Northern New England, Inc. (VERANNE).

- (ii) the Brockton Project Team means the team delivering services via the Boston VA Research Institute, Inc. (BVARI), in proximity of the Brockton VA Medical Center.

- (iii) the Boston Project Team means the team delivering services via the Boston VA Research Institute, Inc. (BVARI), in proximity of the Jamaica Plain VA Medical Center.

- (iv) the New York Project Team means the team delivering services via the Narrows Institute for Biomedical Research, Inc.

“PTSD” has the meaning given to such term in the recitals to the Agreement.

“Service Commencement Date” has the meaning set forth in Section 2.2 of the Agreement.

“Term” has the meaning given to such term in Section 2.2 of the Agreement.

“TREAC” has the meaning given to such term in the recitals to the Agreement.

“VA” has the meaning given to such term in the recitals to the Agreement.

“VA Grant” has the meaning given to such term in the recitals to the Agreement.

“Veterans CARE” has the meaning given to such term in the recitals of the Agreement.

“Veterans CARE Managing Member” has the meaning given to such term in the recitals of the Agreement.



EXECUTION COPY

---

**PAYOR AGREEMENT**

COMMONWEALTH OF MASSACHUSETTS

Dated as of May 3, 2018

---

## TABLE OF CONTENTS

<b>ARTICLE I. DEFINITIONS/CONSTRUCTION.....</b>	<b>5</b>
Section 1.1 Defined Terms. ....	5
Section 1.2 Appendices and Schedules. ....	5
<b>ARTICLE II. TERM OF AGREEMENT; SERVICES .....</b>	<b>6</b>
Section 2.1 Effective Date. ....	6
Section 2.2 Project Launch Date. ....	6
<b>ARTICLE III. REPRESENTATIONS AND WARRANTIES.....</b>	<b>6</b>
Section 3.1 PAVE’s Representations and Warranties. ....	6
Section 3.2 Commonwealth Representations and Warranties and Covenants .....	7
<b>ARTICLE IV. OBLIGATIONS AND RESPONSIBILITIES OF THE PARTIES.....</b>	<b>7</b>
Section 4.1 PAVE’s Obligations and Responsibilities. ....	7
Section 4.2 Commonwealth Obligations and Responsibilities.....	8
Section 4.3 Confidential Information. ....	9
Section 4.4 Payor Steering Committee.....	10
Section 4.5 Publicity.....	10
Section 4.6 Books and Records; Audit Rights. ....	10
Section 4.7 Funding Shortfall.....	10
<b>ARTICLE V. OUTCOMES AND OUTCOME PAYMENTS.....</b>	<b>11</b>
Section 5.1 Calculation of Outcomes and Outcome Payments. ....	11
Section 5.2 Maximum Payments.....	11
Section 5.3 Outcome Payments.....	11
Section 5.4 No Third Party Rights.....	11
<b>ARTICLE VI. MODIFICATION .....</b>	<b>12</b>
Section 6.1 Generally. ....	12
<b>ARTICLE VII. TERMINATION OF AGREEMENT .....</b>	<b>12</b>
Section 7.1 Termination Rights.....	12
Section 7.2 Effect of Termination. ....	13
<b>ARTICLE VIII. MISCELLANEOUS .....</b>	<b>14</b>
Section 8.1 Notices. ....	14
Section 8.2 Entire Agreement.....	15
Section 8.3 Captions. ....	15
Section 8.4 Remedies Cumulative.....	15

Section 8.5 Non-Waiver. .... 15

Section 8.6 Severability..... 16

Section 8.7 Survival of Covenants, Representations and Warranties..... 16

Section 8.8 Governing Law. .... 16

Section 8.9 Costs. .... 16

Section 8.10 Counterparts..... 16

Section 8.11 Assignment. .... 16

Section 8.12 Independent Contractor. .... 16

Section 8.13 Further Assurances. .... 17

Section 8.14 Time of the Essence..... 17

Section 8.15 Construction..... 17

Section 8.16 Electronic Signatures and Electronic Records..... 17

This Payor Agreement (this “Agreement”), dated as of May 3, 2018, is between the Commonwealth of Massachusetts (the “Commonwealth”) acting through the Executive Office for Administration and Finance (“EOAF”) and Payor Alliance for Veterans Employment, LLC, a wholly owned subsidiary of Social Finance, Inc. (“PAVE”). The Commonwealth and PAVE are referred to herein as the “Parties” and each as a “Party”. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Appendix A.

WHEREAS, Social Finance, Inc., on behalf of PAVE, accepted a \$3,000,000 grant from the U.S. Department of Veterans Affairs (the “VA”) in September 2016 by executing the Veterans Grant Program Grant Agreement (the “VA Grant”), as included in Appendix B, for purposes of providing a portion of the Outcome Payments for the Project (as defined below);

WHEREAS, the VA Grant is in support of the Veterans Coordinated Approach to Recovery and Employment Project (the “Project”), in which the highest priority and goal is to provide supported employment services to Veterans with service-connected Post-Traumatic Stress Disorder (“PTSD”) via four Project Teams, as set forth in Schedule 1 (Operating Responsibilities) to the Pay for Success Agreement (the “PFS Agreement”) among PAVE, Veterans CARE Managing Member, LLC, a wholly owned subsidiary of Social Finance, Inc. (“Veterans CARE Managing Member”), and Veterans Coordinated Approach to Recovery and Employment, LLC, a wholly owned subsidiary of Veterans CARE Managing Member (“Veterans CARE”), and attached hereto as Appendix C;

WHEREAS, in order to meet the VA Grant’s requirement to secure one-for-one cash match for the VA Grant, PAVE is securing matching funds related to each of the Project Teams, in an aggregate amount of \$3,000,000;

WHEREAS, the Commonwealth and PAVE are entering into this Agreement in order to provide up to \$1,500,000 in matching funds to be used by PAVE for Outcome Payments related to certain Project Teams served by the Boston VA Research Institute, Inc. (BVARI) in proximity to the Brockton VAMC and Project Teams served by the Veterans Education & Research Association of Northern New England, Inc. (VERANNE) (collectively, the “Commonwealth Project Sites”);

WHEREAS, Chapter 143 of the Acts of 2012 of the Commonwealth established Section 35VV of Chapter 10 of the Massachusetts General Laws (the “Enabling Act”) which authorizes the Secretary of EOAF (the “Secretary”) to enter into pay for success contracts in accordance with the requirements of the Enabling Act, and which further authorizes the Secretary to provide that the Commonwealth's payments under such contracts may constitute a general obligation of the Commonwealth for which the full faith and credit of the Commonwealth are pledged;

WHEREAS, the Enabling Act also created a “Social Innovation Financing Trust Fund” (the “PFS Fund”) which is held on the books of the Commonwealth and administered by the Secretary to make Outcome Payments;

WHEREAS, PAVE will enter into similar agreements (together with this Agreement, the “Payor Contracts”) with other payors related to the other Project Teams (together with the Commonwealth, collectively, the “Payors”) pursuant to which each of the Payors will provide

matching funds at the times and in the aggregate amounts set forth in the related Payor Contracts to match the VA Grant, to be used by PAVE as Outcome Payments for the related Project Teams, all in accordance with the PFS Agreement;

WHEREAS, operating costs for the Project will be funded by the proceeds of loans to and/or investments in Veterans CARE (the “Financing”), such Financing to be repaid from Outcome Payments;

WHEREAS, Veterans CARE will enter into an agreement (the “Intervention Agreement”) with the Tuscaloosa Research and Education Advancement Corporation (“TREAC”), a nonprofit corporation affiliated with the Tuscaloosa VAMC (“TVAMC” and collectively with TREAC, the “Implementation Coordinating Center”), pursuant to which the Implementation Coordinating Center will facilitate implementation of a supported employment intervention known as Individual Placement and Support (“IPS”), to be delivered to Veterans with PTSD by dedicated employment specialists via the Project Teams, all as more fully described in Schedule 1 (Operating Responsibilities);

WHEREAS, Veterans CARE will enter into an agreement (the “Evaluator Agreement”) with Westat, Inc. (the “Evaluator”), an independent third party, to measure four different Outcomes, including a Fidelity Score Outcome, Earning Outcome, Days Worked Outcome and Job Satisfaction Outcome, all as more fully described in Schedule 2 (Project Evaluation);

WHEREAS, Veterans CARE Managing Member will determine the Outcome Payments, if any, attributable to the Commonwealth Project Sites, and the amount of such Outcome Payments to be paid by the Commonwealth, in accordance with the PFS Agreement, Schedule 3 (Calculation of Outcome Payments), and provide an invoice for such amount to PAVE; and

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the Parties agree as follows:

## **ARTICLE I. DEFINITIONS/CONSTRUCTION**

### Section 1.1 Defined Terms.

In this Agreement, capitalized terms have the meaning assigned to them in this Agreement and in Appendix A – Index of Defined Terms, a copy of which is attached hereto and incorporated by this reference.

### Section 1.2 Appendices and Schedules.

The following additional Appendices and Schedules are attached hereto:

*Appendix B:* VA Grant, included herein for reference purposes only;

*Appendix C:* PFS Agreement, including the following Schedules thereto, hereby incorporated into this Agreement in its entirety:

*Schedule 1:* Operating Responsibilities

*Schedule 2: Project Evaluation*

*Schedule 3: Calculation of Outcome Payments*

*Schedule 4: Governance and Reporting*

*Schedule 5: Publicity*

## **ARTICLE II. TERM OF AGREEMENT; SERVICES**

### **Section 2.1 Effective Date.**

This Agreement will become effective as of the date first written above (the “Effective Date”), and will remain in effect until October 29, 2021 (the “Term”), unless earlier terminated pursuant to Section 7.1.

### **Section 2.2 Project Launch Date.**

TREAC will oversee the implementation of IPS described more fully in the PFS Agreement, Schedule 1 (Operating Responsibilities), at the Commonwealth Project Sites, following the satisfaction of the Financing Condition on a date to be agreed to by the Management Committee (the “Service Commencement Date”) in accordance with the PFS Agreement.

## **ARTICLE III. REPRESENTATIONS AND WARRANTIES**

### **Section 3.1 PAVE’s Representations and Warranties.**

(a) Organization and Good Standing. PAVE is a limited liability corporation validly existing under the laws of the State of Delaware and has full corporate power and authority to conduct its business as presently conducted and to enter into and perform under this Agreement, the other Payor Contracts and the PFS Agreement.

(b) Authority for Agreement. The execution, delivery and performance by PAVE of this Agreement and the performance by PAVE under this Agreement have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by PAVE and, assuming the due authorization, execution and delivery by the Commonwealth, and subject to the effect of applicable Laws (e.g., bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to the rights of creditors generally), constitutes a legal, valid and binding obligation of PAVE, enforceable against PAVE in accordance with its terms. The execution and performance of this Agreement by PAVE will not violate any provision of Law and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under or require a consent or waiver under, PAVE’s organizational documents or any decree, judgment, or order applicable to PAVE.

(c) No Litigation. No litigation, arbitration or administrative proceeding is presently in progress or, to PAVE’s knowledge, pending or threatened in writing against PAVE or

any of its assets which might reasonably be expected to materially adversely affect the ability of PAVE to perform its obligations under this Agreement.

### Section 3.2 Commonwealth Representations and Warranties and Covenants

(a) Powers as to Contract and Pledge. The Commonwealth represents, covenants, and warrants, solely on behalf of itself and not on behalf of any other party hereto, for the benefit of the other Party to this Agreement, that it has taken all necessary action and has complied with all provisions of the Enabling Act required to make this Agreement the valid obligation of the Commonwealth which it purports to be and to pledge its full faith and credit in the manner and to the extent provided herein; and, when executed and delivered by the parties hereto, this Agreement will constitute a valid and binding agreement of the Commonwealth enforceable in accordance with its terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied.

(b) Covenants as to PFS Fund. The Commonwealth covenants and agrees that amounts deposited to the PFS Fund related to this Agreement pursuant to the Enabling Act shall not be diverted from the purposes identified in this Agreement, nor shall the trusts created hereby be broken, and the pledge and dedication in trust of such amounts shall continue unimpaired and unabrogated.

(c) No Litigation. No claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the Commonwealth's knowledge, pending or threatened against the Commonwealth which will or might reasonably be expected to materially adversely affect the ability of the Commonwealth to perform under this Agreement.

(d) Governmental Consents. No consent, approval, order, or authorization of, or registration, qualification, designation, declaration or filing with, any Governmental Authority is required in connection with the execution, delivery and performance of this Agreement by PAVE, the Commonwealth or the payment of Outcome Payments hereunder.

## **ARTICLE IV. OBLIGATIONS AND RESPONSIBILITIES OF THE PARTIES**

### Section 4.1 PAVE's Obligations and Responsibilities.

Without limiting the generality or effect of any other provision of this Agreement, PAVE will:

- (a) use its reasonable efforts to perform its responsibilities and to take such actions in each case as are required to be taken by it in this Agreement;
- (b) in rendering its services hereunder, comply with all Laws applicable to it and its subsidiaries;

(c) enter into the other Payor Contracts and the PFS Agreement, and will not without the prior written consent of the Commonwealth, which consent may not be unreasonably withheld, conditioned or delayed, (i) amend such PFS Agreement in any manner that will materially affect the Commonwealth's obligations hereunder, or (ii) terminate the PFS Agreement;

(d) obtain the prior written consent of the Commonwealth, which consent may not be unreasonably withheld, conditioned or delayed before giving consent to Veterans LLC to (i) any amendments to the Intervention Agreement or the Evaluator Agreement, which would have a material effect on Outcomes, Outcome Payments or the Commonwealth's obligations hereunder; (ii) the termination of either the Intervention Agreement or the Evaluator Agreement; or (iii) the substitution of TREAC, TVAMC or the Evaluator under the applicable agreement;

(e) upon receiving notice from Veterans CARE of a Material Breach of the Intervention Agreement or the Evaluator Agreement, promptly provide such notice to the Commonwealth, and provide ongoing information about Veterans CARE's efforts to cause TREAC, TVAMC or the Evaluator, as applicable, to remedy such Material Breach, or, if necessary, to replace TREAC, TVAMC or the Evaluator, as applicable; and

(f) promptly notify the Commonwealth of any Material Breach of the VA Grant, the other Payor Contracts, or the PFS Agreement, and use reasonable efforts to (i) cause the applicable breaching party to remedy such Material Breach, or (ii) replace such breaching party in accordance with the applicable agreement.

#### Section 4.2 Commonwealth Obligations and Responsibilities.

Without limiting the generality or effect of any other provision of this Agreement:

(a) As provided in Section 35VV(c) of the Enabling Act, the Secretary hereby determines that the Outcome Payments that the Commonwealth is obligated to pay under this Agreement are a general obligation of the Commonwealth for which its full faith and credit are pledged. The maximum amount of Outcome Payments from the PFS Fund that can be made pursuant to this Agreement with the benefit of such pledge is \$1,500,000, subject to the provisions of this Agreement.

(b) The Secretary hereby represents that this Agreement meets the criteria under the Enabling Act, specifically:

(i) A substantial portion of the Outcome Payments under this Agreement is contingent on the achievement of the specific outcomes based on defined performance targets as set forth in the PFS Agreement;

(ii) As set forth in the PFS Agreement, an independent evaluator will confirm that the Outcomes have been met via an objective review process;

(iii) The PFS Agreement provides for the timing and calculation of the amount of Outcome Payments that would be earned during each fiscal year of this Agreement if the Outcomes are met;



(iv) As set forth in Section 4.2(c) hereof, this Agreement provides for a sinking fund requirement under which the Secretary will request an appropriation in the manner and amount stated in said section; and

(v) The Secretary hereby determines that this Agreement and the PFS Agreement will result in significant performance improvements and budgetary savings for the Commonwealth across all impacted agencies if the Outcomes are achieved.

(c) The Secretary shall request an appropriation for each fiscal year during the Term in an amount equal to the expected Outcome Payments that the Commonwealth will ultimately be obligated to pay in the future based upon the service provided during such fiscal year if the Outcomes are achieved. Such amounts upon appropriation shall be deposited to the PFS Fund maintained by the Secretary.

(d) The Secretary will keep Veterans CARE Managing Member reasonably informed of the status of any relevant budget, legislative or other Commonwealth action related to appropriations, or authorization of this Agreement and Pay for Success projects generally and maintain the PFS Fund until this Agreement has expired or been terminated in its entirety; and

(e) The Commonwealth acknowledges that PAVE has no obligation to furnish to it any information regarding the identity of any Funding Partner or any term of the Financing without the applicable Funding Partner's prior written consent. PAVE acknowledges the obligation to furnish to the Commonwealth information regarding the identity of any Funding Partners having consented to be disclosed in Publicity materials pursuant to Schedule 5 (Publicity) of the PFS Agreement.

#### Section 4.3 Confidential Information.

(a) Each Party acknowledges that, during the term of this Agreement, it may disclose (the "Disclosing Party") to the other (the "Receiving Party") certain confidential information and data (the "Confidential Information").

(b) The Parties will label any Confidential Information they may provide in the scope of their duties under this Agreement as such. The Parties agree to maintain the confidentiality of such Confidential Information, except as provided herein.

(c) For purposes of this Section 4.3, "Confidential Information" does not include, and there will be no obligation hereunder with respect to, information that (i) was available or became available to the public other than as a result of a disclosure by the Receiving Party; or (ii) was available, or became available, to the Receiving Party on a non-confidential basis prior to its disclosure to the Receiving Party by the Disclosing Party or its representative, but only if such information was not made available through a breach of an obligation of confidentiality owed to the Disclosing Party; (iii) is subject to disclosure in accordance with state or federal law, including Massachusetts public records law and the U.S. Freedom of Information Act, or (iv) is legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil or criminal investigative demand or similar legal process) or the disclosure of which is required by a regulatory body or court, provided, that Receiving Party

shall: (A) provide the Disclosing Party with prompt notice of any such request(s) so that it may seek an appropriate protective order or other appropriate remedy, and (B) provide reasonable assistance to the Disclosing Party in obtaining any such protective order. If such protective order or other remedy is not obtained or the Disclosing Party otherwise consents to disclosure, then the Receiving Party may furnish that portion (and only that portion) of the Confidential Information which, in the opinion of counsel to the Receiving Party, the Receiving Party is legally compelled to disclose.

#### Section 4.4 Payor Steering Committee.

The Commonwealth shall appoint two representatives to the Payor Steering Committee as set forth in the PFS Agreement, Schedule 4 (Governance and Reporting). The rights and responsibilities of the Payor Steering Committee members are set forth in the PFS Agreement, Schedule 4 (Governance and Reporting).

#### Section 4.5 Publicity.

News releases or any other similar public announcements regarding the Project or this Agreement may not be released or made by any Party prior to following the procedures outlined in the PFS Agreement, Schedule 5 (Publicity); provided, however, that any Party may make any public announcement that its counsel advises is required by Law or legal process, in which case, to the extent practicable, it will consult with the other Party with respect to the timing and content thereof.

#### Section 4.6 Books and Records; Audit Rights.

PAVE will establish and maintain books, records and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds in connection with the Project. PAVE will retain all records, financial records, supporting documents, statistical records and any other documents (including electronic storage media) pertinent to this Agreement for a period of three years after termination of the Agreement, or until any litigation based on the terms of this Agreement or the PFS Agreement has concluded, or, if an audit has been initiated and audit findings have not been resolved at the end of three years, the records will be retained until resolution of the audit findings. PAVE will assure that these records will be subject at all reasonable times to inspection, review, or audit by federal, state, or other personnel duly authorized by the Commonwealth. The Commonwealth or any of its duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers and records of PAVE involving transactions related to the Agreement.

#### Section 4.7 Funding Shortfall.

Upon being notified of a Funding Shortfall by Veterans CARE in accordance with the PFS Agreement, PAVE will notify the Commonwealth of such shortfall and any actions being taken to remedy any such Funding Shortfall.

## **ARTICLE V. OUTCOMES AND OUTCOME PAYMENTS**

### **Section 5.1 Calculation of Outcomes and Outcome Payments.**

Outcome Payments are contingent upon the Evaluator's determinations as to whether the Outcomes have been met in accordance with the PFS Agreement, Schedule 2 (Project Evaluation). Upon such a determination that one or more of the Outcomes have been met, Veterans CARE Managing Member shall calculate the applicable Outcome Payments in accordance with the PFS Agreement, Schedule 3 (Calculation of Outcome Payments).

### **Section 5.2 Maximum Payments.**

The maximum total amount payable by the Commonwealth to PAVE for cumulative Outcome Payments related to the Commonwealth Project Sites is \$1,500,000.

### **Section 5.3 Outcome Payments.**

The Commonwealth will make the Outcome Payments to PAVE related to the Commonwealth Project Sites, which payments will be calculated and become due in accordance with the PFS Agreement, Schedule 3 (Calculation of Outcome Payments). If an Outcome Payment is payable by the Commonwealth in accordance with said Schedule 3, the Commonwealth will pay the Outcome Payment in full within 30 days of receipt of an invoice from PAVE, without deduction or setoff, by electronic wire transfer of immediately available funds to a bank account designated by PAVE reasonably in advance of the payment due date. The Commonwealth will be obligated to make any such Outcome Payments regardless of whether the VA has met its obligations with respect to amounts due under the VA Grant with respect to the Commonwealth Project Sites, and regardless of whether any of the other Payors have met their respective payment obligations with respect to other Project Teams.

### **Section 5.4 No Third Party Rights.**

The Parties agree that nothing in this Agreement, including this Article V shall be deemed to create or give to any third party any claim or right of action against the Commonwealth or any Party, provided that the Commonwealth acknowledges that PAVE will collaterally assign the right to payment set forth in this Payor Contract to Veterans CARE, which in turn will assign the right to payment to the Funding Partners (the "Assignees"), as collateral for the obligations of Veterans CARE to the Funding Partners, and the Commonwealth hereby consents to such collateral assignments. The Commonwealth agrees that no amendment to the PFS Agreement that affects the amount or timing of Outcome Payments thereunder shall be valid without the prior written consent of each Assignee. Each Assignee shall be a third party beneficiary of the Outcome Payment provisions of this Payor Contract and shall be entitled to enforce the payment provisions hereof.

## ARTICLE VI.        MODIFICATION

### Section 6.1    Generally.

This Agreement or any part of it may only be modified, revised, supplemented, abrogated, extended, waived, or amended in writing agreed to and signed by all Parties. In the event of any change in Federal or state Law or regulation which affects a Party's responsibilities, this Agreement shall be automatically amended to reflect such changes. Thereafter, the Parties mutually agree to enter into good faith negotiations to enter into a written amendment to reflect such changes.

## ARTICLE VII.        TERMINATION OF AGREEMENT

### Section 7.1    Termination Rights.

This Agreement may be terminated as follows and may not be terminated for any other reason or under any other theory whatsoever:

- (a) Appropriation Failure: By PAVE, if the Secretary fails to request an appropriation as set forth in Section 4.2(c) hereof.
- (b) Payment Failure: By PAVE, if the Commonwealth fails to make an Outcome Payment when due in accordance with Section 5.3.
- (c) Commonwealth Breach: By PAVE, if PAVE shall provide notice of Material Breach to the Commonwealth with respect to any of its other obligations hereunder, and the Commonwealth shall then have 60 days to Cure such Material Breach, provided that PAVE shall extend such 60 day period if the Commonwealth is working in good faith to Cure such Material Breach. If the Commonwealth fails to Cure such Material Breach within such 60 day period, or such extended period, then PAVE may terminate this Agreement.
- (d) Mutual Consent: Automatically upon the written mutual consent of the Parties, which consent may not be unreasonably withheld, conditioned, or delayed, in accordance with the terms of such written mutual consent to termination.
- (e) PAVE Breach: By the Commonwealth, if the Commonwealth shall provide notice of Material Breach to PAVE with respect to its obligations hereunder, and PAVE shall then have 60 days to Cure such Material Breach, provided that the Commonwealth may extend such 60 day period if PAVE is working in good faith to Cure such Material Breach. If PAVE fails to Cure such Material Breach within such 60 day period, or such extended period, then the Commonwealth shall request the Management Committee to replace PAVE. If the Management Committee fails to replace PAVE within 30 days, the Commonwealth may terminate this Agreement.
- (f) Early termination of PFS Agreement: This Agreement shall terminate upon an early termination of the PFS Agreement in accordance with Section 8.1 thereof.

## Section 7.2 Effect of Termination.

The remedies provided in this Section 7.2 are the exclusive and sole remedy of any Party in connection with a termination of this Agreement, provided that all such remedies are subject to the Wind-Up procedures set forth in Section 7.2(e) below, including the applicable provisions of Section 8.2 of the PFS Agreement as referenced below.

(a) Mutual Consent. Upon a termination of this Agreement pursuant to Section 7.1(d) (Mutual Consent), this Agreement will terminate at the time and under such conditions as are agreed to by the Parties, provided that the Commonwealth will remain obligated to make any Outcome Payments due, including Early Outcome Payments, in accordance with Section 7.2(e) below.

(b) Appropriations Failure; Payment Failure; Commonwealth Breach. Upon a termination by PAVE pursuant to Section 7.1(a) (Appropriations Failure), Section 7.1(b) (Payment Failure) or Section 7.1(c) (Commonwealth Breach), (each a “Commonwealth Termination”), this Agreement will terminate, effective upon the date set forth in such notice of termination. Upon issuance of the notice of termination by PAVE, no additional Program Participants will be enrolled in IPS at the Commonwealth Project Sites, provided that any Enrolled Program Participants will continue to receive IPS services for a period of time to be determined by the Management Committee. The Commonwealth will remain obligated to make any Outcome Payments, including Early Outcome Payments, in accordance with Section 7.2(e) below.

(c) PAVE Material Breach. Upon a termination by the Commonwealth pursuant to Section 7.1(e) (PAVE Breach), no additional Program Participants will be enrolled in IPS at the Commonwealth Project Sites, provided that any Enrolled Program Participants will continue to receive IPS services for a period of time to be determined by the Management Committee. The Commonwealth will remain obligated to make any Outcome Payments, including Early Outcome Payments, in accordance with Section 7.2(e) below.

(d) Early Termination of PFS Agreement. Upon an early termination of the PFS Agreement in accordance with Article VIII thereof, this Agreement will terminate in accordance with the provisions set forth in Section 8.2 of the PFS Agreement, provided that the Commonwealth, the VA and other Payors shall consent to the early termination of the PFS Agreement as set forth therein, which consent may not be unreasonably withheld, conditioned, or delayed. The Commonwealth will remain obligated to make any Outcome Payments, including Early Outcome Payments, in accordance with Section 7.2(e) below.

(e) Wind-Up.

(i) Following receipt of a notice of termination in accordance with this Article VII, the Commonwealth will pay to PAVE the amounts set forth below:

(A) An Outcome Payment, which will consist of the following:

1. Outcome Payments owed by the Commonwealth but not yet made; and

2. For Program Participants working with the Commonwealth Project Sites for whom Outcomes have not yet been calculated by the effective date of termination of this Agreement, the Commonwealth shall pay an Early Outcome Payment in accordance with a timeline agreed to by the Parties, calculated as set forth in the PFS Agreement, Schedule 3 (Calculation of Outcome Payments).

(B) Solely in the case of a Commonwealth Termination, the Commonwealth will pay, in addition to the amounts set forth in Section 7.2 (e)(i)(A) above, the full amounts applicable to the Commonwealth set forth in the Wind-Up Budget in accordance with Section 8.2(e) of the PFS Agreement.

(ii) The payments to be made under Section 7.2(e)(i) shall be made under a schedule to be reasonably agreed to by the Parties, taking into account the Commonwealth's budget process and the anticipated schedule of expenditures required to facilitate an orderly wind-up of this Agreement.

## **ARTICLE VIII. MISCELLANEOUS**

### **Section 8.1 Notices.**

All notices and other communications among the Parties will be in writing and will be deemed to have been duly given (a) when delivered in person, (b) five days after posting in the United States mail having been sent registered or certified mail return receipt requested, (c) when delivered by FedEx or other nationally recognized overnight delivery service, or (d) when delivered by fax or email, addressed as follows:

In the case of the Commonwealth to:

Executive Office for Administration and Finance  
State House, Room 373  
Boston, MA 02133  
Attention: Mark Attia  
Email: mark.attia@state.ma.us

In the case of PAVE to:

Payor Alliance for Veterans Employment, LLC  
c/o Social Finance, Inc.  
10 Milk Street, Suite 1010  
Boston, MA 02108  
Attention: Navjeet Bal  
Email: nbal@socialfinance.org

with a copy (which will not constitute notice) to:

Jones Day  
1755 Embarcadero Road  
Palo Alto, CA 94303  
Attention: Stephen E. Hall  
Email: sehall@jonesday.com

or to such other address or addresses as the Parties, including any replacement intermediary hereunder, may from time to time designate in writing.

Section 8.2    Entire Agreement.

This Agreement (including the Schedules, Exhibits and Appendices hereto, which are incorporated by reference) constitutes the entire agreement between the Parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein will be binding or valid, and this Agreement may not be changed, modified, or altered in any manner except by an instrument in writing executed by both Parties hereto. Neither this Agreement nor any interest herein may be transferred by the Parties and such transfer will be null and void and will be cause to annul this Agreement. To the extent there are any conflicts or inconsistencies between this Agreement and any Schedule or Appendix, the provisions of this Agreement shall govern and control.

Section 8.3    Captions.

The captions contained in this Agreement are intended for convenience and reference purposes only and do not modify or restrict any provision herein.

Section 8.4    Remedies Cumulative.

Except as otherwise expressly provided by this Agreement, all remedies available to PAVE or the Commonwealth for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy will not exclude the exercise of any other remedy. Notwithstanding any other provision of this Agreement, no Party will be entitled to recover compensation or make a claim under this Agreement in respect of any loss that it has incurred to the extent that it has already been compensated in respect of that loss pursuant to this Agreement or otherwise by the other Party.

Section 8.5    Non-Waiver.

The failure of either Party to exercise any right or to require strict performance of any provision will not waive or diminish such Party's right thereafter to exercise such right or to require strict performance of any provision nor will a waiver of any breach or default of the Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself. No waiver of any of the provisions of this Agreement will be binding unless executed in writing by the Party making the waiver.

#### Section 8.6 Severability.

In the event that any one or more of the provisions of this Agreement shall for any reason be declared unenforceable under the Laws or regulations in force, such provision will not have any effect on the validity of the remainder of this Agreement, which will then be construed as if such unenforceable provision had never been written or was never contained in this Agreement.

#### Section 8.7 Survival of Covenants, Representations and Warranties.

Other than Section 4.3 (Confidential Information), Section Section 4.6 (Books and Records, Audit Rights), Article VI (Modification), Section Section 7.2 (Effect of Termination), no covenant, representation or warranty of the Parties herein will survive the termination or expiration of this Agreement.

#### Section 8.8 Governing Law.

This Agreement will be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to any choice of law or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of the law of any jurisdiction other than the Commonwealth of Massachusetts.

#### Section 8.9 Costs.

Each Party will bear its own expenses incurred in connection with the negotiation and execution of this Agreement and each other agreement, document and instrument contemplated by this Agreement and the performance by it hereunder.

#### Section 8.10 Counterparts.

This Agreement may be executed in counterparts, each of which when executed and delivered will constitute an original but all counterparts together will constitute one and the same instrument.

#### Section 8.11 Assignment.

Except as set forth in Section 5.4 hereof, neither Party may assign its respective rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld. This Agreement is binding upon and inures to the benefit of the Parties and their successors and assigns.

#### Section 8.12 Independent Contractor.

Nothing contained in this Agreement, and no action by any Party, shall be deemed to: (i) create between them an employer-employee or principal-agent relationship or partnership, joint venture, association, or syndicate; or (ii) confer on any party any right, power or authority to enter into any agreement or commitment, whether express or implied, or to incur any obligation or liability on behalf of the other party. Neither Party shall hold itself out as the agent of the other



Party, nor imply, nor fail to correct a misunderstanding, that there is an agency relationship between it and the other Party.

#### Section 8.13 Further Assurances.

The Parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with this Agreement or the PFS Agreement and that do not involve the vesting of rights or the assumption of obligations other than those provided for in this Agreement, in order to give full effect to the Agreement and carry out the intent thereof.

#### Section 8.14 Time of the Essence.

Time is of the essence with respect to all provisions of this Agreement that specify a time for performance; provided, that, this provision shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

#### Section 8.15 Construction.

Unless the context of this Agreement otherwise requires, (a) words of any gender include each other gender, (b) words using the singular or plural number also include the plural or singular number, respectively, (c) the terms “hereof,” “herein,” “hereby,” “hereto” and derivative or similar words refer to this entire Agreement, (d) when a reference is made in this Agreement to an Article, Section, Schedule, Exhibit or Appendix, such reference is to an Article or Section of, or a Schedule, Exhibit or Appendix to, this Agreement, (e) the word “including,” “include” or “includes” means “including, without limitation,” (f) the words “Person” or “Persons” refers to a natural person and/or an entity of any type, and (g) the word “or” will be disjunctive but not exclusive. The word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends, and such phrase will not mean simply “if.” References to agreements and other documents will be deemed to include all subsequent amendments and other modifications thereto. References to statutes will include all regulations promulgated thereunder, and references to statutes or regulations will be construed to include all statutory and regulatory provisions consolidating, amending or replacing the statute or regulation. The language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent and no rule of strict construction will be applied against any Party. Whenever this Agreement refers to a number of days, such number will refer to calendar days unless Business Days are specified. All accounting terms used herein and not expressly defined herein will have the meanings given to them under United States generally accepted accounting principles.

#### Section 8.16 Electronic Signatures and Electronic Records.

Each Party consents to the use of electronic signatures by each other Party. This Agreement and any other documents requiring a signature under this Agreement, may be signed electronically by the Parties. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in formation.

By execution of this Agreement, the Parties agree to the terms and conditions of this Agreement.

**THE COMMONWEALTH OF MASSACHUSETTS**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PAYOR ALLIANCE FOR VETERANS  
EMPLOYMENT, LLC:**

By: \_\_\_\_\_  
Name: Navjeet K. Bal  
Title: Treasurer

## **Appendix A – Index of Defined Terms**

“Agreement” has the meaning given to such term in the preamble of the Agreement.

“Business Days” has the meaning set forth in Appendix A to the PFS Agreement.

“Capital Shortfall” has the meaning set forth in Section 4.8 of the PFS Agreement.

“Confidential Information” has the meaning given to such term in Section 4.3 of the Agreement.

“Commonwealth” has the meaning given to such term in the preamble of the Agreement.

“Commonwealth Project Sites” has the meaning given to such term in the recitals of the Agreement.

“Commonwealth Termination” has the meaning set forth in Section 7.2(b) of the Agreement.

“Cure” means, with respect to a particular set of facts and circumstances constituting a Material Breach, that Party has taken actions such that there is no longer a Material Breach or taken all steps reasonably necessary that there is no continuing Material Breach, including by implementing appropriate procedures or controls.

“Disclosing Party” has the meaning set forth in Section 4.3 of the Agreement.

“Early Outcome Payment(s)” has the meaning set forth in the PFS Agreement, Schedule 3 (Calculation of Outcome Payments).

“Effective Date” has the meaning set forth in Section 2.1 of the Agreement.

“Enabling Act” has the meaning given to such term in the recitals of the Agreement.

“Enrolled” or “Enrollment” has the meaning set forth in the PFS Agreement, Schedule 1 (Operating Responsibilities).

“EOAF” has the meaning given to such term in the recitals of the Agreement.

“Evaluator” has the meaning given to such term in the recitals of the Agreement.

“Evaluator Agreement” has the meaning given to such term in the recitals of the Agreement.

“Executive Steering Committee” is described in the PFS Agreement, Schedule 4 (Governance and Reporting).

“Final Outcomes” has the meaning set forth in the PFS Agreement, Schedule 2 (Project Evaluation).

“Financing” has the meaning given to such term in the recitals of the Agreement.

“Financing Condition” has the meaning set forth in Appendix A of the PFS Agreement.

“Funding Partners” means the individuals and entities that have provided or are possible sources of funding to Veterans CARE for the Project, and which, if such funding is provided, will be entitled to receive their respective portions of the Outcome Payments pursuant to their agreements with and rights with respect to Veterans CARE.

“Governmental Authority” means any (i) federal, state, local or municipal governmental authority, quasi-governmental authority of any nature or any political subdivision thereof (including any taxing authority, agency, branch, board, commission, bureau, official, or entity and any court, arbitral body or other tribunal); or (ii) body entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority.

“Implementation Coordinating Center” has the meaning set forth in the recitals to this Agreement.

“Intervention Agreement” means the agreement dated as of the date set forth therein between Veterans CARE, TREAC and TVAMC, as it may be amended from time to time.

“IPS” has the meaning given to such term in the recitals to the Agreement.

“Law(s)” means any written law, statute, constitutional provision, treaty, code, ordinance, rule or regulation or other similar requirement of any Governmental Authority and any directive, policy or binding guideline of the Commonwealth or a federal Governmental Authority.

“Management Committee” is described in the PFS Agreement, Schedule 4 (Governance and Reporting).

“Material Breach” means a material breach of this Agreement, the PFS Agreement, the VA Grant Agreement, the Intervention Agreement or the Evaluator Agreement by a party thereto that would reasonably be expected to materially adversely impact any of the Outcomes or the amount or timing of any of the Outcome Payments.

“Outcomes” has the meaning set forth in the PFS Agreement, Schedule 2 (Project Evaluation).

“Outcome Payment(s)” has the meaning set forth in the PFS Agreement, Schedule 3 (Calculation of Outcome Payments).

“Program Participant(s)” has the meaning set forth in the PFS Agreement, Schedule 1 (Operating Responsibilities).

“Parties” or “Party” have the meaning given to such terms in the preamble of the Agreement.

“PAVE” has the meaning given to such term in the preamble of the Agreement.

“PAVE Breach” has the meaning set forth in Section 7.2(c) of the Agreement.

“Payor Contracts” has the meaning given to such term in the recitals to the Agreement.

“Payors” has the meaning given to such term in the recitals to the Agreement.

“Person” or “Persons” have meaning given to such terms in the Section Section 8.15 of the Agreement.

“PFS Agreement” has the meaning given to such term in the recitals to the Agreement.

“PFS Fund” has the meaning given to such term in the recitals to the Agreement.

“Project” has the meaning given to such term in the recitals of the Agreement.

“Project Teams” means, collectively, the following four project teams, each of which will include two IPS Specialists and one IPS Coordinator (as more fully described in Schedule 1 (Operating Responsibilities)):

(i) the Central/Western Massachusetts Project Team means the team delivering services via the Veterans Education & Research Association of Northern New England, Inc. (VERANNE).

(ii) the Brockton Project Team means the team delivering services via the Boston VA Research Institute, Inc. (BVARI), in proximity of the Brockton VA Medical Center.

(iii) the Boston Project Team means the team delivering services via the Boston VA Research Institute, Inc. (BVARI), in proximity of the Jamaica Plain VA Medical Center.

(iv) the New York Project Team means the team delivering services via the Narrows Institute for Biomedical Research, Inc.

“PTSD” has the meaning given to such term in the recitals to the Agreement.

“Secretary” has the meaning given to such term in the recitals to the Agreement.

“Service Commencement Date” has the meaning set forth in Section 2.2 of the Agreement.

“Term” has the meaning given to such term in Section 2.2 of the Agreement.

“TREAC” has the meaning given to such term in the recitals to the Agreement.

“VA” has the meaning given to such term in the recitals to the Agreement.

“VA Grant” has the meaning given to such term in the recitals to the Agreement.

“Veterans CARE” has the meaning given to such term in the recitals of the Agreement.

“Veterans CARE Managing Member” has the meaning given to such term in the recitals of the Agreement.