Disclaimer: The sample contract below is similar to those used by several established programs. You should seek legal counsel to adapt the contract based on your specific program parameters and to be consistent with state law.

**XXXX MEDICAL SOCIETY**

**PHYSICIAN WELLNESS PROGRAM CONTRACT**

This Agreement is entered into by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(“CONTRACTOR”) of XXXX, STATE and the XXXX Medical Society, Inc. (XXXX MEDICAL SOCIETY), effective **XXXX** (the “Effective Date”).

RECITALS:

* XXXX Medical Society desires to furnish private counseling services from licensed mental health professionals for its members through which they can obtain access to address various concerns impacting their mental and emotional health and well-being; and
* XXXX MEDICAL SOCIETY desires to reduce barriers for its members accessing these competent service providers by increasing carefully addressing issues of confidentiality, convenience, and cost; and
* CONTRACTOR wishes to provide the Services for the XXXX MEDICAL SOCIETY NAME OF PROGRAM as described in this Agreement and the Attachments hereto, and the parties wish to state in writing the terms and conditions of their agreement with respect to provision of the Services for the NAME OF PROGRAM OR ABBREVIATION:

NOW THEREFORE, in consideration of the foregoing and for the mutual consideration set forth in this Agreement, the sufficiency and value of which the parties acknowledge, they agree to the following:

1. **Eligibility for Services.** 
   1. CONTRACTOR will provide the Services as described in Section 2 of this Agreement to XXXX Medical Society members in accordance with the terms and conditions provided. For purposes of this Agreement, an “XXXX Medical Society member” (hereinafter “Member(s)”) means any of the following who practices medicine in COUNTY and who otherwise meets XXXX MEDICAL SOCIETY criteria for active membership, and is current in the payment of his or her XXXX MEDICAL SOCIETY annual membership dues:
2. a doctor of medicine or osteopathy
3. nurse practitioner
4. physician’s assistant
5. medical resident
6. retired members living within XXXX MEDICAL SOCIETY territory
7. medical students doing rotations or attending classes in Ada or Elmore Counties.
   1. Except in cases of urgency when CONTRACTOR determines that verification of eligibility is not feasible under the circumstances, CONTRACTOR will verify the status as an active XXXX MEDICAL SOCIETY member through use of the MEMBERSHIP DATABASE before billing for their first session during each 12 month period.
   2. Retired members may be verified through the use of the XXXX MEDICAL SOCIETY membership directory or through good judgement (i.e. web search) of a recent retiree who will not show up in the MEMBERSHIP DATABASE.
   3. Student members may be verified through searching the XXXX Board of Medicine website for Medical Student license.
8. **The Services.**
   1. CONTRACTOR will provide professional counseling services through private counseling sessions to Members who request services through the NAME OF PROGRAM OR ABBREVIATION. Non-emergency counseling sessions will be made available during the following:
      1. Designate Days and Hours**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**
      2. Additional hours may be made available by CONTRACTOR at their own discretion and availability to better accommodate XXXX MEDICAL SOCIETY Member schedules.
   2. CONTRACTOR will provide and the XXXX MEDICAL SOCIETY will pay for up to NUMBER OF SESSIONS, one-hour psychotherapy sessions per Member per twelve-month period through the NAME OF PROGRAM OR ABBREVIATION. A session is defined as each separate occasion that CONTRACTOR provides counseling to an active XXXX MEDICAL SOCIETY Member client, whether by telephone or in person. Back to back sessions will not be allowed unless pre-authorized with the NAME OF PROGRAM OR ABBREVIATION volunteer Medical Director.
   3. The Services do not include counseling or other services for relatives of a Member *unless* the Member is present and participates in the counseling session as the identified client of the CONTRACTOR. The Member shall remain as the only client of record for any NAME OF PROGRAM OR ABBREVIATION services provided.
   4. Follow-up and evaluation telephone calls and referrals will not count as a billed session. However, counseling that occurs over the phone and psychological evaluations may be counted as a billed session.
   5. CONTRACTOR will monitor the mental health status of each Member under their care in accordance with their professional duties and obligations as long as the Member remains in active treatment with CONTRACTOR.
   6. Members may elect to continue to see a CONTRACTOR clinician after they have used their eight allotted NAME OF PROGRAM OR ABBREVIATION sessions or request a referral to another mental health professional outside of CONTRACTOR at that time. If the Member requests a referral and/or the CONTRACTOR clinician determines in his/her professional judgment that a referral is clinically appropriate at any time during or at the end of the Member’s NUMBER allotted sessions, CONTRACTOR will refer the Member to a qualified mental health provider appropriate to the Member’s needs. CONTRACTOR will explain to the Member that the cost of these additional sessions with a CONTRACTOR clinician and/or the services of any mental health providers to which the client may be referred, will be the Member’s personal financial responsibility.
9. **Contractor Qualifications.** 
   1. All counseling, assessments, and referrals provided by CONTRACTOR for Members under this Agreement will be provided by qualified, licensed, experienced clinicians with advanced mental health professional degrees of a Masters level or above. All providers must hold an active STATE license in either psychology, clinical social work, professional counselor or psychiatry. CONTRACTOR will be responsible at its sole expense to ensure that CONTRACTOR and its mental health professionals have all licenses and permits necessary to perform their professional obligations to Members who are their clients.
   2. CONTRACTOR, at XXXX MEDICAL SOCIETY’S discretion, shall have sufficient numbers of qualified mental health professionals on staff or independently contracted to provide the Services under this Agreement.
   3. CONTRACTOR will be solely responsible for ensuring that all independent contractors providing the Services are duly licensed mental health professionals in good standing with the applicable STATE licensing authority and are acting within the scope of their license, and that the Services provided by such independent contractors conform to the terms of this Agreement.
   4. CONTRACTOR must maintain his/her principle counseling office in XXX County, STATE during the course of this agreement.
10. **Service Fees.** CONTRACTOR’s professional fees for providing the Services and all payments of the fees due to CONTRACTOR from XXXX MEDICAL SOCIETY under this Agreement shall be made in accordance below.
    1. Per Session: The XXXX MEDICAL SOCIETY will pay CONTRACTOR a professional “Service Fee” of XXXX per session provided, up to NUMBER OF SESSIONS sessions during a twelve-month period, based on the date of the first appointment.
    2. Billing must be made on paper, by post and not sent electronically to billing agent.
    3. Billing will be made via the process outlined in ATTACHMENT I.
11. **Missed/Late-Canceled Appointments.** CONTRACTOR may bill XXXX MEDICAL SOCIETY $XXXX for missed appointments that are not cancelled at least 24 hours in advance and this will be counted as one of the eight appointments allotted per year. However, CONTRACTOR may reschedule the missed appointment without billing XXXX MEDICAL SOCIETY at their own discretion.
12. **Term and Termination.** The Term of this Agreement will begin on the Effective Date and continue in force and effect until **DATE**, unless terminated earlier by either party as follows:
    1. For Cause – Failure to Perform Duties and Obligations. Either party may terminate this Agreement for the other party’s failure to perform its duties and obligations as stated herein, upon giving the non-performing party ten (10) days prior written notice of termination. Termination shall be effective on the tenth day of the notice period unless the non-performing party cures the non-performance to the other party’s reasonable satisfaction within that same ten (10) days.
    2. For Cause – Maintaining Qualifications. XXXX MEDICAL SOCIETY may terminate this Agreement immediately with written notice to CONTRACTOR for failure to maintain professional qualifications under which CONTRACTOR was engaged.
    3. Without Cause. Either party may terminate this Agreement, for any reason or no reason, by giving the other party forty-five (45) days advance written notice of the intent to terminate the Agreement and the effective date of termination.
13. **Insurance and Indemnification.** 
    1. Indemnification. Each party will be responsible for any and all damages, claims, liabilities, or judgments which may arise as a result of the party’s own negligence or intentional misconduct and will indemnify and hold the other party harmless for same. Further, each party as the “indemnifying party” agrees to indemnify, defend and hold the other party harmless (the “indemnified party”) for all claims or damages incurred at any time by the indemnified party as a result of the indemnifying party's negligence or intentional misconduct. For the purposes of this paragraph, “claims” means all demands, suits, or claims alleged or brought against the indemnified party, and “damages” means any monetary liabilities, awards or judgments which a party is or may become obligated to pay to a third party plus the costs and expenses (including reasonable attorney's and other professional fees) incurred by the indemnified party as the result of such claims or damages.
    2. Insurance. Each CONTRACTOR providing Services to Members will maintain professional liability insurance coverage applicable to their licensure and for these Services in a minimum amount of one million dollars ($1,000,000) per occurrence/claim and three million dollars ($3,000,000) in the aggregate. CONTRACTOR shall ensure that any professional subcontracted by CONTRACTOR to provide Services under this Agreement shall have insurance coverage in the limits prescribed in this paragraph. CONTRACTOR will provide evidence to the XXXX MEDICAL SOCIETY of a CONTRACTOR professional’s professional liability insurance coverage upon reasonable request. XXXX MEDICAL SOCIETY shall be named as an additional insured on the CONTRACTOR’s professional liability insurance.
14. **Record Keeping**
    1. CONTRACTOR will create, maintain and preserve the treatment records of every Member who contacts CONTRACTOR for counseling in accordance with accepted professional record-keeping standards for mental health records and all applicable Federal and STATE laws and regulations governing the content, maintenance and retention of such records.
    2. CONTRACTOR will protect and secure all Member records, including psycho-therapy notes, against unauthorized use and disclosure in compliance with applicable federal and STATE patient privacy laws. The records of Members containing protected health information (as defined in [STATE CODE REFERENCE]) will only be used or disclosed by CONTRACTOR in accordance with applicable federal and STATE laws and regulations. Because these services are outside of the Federal definition of a “covered entity” (since no electronic billing is involved), the Informed Consent and Statement of Understanding agreement with Members details all privacy practices and may not include the standard HIPAA or privacy policies that CONTRACTORS may otherwise follow.
    3. CONTRACTOR agrees not to use any electronic record keeping that could independently identify XXXX MEDICAL SOCIETY members utilizing these services.
    4. CONTRACTOR will maintain accurate records of the number of sessions a Member utilizes through the NAME OF PROGRAM OR ABBREVIATION until the Member has used all eight of his/her allotted sessions during a single twelve-month period, based on the date of the first appointment. No record of ongoing care arranged between the Member and CONTRACTOR outside of allotted sessions will be reported to XXXX MEDICAL SOCIETY.
    5. During the Term of the Agreement, CONTRACTOR will provide regular demographic reports of the utilization of Services by Members as de-identified,(in accordance with [STATE CODE REFERENCE]) aggregate figures for the data elements listed in ***Attachment I*** and as otherwise provided therein.
15. **Entire Agreement**. This Agreement, including all Attachments hereto, each of which is fully incorporated herein by reference, contains the entire agreement between CONTRACTOR and the XXXX MEDICAL SOCIETY concerning the subject-matter of this Agreement. All prior oral or written representations, agreements and understandings between the parties are merged herein. The Attachments to this Agreement include: ***Attachment I*** – Monthly Billing and Reporting
16. **Severability.** No provision herein will be rendered unenforceable as the result of a court of competent jurisdiction ruling any other provision invalid or unenforceable.
17. **Amendments.** This Agreement will be automatically amended as necessary to comply with applicable state or federal law. No other amendment to this Agreement or any waiver of a party’s rights or duties hereunder will be valid unless made in writing and signed by the parties.
18. **Assignment.** This Agreement may not be assigned, sold or transferred by either party without the express written consent of the other party and all provisions contained herein shall be the responsibility of any independent contractor to fulfill.
19. **No Waiver of Breach**. The failure of a party to object to or take action regarding any breach of this Agreement by the other party will not be construed as a waiver of that breach or any prior or future breach.
20. **Notices.** All notices required hereunder shall be in writing and deemed received by the recipient when delivered to the recipient’s address on the signature page of this Agreement by: hand-delivery; facsimile with transmission confirmed; national receipted delivery service; certified mail, return receipt requested, postage prepaid, or electronic mail with read receipt; and when the recipient refuses to accept delivery by one of the foregoing methods.
21. **Choice of Law**. This Agreement has been entered into between the parties in the State of STATE and the laws of STATE shall govern its interpretation and enforcement.
22. **Dispute Resolution.**
23. In the event that a dispute arises between the parties concerning this Agreement or the performance of any obligations it establishes, the parties will attempt in good faith to resolve the dispute informally through the in-person meeting of their authorized representatives or through non-binding mediation with a mediator certified by the STATE Administrative Office of the Courts and mutually agreed to by the parties. If the parties are unsuccessful in resolving the dispute informally or through mediation within ninety (90) days following the date one party first gives written notice of the dispute to the other party, either party may take such legal or other action as they deem appropriate.
24. The parties agree that if a party takes legal or other action against the other party related to this Agreement, venue and forum for such action shall be in an STATE state court of competent jurisdiction located in XXX County, STATE.
25. In the event of any litigation arising from breach of this agreement, or the services provided under this agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred including staff time, court costs, attorney’s fees, and all other related expenses incurred in such litigation.

**14. Independent Contractors.** No provision of this Agreement is intended to create, or will be construed to create any relationship between the parties other than that of independent contractors. Neither party is the agent of the other party, nor are they authorized to act on behalf of the other party in any manner. CONTRACTOR shall maintain a professional facility amenable to psychological counseling and will furnish all his/her supplies, materials, or personnel to provide services.

**15. Taxes.** CONTRACTOR is solely responsible for paying all applicable Federal, State, and local taxes, including but not limited to FICA, FUTA, Unemployment, Worker’s Compensation, and Income Taxes. CONTRACTOR shall supply proof of current Worker’s Compensation coverage to XXXX MEDICAL SOCIETY as part of this agreement. No claim for payment of taxes shall be made by CONTRACTOR or Independent Contractor against XXXX MEDICAL SOCIETY.

**16. No Third Party Beneficiaries.** The obligations of each party will inure solely to the benefit of the other party. No person or entity is or will be construed as a third party beneficiary of this Agreement unless expressly stated herein or by applicable law.

**17. Designated Contractor Lead.** Should the CONTRACTOR be a group of therapists, CONTRACTOR shall designate one person as the liaison with the group to communicate with XXXX MEDICAL SOCIETY. This person shall be responsible for being available within regular business hours for the purpose of communicating with XXXX MEDICAL SOCIETY about the program on behalf of the therapist group.

WHEREFORE, CONTRACTOR and the XXXX Medical Society have duly authorized their representatives signing below to execute this Agreement.

CONTRACTOR XXXX MEDICAL SOCIETY

Address ADDRESS

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email:

**ATTACHMENT I – MONTHLY REPORTING AND BILLING**

1. **Billing.** CONTRACTOR will bill the XXXX MEDICAL SOCIETY on a monthly basis for all counseling sessions provided by CONTRACTOR during the calendar month. Payments to CONTRACTOR will be made within thirty (30) days of the XXXX MEDICAL SOCIETY’s receipt of CONTRACTOR’s invoice for each calendar month of the Agreement Term. All invoices shall be mailed or delivered to:

ADDRESS

The front of the envelope shall be marked “Personal and Confidential.”

1. **Demographics Collection.** In accordance with Section 8 of the Agreement, CONTRACTOR will provide monthly written reports to the XXXX MEDICAL SOCIETY within thirty (30) days following the end of the month being reported in a form and format to which the parties mutually agree. The monthly reports will provide monthly and cumulative year-to-date *de-identified* (in accordance with [STATE CODE REFERENCE]), aggregate figures for the following data elements:
2. Total number of XXXX MEDICAL SOCIETY members accessing the Services by age;
3. Total number of XXXX MEDICAL SOCIETY members accessing the Services by gender;
4. Total number of XXXX MEDICAL SOCIETY members accessing the Services by primary medical specialty;
5. Total number of XXXX MEDICAL SOCIETY members accessing the Services by employment status: hospital system, independent large group <=8 providers, or independent small group >8 providers.
6. A list of presenting problems to the extent feasible without inclusion of individually identifiable health information (i.e depression, marital, financial, litigation, substance misue, etc.)
7. A list of the types of referrals made by CONTRACTOR provided that no listed type of referral shall identify the name or location of the professional, or organization, or facility, to which the referral was made.

The parties agree that no monthly report provided by CONTRACTOR to the XXXX MEDICAL SOCIETY will contain or disclose the identity or any other *protected health information* (as that term is defined in [STATE CODE REFERENCE]) of any Member. Further, no information contained in any monthly report or any monthly or cumulative figure for any data element shall be related or relatable to any other data element.

1. **Program Surveys.** CONTRACTOR will provide anonymous program survey forms to Members accessing these services during the first appointment with a verbal reminder to fill this out at the end of the treatment period.