

**STATE OF NEW JERSEY
DEPARTMENT OF CHILDREN AND FAMILIES**

**STANDARD LANGUAGE DOCUMENT
FOR SOCIAL SERVICE AND TRAINING CONTRACTS**

This CONTRACT is effective as of the date recorded on the signature page between the Department and the Provider Agency identified on the signature page.

WHEREAS the New Jersey Department of Children and Families (the "Department") has been duly designated under the authority of N.J.S.A. 30:1A-1, 30:1-11, 30:1-12, and 30:1-20 to administer or supervise the administration of social service and training programs and has, in turn, designated the Departmental Component to be directly responsible for the funding, implementation and administration of certain social service and training programs, including the program(s) covered by this Contract; and

WHEREAS the Department desires that the Provider Agency provide services and the Provider Agency has agreed to provide services in accordance with the terms and conditions contained in this Contract;

THEREFORE, the Department and the Provider Agency agree as follows:

I. DEFINITIONS

For the purposes of this document, the following terms, when capitalized, shall have meanings as stated:

Additional Named Insured means an endorsement to an insurance policy extending the coverage to the State of New Jersey against loss in accordance with the terms of the policy. Naming the State as an additional named insured permits the Department to pay the premium should the named insured fail to do so.

Annex(es) means the attachment(s) to this document containing programmatic and financial information.

Contract means one of the Department's social service or training Contracts with a Provider Agency. Terms and conditions of the Contract are included in the Standard Language Document, Annex(es), appendices, attachments and Contract Modifications (including any approved assignments and subcontracts) and supporting documents. The Contract constitutes the entire binding agreement between the Department and the Provider Agency.

Department means the New Jersey Department of Children and Families. It means, where appropriate from the context, the Division, Commission, Bureau, Office, Unit or other designated component of the Department of Children and Families responsible for the administration of particular Contract programs.

Departmental Component means the Office of Contract Administration (OCA) as the unit within the Department responsible for the negotiation, administration, approval, closeout and monitoring of certain Contracts.

Expiration means the cessation of the Contract because its term has ended.

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Notice means an official written communication between the Department and the Provider Agency. All Notices shall be delivered in person or by certified mail, return receipt requested, and shall be directed to the persons and addresses specified for such purpose in the Annex(es) or to such other persons as either party may designate in writing.

The Notice shall also be sent by regular mail and shall be presumed to have been received by the addressee five days after being sent to the last address known by the Department.

Provider Agency (also Provider) means all for-profit and non-profit private and public entities that have either a Cost Reimbursement or fee for service Contract with the Department, regardless of whether the Department is the State Cognizant Department.

Termination means an official cessation of this Contract, prior to the expiration of its term that results from action taken by the Department or the Provider Agency in accordance with provisions contained in this Contract.

II. BASIC OBLIGATIONS OF THE DEPARTMENT

Section 2.01 Payment. As established in the Annex(es), payment for Contract services delivered shall be based on allowable expenditures or the specified rate per unit of service delivered. Such payment(s) shall be authorized by the Department in accordance with the time frames specified in the Annex(es). Total payments shall not exceed the maximum Contract amount, if any, specified in the Annex(es). All payments authorized by the Department under this Contract shall be subject to revision on the basis of an audit or audits conducted under Section 3.13 Audit or on the basis of any Department monitoring or evaluation of the Contract.

Section 2.02 Referenced Materials. Upon written request of the Provider Agency, the Department shall make available to the Provider Agency copies of federal and State regulations and other material specifically referenced in this document.

III. BASIC OBLIGATIONS OF THE PROVIDER AGENCY

Section 3.01 Contract Services. The Provider Agency shall provide services to eligible persons in accordance with all specifications contained in this Contract.

Section 3.02 Reporting. The Provider Agency shall submit to the Department programmatic and financial reports on forms provided by the Department and within the stated time parameters. The reporting frequency and due date(s) are specified and sample forms to be used are included in the Annex(es), or otherwise made available by the Departmental Component.

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Section 3.03 Compliance with Laws. The Provider Agency agrees in the performance of this Contract to comply with all applicable federal, State and local laws, rules and regulations (collectively, "laws"), including but not limited to the following:

- a. State and local laws relating to licensure; federal and State laws relating to safeguarding of client information;
- b. The federal Civil Rights Act of 1964 (as amended);
- c. P.L. 1975, Chapter 127, of the State of New Jersey (N.J.S.A. 10:5-31 et seq.) and associated executive orders pertaining to affirmative action and nondiscrimination in public contracts;
- d. The New Jersey Law Against Discrimination (LAD) (N.J.S.A. 10:5-1 et seq.)
- e. The federal Equal Employment Opportunity Act;
- f. Section 504 of the federal Rehabilitation Act of 1973 pertaining to non-discrimination on the basis of handicap, and regulations thereunder;
- g. The Americans With Disabilities Act (ADA), 42 U.S.C. 12101 et seq.; and
- h. Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b)

Failure to comply with the laws, rules and regulations referenced above shall be grounds for Termination of this Contract for cause.

If any provision of this Contract shall conflict with any federal or State law(s) or shall have the effect of causing the State to be ineligible for federal financial participation in payment for Contract services, the specific Contract provision shall be considered amended or nullified to conform to such law(s). All other Contract provisions shall remain unchanged and shall continue in full force and effect.

Section 3.04 Business Associate Agreements and State Confidentiality Statutes. DCF is a covered entity pursuant to the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C.A. §1320d et seq. (HIPAA); 45 CFR Parts 160 and 164. Before a Provider Agency obtains or is permitted to access, to create, maintain or store Protected Health Information (PHI) as part of its responsibility under this Contract, the Provider Agency shall first execute a Department of Children and Families Business Associate Agreement (BAA). A Provider Agency, whose work under this Contract does not involve PHI is not required to execute a BAA. DCF shall have the sole discretion to determine when a Provider Agency's work will involve PHI. Protected Health Insurance shall have the same meaning as in 45 CFR 160.103.

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Provider Agencies that enter any subcontract where the work for the subcontract involves an individual's PHI shall require its subcontractor to execute a BAA that meets all the requirements of HIPAA, including those in 45 CFR 164.504(e). A standard form of BAA is available for a Provider Agency's use from the Department. If the BAA is breached by the Provider Agency, or its subcontractor, the Provider Agency shall notify the Department within 24 hours of the breach. The Department may, in its sole discretion and at any time, request a BAA compliance audit or investigation of the Provider Agency or its subcontractor with which the Provider Agency has entered into a BAA. The Provider Agency shall cooperate with all Department requests for a BAA compliance audit and/or investigation and shall require that its subcontractor cooperate with all Departmental requests for BAA compliance audits and investigations.

In addition to the confidentiality requirements of HIPAA, if applicable, a Provider Agency shall maintain the confidentiality of all certificates, applications, records and reports ("Records") that directly or indirectly identify any individual and shall not disclose these Records except where disclosure is consistent with applicable Department statute and regulations and the BAA, if any.

Section 3.05 Business Registration.

NOTE: This section does not apply to governmental agencies or non-profit organizations.

The Provider Agency must have a valid Business Registration Certificate (BRC) issued by the Department of Treasury, Division of Revenue prior to the award of a contract in accordance with N.J.S.A. 52:32-44(b). No State Agency may Contract with a Provider Agency if the Provider has not filed for its incorporation papers or filed its annual business registration. Furthermore, no Provider Agency that Contracts with the Department shall enter into any subcontract unless the subcontractor can demonstrate that it is incorporated in the State of New Jersey and its annual business registration is current, and follows the provisions prescribed in this Standard Language Document. Failure to comply with this paragraph or the above-referenced citation will result in cause for the Department to Terminate this Contract.

Section 3.06 Set-Off for State Tax and Child Support. Pursuant to N.J.S.A. 54:49-19, if the Provider is entitled to payment under the Contract at the same time as it is indebted for any State tax (or is otherwise indebted to the State) or child support, the State Treasurer may set off that payment by the amount of the indebtedness.

Section 3.07 Source Disclosure. N.J.S.A. 52:34-13.2, that codified Public Law 2005, c.92 and Executive Order 129, requires when submitting a Request for Proposals and/or Contract, the Provider Agency shall submit as part of their proposal and/or Contract Certification listing where their contracted services will be performed and if the contracted

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services, or any portion thereof, will be subcontracted and where any subcontracted services will be performed.

Any changes to the information submitted in the Source Disclosure Certification during the term of the Contract must be immediately reported to the Director of the Division of Purchase and Property and to the Departmental Component within the Department for whom the contracted services are being performed. A Provider that shifts its activities outside the United States and its constituent Commonwealths and territories without prior written affirmation by the Director attesting to the fact that extraordinary circumstances required the shift or that the failure to shift the services would result in the infliction of economic hardships to the State of New Jersey, shall be deemed to be in breach of Contract which would be subject to Termination by the Department.

Section 3.08 Provider Certification and Disclosure of Political Contributions.

NOTE: Non-profit organizations are exempted from the requirements of Section 3.08.

N.J.S.A. 19:44A-20.13 to 19:44A-20.25, that codified Public Law 2005, Chapter 51 and Executive Order 134, and Executive Order 117, requires that any for-profit agency that seeks or contracts to provide services in the amount of \$17,500 or more must submit to the Department the Certification and Disclosure of Political Contribution forms. This form includes a certification that the business entity has not, during certain specified time frames, solicited or made any contribution of money, pledge of reportable contributions, including in-kind contributions, to any candidate committee and/or election fund of the Governor or Lieutenant Governor, any legislative leadership committee or any State, county or municipal political party committee. The form also requires disclosure of any of the above-referenced reportable contributions made by the business entity, its principals, officers, partners, directors, spouses, civil union partners and resident children.

If awarded a Contract, the Provider will, on a continuing basis, continue to report any Contribution it makes during the term of the Contract, and any extension(s) thereof. Failure to do so will result in Termination of the Contract and could result in the debarment from public contracting of the Provider for a period of up to five years.

Section 3.09 Contract Certification and Political Contribution Disclosure Form. The Provider Agency is advised of its responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to P.L. 2005, c.271, section 3 if the Provider Agency receives Contracts in excess of \$50,000 from a public entity in a calendar year. It is the Provider Agency's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at (888) 313-3532 or at www.elec.state.nj.us/

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Section 3.10 Equal Employment Opportunity. Pursuant to N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27, during the performance of this Contract, the Provider Agency agrees as follows:

- a. The Provider Agency and any subcontractor(s) will not discriminate against any client, employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.
- b. Except with respect to affectional or sexual orientation and gender identity or expression, the Provider will take affirmative action to ensure that such applicants are recruited and employed by DCF contracted agencies.
- c. The Provider Agency will ensure that equal opportunity is afforded to all employees in recruitment and employment, and that all employees are treated equally during employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity, disability, nationality or sex. Such action shall include, but not be limited to the following:
 - Employment;
 - Upgrading;
 - Demotion, or transfer;
 - Recruitment or recruitment advertising;
 - Layoff or termination;
 - Rates of pay or other forms of compensation; and
 - Selection for training, including apprenticeship.
- d. The Provider Agency agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.
- e. The Provider Agency and subcontractor(s), in all solicitations or advertisements for employees placed by or on behalf of the Provider shall state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.
- f. The Provider Agency and subcontractor(s) will send a notice to each labor union or representative with which it has a collective bargaining agreement, other contract, or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the Provider's commitments under this act and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

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- g. The Provider Agency and subcontractor(s) agree to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A.10:5-31 et seq. as amended and supplemented from time to time and the Americans with Disabilities Act.
- h. The Provider Agency or subcontractor agrees to make a good faith attempt to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Division of Contract Compliance & EEO pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.
- i. The Provider Agency or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.
- j. The Provider Agency or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable State and federal law and applicable State and federal court decisions.
- k. The Provider Agency and subcontractor agree to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal law and applicable federal court decisions.
- l. The Provider Agency and its subcontractors shall furnish such reports or other documents to the Department from time to time in order to carry out the purposes of these regulations, and the Department shall furnish such information to the Department of Treasury, Division of Contract Compliance and EEO, as may be requested by the DCF for conducting a compliance investigation pursuant to Subchapter 10 of N.J.A.C.17:27.

Section 3.10.1 Anti-Discrimination Provisions. Pursuant to N.J.S.A. 10:2-1, during the performance of this Contract, the Provider Agency agrees as follows:

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- a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$ 50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

Section 3.11 Department Policies and Procedures. In the administration of this Contract, the Provider Agency shall comply with all applicable policies and procedures issued by the Department including, but not limited to, the policies and procedures contained in the Department's Contract Reimbursement Manual (as from time to time amended) and the Department's Contract Policy and Information Manual (as from time to time amended). Failure to comply with these policies and procedures shall be grounds to Terminate this Contract.

Section 3.12 Financial Management System. The Provider Agency's financial management system shall provide for the following:

- a. Accurate, current and complete disclosure of the financial results of this Contract and any other contract, grant, program or other activity administered by the Provider Agency;

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- b. Records adequately identifying the source and application of all Provider Agency funds and all funds administered by the Provider Agency. These records shall contain information pertaining to all contract and grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income;
- c. Effective internal control structure over all funds, property, and other assets. The Provider Agency shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;
- d. Comparison of actual outlays with budgeted amounts for this Contract and for any other contract, grant, program or other activity administered by the Provider Agency;
- e. Accounting records supported by source documentation;
- f. Procedures to minimize elapsed time between any advance payment issued and the disbursement of such advance funds by the Provider Agency; and
- g. Procedures consistent with the provisions of any applicable Departmental policies and procedures for determining the reasonableness, allowability, and allocability of costs under this Contract.

Section 3.13 Audit. The Department requires a Provider Agency that expends within their fiscal year aggregated Federal or State financial assistance from cost reimbursement contracts of \$100,000 or greater, to submit an annual organization-wide audit.

Audits shall be conducted in accordance with the Federal Single Audit Act of 1984, generally accepted auditing standards as specified in the Statements on Auditing Standards issued by the American Institute of Certified Public Accountants and Government Auditing Standards issued by the Comptroller General of the United States.

The Department may require, in its sole discretion, a Provider Agency that expends within their fiscal year aggregated Federal or State financial assistance from cost reimbursement contracts of less than \$100,000, or that expends within their fiscal year any amount of Federal or State financial assistance or Medicaid payments for providing services to Medicaid eligible individuals from fee for service contracts, to submit one of the following:

- a. An annual program specific audit performed in accordance with the Uniform Guidance Subpart F for each program providing services under a New Jersey contract; or
- b. A copy of an already prepared annual financial statement audit of the organization performed in accordance with Government Auditing Standards (Yellow Book); or

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- c. A compilation of certified financial statements that includes an income statement, cash flow statement or balance sheet, prepared in accordance with generally accepted accounting principles and reviewed by a public accountant attesting to their accuracy.

At any time during the Contract term, the Provider Agency's overall operations, its compliance with specific Contract provisions, and the operations of any assignees or subcontractors engaged by the Provider Agency under Section 5.02 Assignment and Subcontracts may be subject to audit or review by the Department, by any other appropriate unit or agency of State or Federal government, and/or by a private firm or firms retained or approved by the Department for such purpose.

Whether or not such audits are conducted during the Contract term, a final financial and compliance audit of Contract operations, including the relevant operations of any assignees or subcontractors, may be conducted after Contract Termination or Expiration. The Provider Agency is subject to audit up to four years after Termination or Expiration of the Contract. If any audit has been started but not completed or resolved before the end of the four-year period, the Provider Agency continues to be subject to such audit until it is completed and resolved.

The Provider Agency shall maintain all documentation related to products, transactions or services under this Contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

Section 3.14 Federal Davis-Bacon Act and New Jersey Prevailing Wage Act. Any Department Contract containing federal funds in excess of \$2,000 utilized for the construction, alteration, renovation, repair, or modification of public works or public buildings to which the federal government is a party or any Contract for similar work on public works financed with federal funds must comply with the federal Davis-Bacon Act, 40 U.S.C. section 276a et seq. The Davis-Bacon Act requires that the Provider must pay the prevailing wages to each designated worker class engaged under the Contract at wage rates determined by the U.S. Secretary of Labor.

Any subsequent Provider Agency, Contract, or subcontract for any public work in excess of \$2,000 State funds of which the Department is a party shall comply with the N.J. Prevailing Wage Act, N.J.S.A. 34:11-56.27. Such Contracts or subcontracts shall contain a provision stating that the prevailing wage rate, as designated by the New Jersey Commissioner of Labor, must be paid to all designated classes of workers employed through said Contracts or subcontracts. The Provider Agency must determine if the New Jersey Prevailing Wage Act applies and follow all directives per N.J.S.A. 34:11-56 et seq.

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Section 3.15 Contract Closeout. The Provider Agency shall comply with all requirements of Department Policy: DCF.P7.01 Contract Closeout. This includes the prompt submittal of the final Report of Expenditures and any other financial or programmatic reports required by the Department. All required documentation is due within 120 days of Contract Expiration or Termination.

IV. TERMINATION

The Department may Terminate or suspend this Contract in accordance with the sections listed below.

Section 4.01 Termination for Convenience by the Department or Provider Agency. The Department or Provider Agency may Terminate this Contract upon 60 Days written advance Notice to the other party for any reason whatsoever.

The parties expressly recognize and agree that the Department's ability to honor the terms and conditions of this Contract is contingent upon receipt of federal funds and/or appropriations of the State legislature. If during the term of this Contract, therefore, the federal and/or the State government reduces its allocation to the Department, the Department reserves the right, upon Notice to the Provider Agency, to reduce or Terminate the Contract.

Section 4.02 Default and Termination for Cause. If the Provider Agency fails to fulfill or comply with any of the terms or conditions of the Contract, in whole or in part, the Department may by Notice place the Provider Agency in default status, and take any action(s) listed in accordance with Department Policy DCF.P9.05, Contract Default. Notice shall follow the procedures established in the policy.

The above notwithstanding, the Department may immediately upon Notice Terminate the Contract prior to its expiration, in whole or in part, whenever it is determined that the Provider Agency has jeopardized the safety and welfare of the Department's clients, materially failed to comply with the terms and conditions of the Contract, or whenever the fiscal or programmatic integrity of the Contract has been compromised. The Notice of Termination shall state the reason for the action(s); the Provider Agency's informal review options, time frames, and procedures; the effective date of the Termination; and the fact that a request for a review of the decision for action(s) does not preclude the determined action(s) from being implemented.

Section 4.03 Termination Settlement. When a Contract is terminated under any section of Section IV or policy DCF.P9.05, Contract Default, the Provider Agency shall be prohibited from incurring additional obligations of Contract funds. The Department may allow costs which the Provider Agency could not reasonably avoid during the Termination process to the extent that said costs are determined to be necessary and reasonable.

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The Provider Agency and Department shall settle or adjust all accounts in a manner specified by the Department and shall be subject to a final audit under Section 3.13 Audit.

V. ADDITIONAL PROVISIONS

Section 5.01 Application of New Jersey Law. This Contract shall be governed, construed and interpreted in accordance with the laws of the State of New Jersey including the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the Law Against Discrimination (LAD) (N.J.S.A. 10:5-1 et seq.).

Section 5.02 Assignment and Subcontracts. This Contract, in whole or in part, may not be assigned by the Provider Agency or assumed by another entity for any reason including but not limited to changes in the corporate status of the Provider Agency, without the prior written consent of the Department. Upon prior written notice of a proposed assignment, the Department may:

- a. Approve the assignment and continue the Contract to term;
- b. Approve the assignment conditioned upon the willingness of the assignee to accept all contractual modifications deemed necessary by the Department; or
- c. Disapprove the assignment and either terminate the Contract or continue the Contract with the original Provider Agency.

The Provider Agency may not subcontract any of the services that it has committed to perform or provide pursuant to this Contract without the prior written approval of the Department. Such consent to subcontract shall not relieve the Provider Agency of its full responsibilities under this Contract. Consent to the subcontracting of any part of the services shall not be construed to be an approval of said subcontract or of any of its terms, but shall operate only as an approval of the Provider Agency's request for the making of a subcontract between the Provider Agency and its chosen subcontractor. The Provider Agency shall be responsible for all services performed by the subcontractor and all such services shall conform to the provisions of this Contract.

Section 5.03 Client Fees. Other than as provided for in the Annex(es) and/or Departmental Component specific policies, the Provider Agency shall impose no fees or any other types of charges of any kind upon recipients of Contract services.

Section 5.04 Indemnification. The Provider Agency shall assume all risk of and responsibility for, and agrees to indemnify, defend and hold harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs, and expenses in connection therewith on account of the loss of life, property or injury or damages to the person, body or property of any person or persons, whatsoever, which shall arise from or result directly or indirectly from (1) the

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work, service or materials provided under this Contract; or (2) any failure to perform the Provider's obligations under this Contract or any improper or deficient performance of the Provider's obligations under this Contract. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this Contract.

Furthermore, the provisions of this indemnification clause shall in no way limit the obligations assumed by the Provider under this Contract, nor shall they be construed to relieve the Provider from any liability nor preclude the State of New Jersey, its Agencies, and/or the Department of Children and Families from taking any other actions available to them under any other provisions of this Contract or otherwise in law.

Section 5.05 Insurance. The Provider Agency shall maintain adequate insurance coverage. The State shall be included as an Additional Named Insured on any insurance policy applicable to this Contract. Should the Provider Agency fail to pay any premium on any insurance policy when due, the Department may Terminate the Contract for Cause.

Section 5.06 Modifications and Amendments. If both parties to this Contract agree to amend or supplement this Contract, any and all such amendments or supplements shall be in writing and signed by both parties. The amendment or supplement shall incorporate the entire Contract by reference and will not serve to contradict, amend, or supplement the Contract except as specifically expressed in the amendment or supplement.

Section 5.07 Statement of Non-Influence. No person employed by the State of New Jersey has been or will be paid any fee, commission, or compensation of any kind or granted any gratuity by the Provider Agency or any representative thereof in order to influence the awarding or administration of this Contract.

Section 5.08 Exercise of Rights. A failure or a delay on the part of the Department or the Provider Agency in exercising any right, power, or privilege under this Contract shall not waive that right, power, or privilege. Moreover, a single or a partial exercise shall not prevent another or a further exercise of that or of any other right, power or privilege.

Section 5.09 Recognition of Cultural Sensitivity. The Provider Agency agrees in the performance of this Contract to be sensitive to the needs of the minority populations (as described in section 3.10a of this policy) of the State of New Jersey. This sensitivity includes the employment, if possible, of a culturally diverse staff that can communicate with, and be representative of the entire community it serves.

The Provider Agency shall make programs linguistically appropriate and culturally relevant to underserved minority groups within the community. Appropriate accommodations for services shall be developed and maintained for those minority individuals who are deprived of reasonable access to those services due to language barriers or ethnic, affectional, and cultural differences. In addition, Provider Agencies shall make certain that all programs and services are reflective of the demographic needs of the community, while providing all

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minorities (as described in section 3.10a of this policy) the opportunity to experience any and all available social services irrespective of their ethnic, affectional, or cultural heritage. Section 5.10 Copyrights. The Department of Children and Families reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use any work or materials developed under a Department or federally funded Contract or subcontract. The Department also reserves the sole right to authorize others to reproduce, publish, or otherwise use any work or materials developed under said Contract or subcontract.

Section 5.11 Successor Contracts. If an audit or Contract closeout reveals that the Provider Agency has failed to comply with the terms and/or conditions of this Contract, the Department reserves the right to make all financial and/or programmatic adjustments it deems appropriate to any other Contract entered into between the Department and the Provider Agency.

Section 5.12 Sufficiency of Funds. The Provider Agency recognizes and agrees that both the initial provision of funding and the continuation of such funding under the Contract is expressly dependent upon the availability to the Department of funds appropriated by the State Legislature from State and/or Federal revenue or such other funding sources as may be applicable. A failure of the Department to make any payment under its Contract with the Provider Agency or to observe and adhere to its performance obligation under the Contract as a result of the failure of the Legislature to appropriate the funds necessary to do so shall not constitute a breach of the Contract by the Department or default thereunder and the Department shall not be held financially liable therefore. In addition, future funding shall not be anticipated from the Department beyond the duration of the Contract with the Provider Agency and in no event shall the Contract be construed as a commitment by the Department to expend funds beyond the Termination date set therein.

Section 5.13 Collective Bargaining. State and federal law allows employees to organize themselves into a collective bargaining unit.

Funds provided under this Contract shall not be utilized to abridge the rights of employees to organize themselves into a collective bargaining organization or preclude them from negotiating with Provider Agency management. Funds may be utilized for legitimate and reasonable management purposes at the direction of the Provider Agency during the process of collective bargaining organization.

Section 5.14 Independent Employer Status. Employees of Provider Agencies that Contract with the Department of Children and Families are employees of the Provider Agency, not the State.

In accordance with the National Labor Relations Act, 29 U.S.C.A. 152(2) and State law, N.J.S.A. 34:13A-1 et seq., Provider Agencies are independent, private employers with all the rights and obligations of such, and are not political subdivisions of the Department of Children and Families.

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As such, the Provider Agency acknowledges that it is an independent Provider, providing services to the Department of Children and Families, typically through a contract-for-services agreement. As independent contractors, Provider Agencies are responsible for the organization's overall functions that include the overseeing and monitoring of its operations, establishing the salary and benefit levels of its employees, and handling all personnel matters as the employer of its workers. This is also inclusive of any travel allocations the Provider Employee pays to its employees.

The Provider Agency acknowledges its relationship with its employees as that of employer. While the Department has an adjunct role with Provider Agencies through regulatory oversight and ensuring contractual performance, the Provider understands that the Department is not the employer of a Provider Agency's employees.

The Provider Agency further acknowledges that while the Department reimburses Provider Agencies for all allowable costs under the Contract, this funding mechanism does not translate into the Department being responsible for any of the elements of any collective bargaining agreements into which Provider Agencies may enter. Moreover, each Provider Agency understands that it is responsible for funding its own programs and is not limited to the amount of funding provided by the Department, and, in fact, is encouraged to solicit non-State sources of funding, whenever possible.

Section 5.15 Executive Order No. 189. Executive Order No. 189 establishes the expected standard of responsibility for all parties that enter into a Contract with the State of New Jersey. All such parties must meet a standard of responsibility that assures the State and its citizens that such parties will compete and perform honestly in their dealings with the State and avoid conflicts of interest.

In compliance with Paragraph 3 of Executive Order No. 189, no Provider Agency shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e, in the Department of the Treasury or any other agency with which such Provider Agency transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i, of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.

The solicitation of any fee, commission, compensation, gift, gratuity, or other thing of value by any State officer or employee or special State officer or employee from any Provider Agency shall be reported in writing forthwith by the Provider Agency to the Attorney General and the Executive Commission on Ethical Standards.

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No Provider Agency may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such Provider Agency to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

No Provider Agency shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

No Provider Agency shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the Provider Agency or any other person.

The provisions cited above shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with Provider Agencies under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

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CONTRACT SIGNATURES AND DATES

The terms of this Contract have been read and understood by the persons whose signatures appear below. The parties agree to comply with the terms and conditions of the Contract set forth on the preceding pages in Articles I through Article V, and any related Annexes.

This Contract contains 17 pages and is the entire agreement of the parties. Oral evidence tending to contradict, amend or supplement the Contract is inadmissible; the parties having made the Contract as the final and complete expression of their agreement.

BY: 
(Signature)

Anthony DiFabio, Psy.D
(Type)

TITLE: President & CEO
(Type)

PROVIDER
AGENCY: Acenda, Inc.

DATE: 12/20/2019

Contract
Effective Date: January 1, 2020

Contract
Expiration Date: December 31, 2020

Contract Number: 20HWDP

Contract Ceiling: \$4,153,700

Federal ID#: 23-7001477

Provider Contact
Individual: Anthony DiFabio, Psy.D

BY: 
(Signature)

Juanita Byrd
(Type)

TITLE: Business Manager / SBO
(Type)

DEPARTMENTAL
COMPONENT: DCF

DATE: 03/17/2020