



agency for persons with disabilities  
*State of Florida*

**INVITATION TO BID**

FOR

**TRANSLATION SERVICES**  
**ITB #APD 18/19-009**

COMMODITY CODES: 82110000, 90121702, 82111804, FLID99150

**Bid Opening Date:**

**September 24, 2018 at 3:00 P.M. (EST)**

**MAIL OR DELIVER BID REPLIES/RESPONSES TO:**

**Alicia Ponchak**

**Agency for Persons with Disabilities**

**4030 Esplanade Way, Suite 215**

**Tallahassee, Florida 32399-0950**

**Telephone: (850) 414-8879**

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## **SECTION 1 - INTRODUCTION**

### **1.1 Statement of Need**

The Agency for Persons with Disabilities (Agency) is seeking to contract with a vendor or vendors to provide high quality language translation services for APD written documents. Vendors must give firm pricing, per word for a variety of languages.

The vendor shall complete document translation services for the Agency for any written request for translation of Agency documents. The document(s) will be translated into the requested language comprehended by the individual receiving the document, as identified by the Agency. Documents will require a range in the amount of text requiring translation, including translation of entire pages, short paragraphs, or sentences.

### **1.2 Statement of Purpose**

The purpose of this Invitation to Bid (ITB) is to secure a contractual agreement with a responsive and responsible vendor(s). The vendor(s) must give firm pricing for each language listed in Appendix VII Price Sheet.

### **1.3 Successful Bidder**

The successful lowest bidder(s) will be asked to provide written translation services to the Agency. Pricing shall include delivery and shall include any costs associated with the bid. The Agency will not accept any other costs not included on Appendix VII Price Sheet.

### **1.4 Term of the Contract**

The agreement between APD and the vendor is anticipated to be on or about October 3, 2018 whenever contract signing occurs. This agreement is effective for three (3) years. This agreement can be renewed for up to three years, pending both parties agree in writing. Renewal of the agreement shall be subject to the same terms and conditions set forth in the original ITB.

### **1.5 Renewal**

**This Special Condition takes precedence over General Conditions #26 in PUR1000.** The Contract/Purchase order resulting from this solicitation may be renewed for a period not to exceed three (3) years or the term of the original contract/purchase order, whichever is longer. The price for each potential renewal increments shall be submitted for evaluation by the Agency and shall not exceed 5% of the original bid price. The renewal may not include any compensation for costs associated with the renewal. Any renewal shall be in writing and subject to the same terms and conditions of the original bid. Any renewal shall be contingent upon satisfactory performance evaluations by the Agency and subject to the availability of funds. The Agency may negotiate a lower price at the time of renewal.

### **1.6 Cooperative Purchasing**

Pursuant to their own governing laws, and subject to the agreement of the vendor, other governmental entities may be permitted to make purchases in accordance with the terms and conditions contained herein. The Agency shall not be a party to any transaction between the vendor and any other purchaser. As provided in Section 287.042(16), Florida Statutes (F.S.), other state agencies may purchase from the resulting contract, provided that the Department of Management Services has determined that the contract's use is cost-effective and in the best interest of the State. Upon such approval, the vendor may,

at its discretion, sell these commodities or services to additional agencies, upon the terms and conditions contained herein.

## **SECTION 2 - ITB PROCESS**

### **2.1 Contact Person**

The Procurement Officer is the sole point of contact for this ITB. The Procurement Officer for this ITB is:

Alicia Ponchak, Procurement Officer  
4030 Esplanade Way  
Suite 215  
Tallahassee, FL 32399-0950  
Telephone: (850) 414-8879  
E-mail: [Alicia.Ponchak@apdcares.org](mailto:Alicia.Ponchak@apdcares.org)

### **2.2 Posting**

All notices, decisions, intended decisions, and other matters relating to the procurement will be electronically posted on the State of Florida Vendor Bid System at:

[http://www.myflorida.com/apps/vbs/vbs\\_main\\_menu](http://www.myflorida.com/apps/vbs/vbs_main_menu)

It is the responsibility of those submitting a response to the solicitation to obtain the results from the Internet posting in sufficient time to protect their own interests should they care to do so.

### **2.3 Limitation on Contacting Agency Personnel**

Pursuant to section 287.057(23), F.S., bidders to this solicitation or persons acting on their behalf may not contact, between the release of this solicitation and the end of the seventy-two (72) hour period following the Agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the Procurement Officer identified in Section 2.1, Contact Person as provided in the procurement documents. Violation of this provision may be grounds for rejecting a response.

## 2.4 Calendar of Events and Deadlines

Listed below are the important activities and dates/times by which the actions must be taken and completed. If the Agency finds it necessary to change any of these dates/times, it will be accomplished by addendum posted pursuant to section 2.2 above. All listed times are local times in Tallahassee, Florida, (Leon County) Eastern Standard Time (EST).

<b>ACTIVITY</b>	<b>DUE DATE</b>	<b>TIME</b>	<b>LOCATION</b>
ITB Advertise and Release Date	08/31/2018		Vendor Bid System: <a href="http://www.myflorida.com/apps/vbs/vbs_main_menu">http://www.myflorida.com/apps/vbs/vbs_main_menu</a>
Questions submitted in writing	09/12/2018	<b>Prior to 3:00 P.M.(EST)</b>	Inquiries sent to Procurement Officer via email: <a href="mailto:Alicia.Ponchak@apdcares.org">Alicia.Ponchak@apdcares.org</a>
Answers to Questions	09/17/2018	<b>3:00 P.M.(EST)</b>	Posted electronically via the following Internet site: <a href="http://www.myflorida.com/apps/vbs/vbs_main_menu">http://www.myflorida.com/apps/vbs/vbs_main_menu</a>
Receive All Sealed Bids & Bid Opening Date	09/24/2018	<b>Must be received prior to 3:00 P.M.(EST)</b>	Agency for Persons with Disabilities Attn: Alicia Ponchak 4030 Esplanade Way Suite 215 Tallahassee, Florida 32399-0950
Anticipated Posting of Intent to Award	09/27/2018		Vendor Bid System: <a href="http://www.myflorida.com/apps/vbs/vbs_main_menu">http://www.myflorida.com/apps/vbs/vbs_main_menu</a>
Anticipated Effective Date of Purchase Order	10/03/2018		

## 2.5 Bidder Questions

Any inquiries from bidders concerning this ITB shall be submitted by email, identifying the submitter, to the Contact Person listed in Section 2.1 and must be received no later than the date and time specified in Section 2.4, Calendar of Events and Deadlines. It is the responsibility of the bidder to confirm receipt of e-mailed inquiries.

Copies of the responses to all inquiries, including written Agency clarifications and/or addenda, if made to the ITB, will be made available through electronic posting on the MyFlorida.com website at:

[http://www.myflorida.com/apps/vbs/vbs\\_main\\_menu](http://www.myflorida.com/apps/vbs/vbs_main_menu)

It is the responsibility of all potential bidders to monitor this site for any changing information prior to submitting their bid.

## **2.6 Withdrawal of Bids**

A submitted bid may be withdrawn by submitting a written request for its withdrawal to the Agency, signed by the vendor within 72 hours after the bid opening time and date indicated in Section 2.4, Calendar of Events and Deadlines. A request received in accordance with this provision may be granted by the Agency upon proof of the impossibility to perform based upon an obvious error on the part of the vendor.

## **2.7 Acceptance/Rejection of Bids**

Bids must be received by the Agency no later than the time, date and location as indicated in Section 2.4, Calendar of Events and Deadlines. Any bid submitted shall remain a valid offer at least ninety (90) days after the bid submission date. No changes, modifications or additions to the bids submitted after the deadline for the bid opening has passed will be accepted by or be binding on the Agency.

Bids not received either at the specified location, or by the specified date and time, or both, will be rejected. Rejected bids will be returned unopened to the vendor.

The Agency reserves the right to withdraw the ITB or to waive minor irregularities at any time, including after an award is made, when to do so would be in the best interest of the State of Florida, and by doing so the Agency assumes no liability to any prospective vendor. Minor irregularity is defined as a variation from the ITB terms and conditions that does not affect the price of the bid or give the Vendor an advantage or benefit not enjoyed by other vendors, or adversely affect the interest of the Agency. At its option, the Agency may correct minor irregularities but is under no obligation whatsoever to do so.

## **2.8 Bid Opening**

Bids will be publicly opened at the time and date specified in Section 2.4, Calendar of Events and Deadlines. The name of all bidders submitting bids shall be made available to interested parties upon written request to the Procurement Officer.

## **2.9 Notice of Intent to Award**

The Notice of Intent to Award shall be posted on the Vendor Bid System by the date stated in Section 2.4, Calendar of Events and Deadlines at the following site:

[http://www.myflorida.com/apps/vbs/vbs\\_main\\_menu](http://www.myflorida.com/apps/vbs/vbs_main_menu)

The Agency shall award the contract with reasonable promptness by written notice to the responsible and responsive vendor that submits the lowest responsive bid.

If the notice of award is delayed, in lieu of posting the notice of intended award, the Agency shall post a notice of the delay and a revised date for posting the notice of intended award.

## **2.10 Protests and Disputes**

Any person who is adversely affected by the terms, conditions and/or specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding purchase orders, reserving rights of further negotiation, or modifying or amending any written agreement shall file a notice of protest in writing within 72 hours (Saturdays, Sundays and state holidays excluded) after the

posting of the solicitation or decision or intended decision. Failure to file a protest within the time prescribed in Section 120.57(3), F.S., shall constitute a waiver of proceedings under Chapter 120, F.S.

In accordance with Section 287.042(2)(c), F.S., when protesting a decision or intended decision the protestor must post a bond equal to one percent (1%) of the Agency's estimated contract amount. The estimated contract amount shall be based upon the contract price submitted by the protestor. If no contract price was submitted, the Agency shall provide the estimated contract amount to the protestor within seventy-two (72) hours (excluding Saturdays, Sundays and state holidays) after the notice of protest has been filed. The estimated contract amount is not subject to protest pursuant to section 120.57(3), F. S. The bond shall be conditioned upon the payment of all costs and charges that are adjudged against the protestor in the administrative hearing in which action is brought and in any subsequent appellate court proceeding. In lieu of a bond the Agency may accept a cashier's check, official bank check, or money order in the amount of the bond. Failure to file the proper bond at the time of filing the formal written protest will result in a rejection of the protest.

### **SECTION 3 – SPECIFICATIONS**

#### **3.1 Price Per Each Language**

Vendor will give a price per language for each item on Appendix VII Price Page. Plus, attach an additional document indicating all other languages available that are not listed on the price sheet and the cost per word.

#### **3.2 Scope of Work**

The vendor shall provide document translation services for the Agency for any written request for translation of Agency documents, which may involve translating the length of an entire page, a short paragraph, or a sentence in a specified section(s). These documents are used to provide information in the language comprehended by the individual receiving the document.

Translation services shall be requested in writing by Agency staff. Upon receipt of the Agency's written request to translate and the content to translate, the vendor shall provide individual quotes for each requested translation, at the negotiated rates established in this contract, unless the agency waives the right to receive a quote. The quote shall include estimated completion timeframes.

The Agency will not accept a bid that has a minimum page requirement or fixed fee per document cost for translation services.

#### **3.3 Balance of Line Services**

Additional services that the Vendor can provide to APD to include but not limited to the following examples:

- Video voice over
- Sub titles to video/PowerPoint documents
- Video translations

Bidders shall quote a per hour quote to be billed in one (1) minute increments on Appendix VII Price Sheet.

### 3.3 Major Contract Goals

- 1) Provide document translation services in the language comprehended by the individual.
- 2) Provide high quality, consistent, correct complete, and timely document translation services.

## A. SERVICES TO BE PROVIDED

### 1. Definition of Terms

- 1) **Client:** Any person determined eligible by the Agency for services under Chapter 393, F.S. or their authorized representative.
- 2) **iBudget Waiver:** A Medicaid program that provides home and community-based supports and services to eligible Medicaid-enrolled clients. Eligible clients shall include individuals with a developmental disability as defined in section 393.063, F.S. living at home or in a home-like setting. The waiver program is funded by the federal Centers for Medicare and Medicaid Services (CMS) and matching state dollars.
- 3) **Consumer Directed Care Plus (CDC+) Program:** A long-term care program alternative to the iBudget Waiver. Individuals receiving services through the CDC+ program are Clients living in their own home or in the family home and meet iBudget Waiver requirements.
- 4) **Documents:** Written materials created by the Agency to assist the individual in accessing, choosing, and/or utilizing services. The content may be informative in nature or related to Agency policies or procedures.
- 5) **Regional Office:** The Agency local office responsible for ordering translation services for a specific geographical region. APD regions are; Northwest Region, Northeast Region, Central Region, Suncoast Region, Southeast Region, Southern Region and State Office.
- 6) **Wait List:** A list maintained by the Agency State Office of eligible individuals requesting and waiting for enrollment to receive iBudget Waiver services.
- 7) **Template:** Required content in the document which has already been translated. Within the template are specified sections that can be altered, customized, or populated. These sections are used to provide information specific to an individual and must be provided in the language comprehended by the individual receiving the document.

### 2. Clients to be Served

The population receiving services funded by this contract are Clients or applicants for developmental disability services or their authorized representative, needing documents from the Agency provided in the language comprehended by the individual receiving the document during the term of this contract.



Eligible individuals include applicants for developmental disability services or any Client on the iBudget Waiver, Waiting List, CDC+, or their authorized representative in need of document translation provided in the language comprehended by the individual receiving the Notice or document.

## **B. MANNER OF SERVICE PROVISION**

### **1. Service Tasks**

#### **a. Task List**

##### **1) Translator Requirements**

- a)** The vendor shall ensure all translators providing services under this contract adhere to federal, state and Agency rules, standards, regulations, and any other guidelines required by the Agency.
- b)** The vendor shall ensure all translators providing document translation services adhere to Health Insurance Portability and Accountability Act (HIPAA) standards.
- c)** The vendor shall have sufficient amounts of document translators, quality assurance staff, proofreaders and project management staff to respond to the diverse language needs for the Agency's statewide requests for document translation.
- d)** The vendor shall not use offshore translators (translators outside of the United States) to fulfill the translation requirements of the Agency, nor shall the vendor permit any client data or information be used or stored outside the United States, without consent of the Agency.

##### **2) Processing Translation Requests**

- a)** The vendor shall coordinate with the Agency and designated Agency staff and any other entity identified by the Agency in the delivery of document translation services and timely communicate any issues or questions regarding requested translations.
- b)** The vendor shall provide the Agency with a secure and encrypted method to receive translation requests from APD and to provide the translated documents to the Agency.
- c)** The vendor shall establish a process for receiving translation requests, confirming receipt of translation requests, obtaining clarification from Agency staff on translation requests, and delivering completed translation requests within the timeframes set forth below in Section 2(d). Within ten (10) days of receipt of the Agency contract, the vendor shall submit the draft process to the Agency for review. The Agency shall provide any proposed edits or approval within 10 days of receipt of the draft process. Vendor shall coordinate with the Agency in the creation of a process acceptable to the Agency which shall be completed prior to the rendering of services under the contract.

- d) The vendor shall complete translation projects within three (3) business days or other timeframes as requested in writing from the Agency providing expedited services and same day translation as needed. Completed translations provided to the Agency at a date later than the written request or established 3 business day timeframe shall be considered late. The Agency reserves the right to impose financial consequences for late translations in accordance with Section 7 of the ITB.
- e) Upon receipt of a written request to translate from APD, the vendor shall provide quotes for documents to be translated at the negotiated rates established in this contract, unless the Agency waives the right to receive a quote. The quote shall include estimated completion timeframes that cannot exceed the time limits stated in the contract.

### **3) Document Translation Services**

- a) The vendor shall maintain adequate software to complete translation requests in any file or format requested by the Agency.
- b) The vendor shall provide accurate, consistent and clear translation services as requested by the Agency in the language comprehended by the individual receiving the document and shall make every effort to provide document translation using a writing style that can be understood by individuals whose level of education is at the 6th-8th grade level and correctly conveys the context, tone and intended meaning of the English term, phrase, or sentence, which may consist of Agency specific terminology.
- c) The vendor shall assure translated materials use correct spelling, grammar, and language structure.
- d) Unless otherwise specified in the request for translation, such as request for Brazilian Portuguese instead of the Portuguese of Portugal, the translated content shall be comprehensible across all dialects of the requested language to the greatest extent possible, and shall not alter or inaccurately communicate the context, tone, and intended meaning of the English term, phrase, or sentence, which may consist of Agency specific terminology.
- e) The vendor shall ensure translated content is consistent across all translations completed for the Agency, including but not limited to, document titles, names of attachments, and APD specific terminology.
- f) APD will provide a list of appropriate translation for words that may not be in other languages; i.e., disabilities waiver, CDC, Agency for Persons with Disabilities, that will be used for all translations in that language.
- g) The vendor shall have quality assurance measures sufficient to result in high quality accurate document translation that complies with the service tasks as outlined herein and have a procedure to remedy translation errors in a timely manner. Quality assurance measures must include, but are not limited to, a thorough proofreading of the translated document and seeking clarification from the Agency if the translation request is unclear. The Vendor shall avoid

copying and pasting translated text from other documents.

- h) With each translated document provided to the Agency, the vendor shall certify that the document was accurately translated and has been reviewed pursuant to the vendor's quality assurance measures. This written certificate of accuracy accompanying the translation must document the quality assurance measures performed by the vendor for the requested document translation including, but not limited to, the time spent, and the number of staff utilized for quality assurance.
- i) Upon receipt of a written request from designated Agency staff to revise a vendor translated document, the vendor shall correct the identified errors within the translation within 36 hours of receipt of the written request.
- j) The vendor shall have an account manager on staff at all times during normal business hours who shall serve as a point of contact for this contract.
- k) The vendor shall monitor and evaluate the Agency's satisfaction with the services and service delivery and any concerns with quality assurance raised by the Agency.

**b. Task Limits**

- 1) The vendor is limited to receiving payment only for the tasks specified and performed in accordance with its proposal and this contract, unless there is expressed written consent from the Agency for expansion. Such consent can only be authorized by a change to the contract.
- 2) Translators shall provide document translation services only in the languages and specialized program area(s) for which they are trained.

**2. Staffing Requirements**

**a. Staffing Levels**

- 1) The vendor shall maintain an adequate and qualified administrative staff, qualified management staff, support staff, translators, and organizational structure to satisfactorily meet the terms of conditions of this contract.
- 2) The vendor must maintain an infrastructure suitable to respond to the diverse language needs of the client population in Florida.
- 3) In the event the Agency determines that the vendor's staffing levels are not adequate to successfully accomplish contract deliverables, the Agency shall advise the vendor in writing and the vendor shall have thirty (30) calendar days to remedy the identified staffing deficiencies.

**b. Professional Qualifications**

- 1) If any of the vendor's staff are required to be licensed in their field to provide services, the vendor's staff shall ensure they are licensed and in good standing in accordance with applicable state laws and rules.
- 2) The vendor shall ensure compliance with applicable laws, rules, regulations, and

licensing and certification standards regarding professional qualifications.

**c. Staffing Changes**

The vendor shall notify the APD Contract Manager within two (2) business days of any changes in Executive Management, such as the Chief Executive Officer or equivalent and the Chief Financial Officer.

**Subcontractors**

- a. The successful bidder may, only with prior written approval of the Agency, enter into written subcontracts for performance of specific services under the contract/purchase order resulting from this solicitation. Anticipated subcontract agreements known at the time of bid submission and the amount of the subcontract must be identified in the bid. If a subcontract has been identified at the time of bid submission, a copy of the proposed subcontract must be submitted to the Agency. No subcontract that the bidder enters into with respect to performance under the contract shall in any way relieve the bidder of any responsibility for performance of its contract responsibilities with the Agency. The Agency reserves the right to request and review information in conjunction with its determination regarding a subcontract request.

The successful bidder shall provide a monthly Subcontract Report summarizing all subcontracting/material suppliers performed during the prospective contract/purchase order period. This report shall include the name and address, Federal Employment Identification number and dollar amount expended for any subcontractor. A copy of this form shall be submitted to the Agency's designated Procurement Officer. The Agency for Persons with Disabilities encourages the use of Minority Women Business Enterprise (MWBE) and Service Disabled Veteran Business Enterprise (SDVBE) vendors for subcontracting opportunities. For assistance locating a certified MWBE or a SDVBE, contact the Agency for Persons with Disabilities Minority Coordinator (850-414-8879) or the Office of Supplier Diversity (850-487-0915), as needed.

In accordance with Executive Order No. 11-02, the selected vendor and all subcontractors assigned to perform work pursuant to the contract with the state agency shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all persons assigned by the subcontractor to perform work pursuant to the contract/purchase order with the agency.

**3. Service Location and Equipment**

**a. Service Delivery Location**

The vendor shall provide document translation service activities statewide to the Agency in accordance with the terms and conditions of this contract. APD will sign a two (2) party contract with the awarded vendor and blanket purchase orders will be issued for APD regional offices.

Each purchase order will have the name, address and phone number for the APD employee that is the contact individual for the translations.

Should conflict arise between the service delivery contact person and the vendor, the APD Contract Manager shall intervene and lead negotiations.

**b. Service Times**

At a minimum, the vendor shall provide services Monday through Friday, during normal business hours (8:00 a.m. to 5:00 p.m. EST).

**c. Changes in Location**

The vendor shall notify the APD Contract Manager in writing a minimum of five (5) business days prior to making changes in location that will affect the Agency's ability to contact the Vendor by telephone, email or facsimile transmission. Notice should specify the address of the location and telephone number where the vendor may be reached.

**d. Equipment**

The vendor shall be responsible for supplying as needed, all equipment necessary to perform, conduct, and complete the terms and conditions of this contract.

**4. Deliverables****a. Service Units**

Service units include all activities required to be performed in accordance with the Task List, and the terms and conditions of this contract. The Agency shall pay the vendor for the delivery of services and in accordance with the satisfactory completion of the terms and conditions of this contract. The Agency retains the right to withhold payment until satisfactory completion of the terms and conditions of this contract are confirmed by the Agency.

**b. Records and Documentation**

- 1) The vendor shall maintain records in a format approved by the Agency at the vendor's expense. The Vendor shall, where applicable, store and maintain records and documentation in conformance with the Health Insurance Portability and Accountability Act (42 U.S.C. 1320d) as well as regulations promulgated thereunder (45 CFR Parts 160 and 164) at no cost to the Agency.
- 2) The vendor must maintain records and documentation as specified in this contract, including records on client services, so that an audit trail documenting service provision is maintained. The vendor must maintain all reports relating to the contract deliverables and the accompanying backup or supporting documentation upon which each report was based.
- 3) The vendor shall maintain copies of all invoices submitted to the Agency.
- 4) All records and documentation shall be made available to the Agency at any time if requested. Data files and records required by the Agency shall be provided in a format readable by the Agency.
- 5) At the termination of this contract the Vendor will return, at the vendor's expense all records related to this contract to the Contract Manager.

**c. Reports**

All required reports and/or plans shall be in a format approved by the Agency and received by the required due dates stated in the contract. If the dates fall on an established State holiday or weekend, such reports shall be due the next business day. If a natural disaster occurs, such reports shall be due when Agency administrative services are restored. The vendor must request prior approval, in writing, to submit required reports and/or plans after the due dates. All reports shall be delivered to the Contract Manager.

**1) Monthly Document Translation Services Report-** A Monthly Document Translation Service Report will be submitted for each purchase order issued at the time of the invoice submission and within 10 calendar days following the end of each month in which services were rendered. The vendor shall provide a report containing the following information delineated by purchase order:

- a) the number of words translated per language and the total cost,
- b) the number of documents translated per language and the total cost
- c) Timeframes in which each translation service order was received, and services provided to the Agency.

**2) Monthly Performance Specifications Report-** A Monthly Performance Specification Report will be submitted at the time of the invoice submission and within 10 calendar days following the end of each month in which services were rendered, the vendor shall provide a report containing the following information delineated by purchase order:

- a) each translation request for that month, with the request date and delivery date,
- b) the percentage of all the translation requests for that month that were completed within 3 business days,
- c) the percentage of expedited translation requests for that month completed within the Agency requested timeframe.

Report Title	Report Frequency	Report Due Date	Agency Contact Manager
Invoice Request for Services	Monthly with Submission of deliverables	10 <sup>th</sup> day of the month following the end of each month in which services were rendered.	Natalie Jean 4030 Esplanade Way, Suite 360 Tallahassee, FL 32399
Monthly Document Translation Services Report	Monthly	10 <sup>th</sup> day of the month following the end of each month in which services were rendered.	Natalie Jean 4030 Esplanade Way, Suite 360 Tallahassee, FL 32399

## 5. PERFORMANCE SPECIFICATIONS

### a. Performance Measures

Translation quality means the success of the translation in accurately capturing and conveying the information and the intent of the APD source document. Translation quality becomes mission-critical for Agency medical, legal and technical documentation, where poor quality translations could cause an APD client not understanding the purpose of the document presented to them, which in turn could result in loss of medical care, revenues, legal action and even loss of life. APD will categorize errors in various areas such as terminology, meaning, structure, spelling, punctuation and completeness.

- i) 98% of the translation services shall be completed by the vendor within 3 business days of a written request to translate from Agency staff for documents under 10 pages or less, unless otherwise agreed upon in writing.
- ii) 98% of the translation services orders shall be completed by the vendor within the Agency's required timeframes, identified in the Agency's written request to translate.
- iii) Translations completed by the vendor will be evaluated for quality with fewer than 98% of sampled documents having translations quality as being categorized as having minor irregularities. These will be documented in writing to the vendor. The vendor may be placed on a Correction Action Plan to request a plan to address minor translation errors. The vendor will correct the errors and send it back at no charge to the Agency.
- iv) Translations completed by the vendor will be evaluated for quality with 1% of sampled documents having translations quality as being categorized as having major irregularities. Documents deemed as containing major errors will be retranslated and the Agency will not pay for the initial translation or the re-translation. If a vendor has more than 2 major errors per quarter, it could result in the cancellation of the contract.

### b. Performance Measure Specifications

- 1) The outcome measurement contained in Section 5.a.i., is a percent. The numerator is the number of requested document translation services completed timely within 3 business days. The denominator is the total number of document translation services requested during the reporting period.
- 2) The outcome measurement contained in Section 5.a.ii, is a percent. The numerator is the number of translation services orders completed within the Agency's required timeframes. The denominator is the total number of document translation services orders requesting completion in a timeframe other than 3 business days submitted during the reporting period.
- 3) The outcome measurement contained in Section 5.a.iii, is a percent. The numerator is the number of requested document translation services completed correctly and verified. The denominator is the total number of document translation services requested during the reporting period.
- 4) The outcome measurement contained in Section 5.a.iv., is a percent. The numerator is the number of requested document translation services completed

correctly and verified. The denominator is the total number of document translation services requested during the reporting period.

**c. Performance Compliance**

Where this contract requires the generation of deliverables or reports to the Agency, mere receipt by the Agency shall not be construed to mean or imply acceptance of those deliverables or reports. It is specifically intended by the Agency that acceptance of required deliverables or reports constitute a separate act. The Agency reserves the right to reject reports as incomplete, inadequate or unacceptable according to the parameters set forth in this contract.

**6. Vendor Responsibilities**

- a. The vendor is solely and uniquely responsible for the satisfactory performance of all terms, conditions and tasks contained within this contract.
- b. The vendor shall provide services to the Agency or its clients in order to provide a coordinated and cost-effective array of services. Agency designated staff shall be coordinated to ensure the clients' needs are met, services are not being duplicated, and there is a clear understanding by Agency staff, clients and the service vendor of their roles in the provision of services. However, the failure of other agencies/vendors or entities does not alleviate the vendor from any accountability for tasks or services the vendor is obligated to perform pursuant to this contract.

**7. Agency Responsibilities**

**a. Agency Obligations**

For each translation project, designated Agency staff shall notify the vendor in writing of the document(s) to be translated, the target language(s), project specific tasks and deliverables, completion timeframes, and any other project specific requirements, including requests for revision of a translation received from the vendor.

**b. Agency Determinations**

- 1) The Agency reserves the exclusive right to make any and all determinations it deems necessary to protect the best interests of the State of Florida and the health, safety, and welfare of the clients who are served by the Agency either directly or through any one of its vendors.
- 2) The Agency has exclusive authority to determine the availability of funds, authorize and issue payment for services billed under this contract, and to determine the satisfactory performance of the vendor in carrying out tasks and completing deliverables specified in this contract through the review or inspection of reports and deliverables submitted by the vendor and through Agency monitoring.
- 3) Final authority in all disputes related to this contract rests solely with the Agency. The Agency agrees to make reasonable efforts to consult with the Vendor and amicably resolve all disputes prior to such final determination.

**c. Monitoring Requirements**

The vendor shall be monitored in accordance with Agency requirements, as applicable.



The Agency may hire a third party to validate the quality and completeness of a translation. Should it be determined that translations are not accurate the Agency will not pay for the flawed translations. Failure to meet the requirements of Section 5a could result in financial penalties up to and including contract cancellation.

**d. Contract Manager**

The Contract Manager for this contract is the individual that will handle all contract disputes and issues and is listed below:

Ms. Natalie Jean  
 4030 Esplanade Way, Suite 360S  
 Tallahassee, FL 32399  
 850-414-6666  
 Natalie.jean@apdcares.org

**C. METHOD OF PAYMENT**

**1. Payment Clause**

- a. This is a fixed price (fixed fee) contract. The Agency shall pay the vendor at the specified unit rates upon satisfactory completion of the services, terms and conditions specified in this contract at the end of each calendar month. The Agency's obligation to pay under this contract is subject to the availability of funds and the quality of the services provided. Agency requests for revision of translated documents based upon an error on the part of the vendor shall not be reflected in vendor's monthly invoice.
- b. The vendor shall provide itemized estimates for each translation request. The estimate must indicate when the translation request will be completed, delivered, and the estimated cost involved. Estimates are required to include layout, desktop publishing, proofreading and associated charges. The estimate will be based on the negotiated unit price per English word per language. The Agency representative with authority to bind the Agency will sign and return the estimate, thus accepting the cost.
- c. The vendor shall provide document translation services at negotiated rates. Vendor's rates should include all costs associated with the provision of service under this contract including, but not limited to, completing the translation in the identified language and delivering within the requested timeframe, proofreading, and quality assurance measures. Document translation services that do not meet the minimum document charge for that language identified by the Vendor will be charged on a per word basis at a negotiated translation rate for that language.
- d. No services should be rendered unless a purchase order has been fully executed for the services.

**2. Invoicing Requirements and Documentation**

- a. The vendor shall request payment on a monthly basis through the submission of a properly completed Request for Payment/Invoice within 10 calendar days following the month of service delivery. The Request for Payment/Invoice

submitted to the Agency must contain all the information requested by Agency for this specific document, as well as provided in a format required by the Agency. The Agency reserves the right to withhold payment until the document is provided in accordance with Agency requirements.

- b. The Request for Payment/Invoice shall contain the vendor's Name, vendor ID (Federal Tax ID) number, invoice number, type of service, and number of units, costs per unit, invoice total, the date on which the invoice was submitted to the Agency, the dates of services the invoice covered, and the amount of service words. The Agency reserves the right to confirm the accuracy of the information provided on this document.
- c. The invoice shall be on the Vendor's letterhead or contain the vendors identification and contain a signature from an appropriate officer or authorized individual (with a Signature Authority Letter, if applicable) of the Vendor attesting to the accuracy and completeness of the invoice.
- d. A certification statement signed by the vendor's contract administrator or authorized representative that reads, "I certify that the invoice is complete, and all costs and fees claimed for payment are accurate and were performed in furtherance of this contract".
- e. The vendor must maintain records documenting the total number of translations and the translation (or unique identifiers) to whom services were provided and the dates the services were provided so that an audit trail documenting service provision can be maintained.

## **SECTION 4 - VENDOR REQUIREMENTS**

### **4.1 Bidder Qualifications**

The successful bidder shall have all applicable licenses and/or permits with the State of Florida, and must comply with all applicable federal, state, and local rules and regulations pertaining to the storage, handling, of translation services.

### **4.2 Vendor Disqualification**

Persons or affiliates placed on the Convicted Vendor List or the Discriminatory Vendor List are disqualified pursuant to Sections 7 and 8 of PUR 1001, which is located at the following website:

<http://dms.myflorida.com/content/download/2934/11780>

### **4.3 Vendor Disqualifications for Previous Failure to Perform**

In addition to other criteria set forth herein, failure to have performed any previous contractual obligations with the Agency in a manner satisfactory to the Agency will be a sufficient cause for disqualification or termination. To be disqualified as a vendor under this provision, the prospective vendor must have previously failed to satisfactorily perform in a contract with the Agency, been notified by the Agency of the unsatisfactory performance and failed to correct the unsatisfactory performance to the satisfaction of the Agency or had a contract terminated by the Agency for cause.

#### **4.4 Vendor Invoicing**

Invoices must be mailed to the individual named on the purchase order and shall be sent to the address as indicated on the purchase order. Each invoice must include a detailed description showing all items translated.

#### **4.5 Subcontractors**

The successful bidder may, only with prior written approval of the Agency, enter into written subcontracts for performance of specific services under the contract/purchase order resulting from this solicitation. Anticipated subcontract agreements known at the time of bid submission and the amount of the subcontract must be identified in the bid. If a subcontract has been identified at the time of bid submission, a copy of the proposed subcontract must be submitted to the Agency. No subcontract that the bidder enters into with respect to performance under the contract shall in any way relieve the bidder of any responsibility for performance of its contract responsibilities with the Agency. The Agency reserves the right to request and review information in conjunction with its determination regarding a subcontract request.

The successful bidder shall provide a monthly Subcontract Report to the Contract Manager summarizing all subcontracting/material suppliers performed during the prospective contract/purchase order period. This report shall include the name and address, Federal Employment Identification number and dollar amount expended for any subcontractor. A copy of this form shall be submitted to the Agency's designated Procurement Officer. The Agency for Persons with Disabilities encourages the use of MWBE and SDVBE vendors for subcontracting opportunities. For assistance locating a certified MWBE or a SDVBE, contact the Agency Minority Coordinator (850-414-8879) or the Office of Supplier Diversity (850-487-0915), as needed.

In accordance with Executive Order No. 11-02, the selected vendor and all subcontractors assigned to perform work pursuant to the contract with the state agency shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all persons assigned by the subcontractor to perform work pursuant to the contract/purchase order with the agency.

#### **4.6 Correspondence**

All correspondence with the Agency prior to this bid will be used for general information. All vendors must submit a sealed bid as specified in this ITB.

#### **4.7 MyFloridaMarketPlace Transaction Fee**

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement System, pursuant to subsection 287.057(22), F.S., all payments shall be assessed a Transaction Fee of one percent (1.0%), which the vendor shall pay to the State.

For payments within the State accounting system, Florida Accounting Information Resource, (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the vendor. If automatic deduction is not possible, the vendor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), Florida Administrative Code, (F.A.C). By submission of these reports and corresponding payments, vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

The vendor shall receive a credit of any Transaction Fee paid by the vendor for the purchase of any item(s) if such item(s) are returned to the vendor through no fault, act, or omission of the vendor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the vendor's failure to perform or comply with specifications or requirements of the agreement. Failure to comply with these requirements shall constitute grounds for declaring the vendor in default and recovering procurement costs from the vendor in addition to all outstanding fees. VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.

#### **4.8 Vendor Registration in MyFloridaMarketPlace**

Any vendor who is awarded a purchase order from this bid shall provide a copy of the registration certification from the Florida Department of State to the Agency for Persons with Disabilities upon execution. No purchase order may be awarded by any state agency to any vendor who is not registered in the MyFloridaMarketPlace eProcurement system unless exempted by Rule 60A-1.033(3), F.A.C.

#### **4.9 Changes to Location**

The vendor shall notify APD in writing a minimum of seven (7) business days prior to making changes in business location that will affect the Agency's ability to contact the vendor by phone, email or facsimile transmission.

#### **4.10 State of Florida Form PUR 1000**

The State of Florida Form PUR 1000, General Contract Conditions, contains standard terms and conditions that will apply to purchase orders that result from the ITB. In the event of any conflict between Form PUR 1000 and this solicitation, the terms of this solicitation shall take precedence over the Form PUR 1000 unless the conflicting term is required by any section of the Florida Statutes, in which cases the term contained in PUR 1000 shall take precedence.

By submitting a bid in response to this ITB, the bidder is deemed to have accepted these terms and conditions in their entirety. A bidder's bid shall be considered as the bidder's formal offer. Commodities purchased under this ITB shall be made by purchase order (see Appendix VII, which is attached to and incorporated herein), and which shall incorporate the terms and conditions of PUR 1000.

[PUR 1000](#) Web Link

#### **4.11 Confidential, Proprietary, or Trade Secret Material**

The Agency takes its public records responsibilities as provided under chapter 119, F. S. and Article I, Section 24 of the Florida Constitution, very seriously. If vendor considers any portion of the documents, data or records submitted in response to this solicitation to be confidential, trade secret or otherwise not subject to disclosure pursuant to chapter 119, F. S., the Florida Constitution or other authority, vendor must also simultaneously provide the Agency with a separate redacted copy of the ITB response and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the Agency's solicitation name, number, and the name of the vendor on the cover, and shall be clearly titled "Redacted Copy." The Redacted Copy shall be provided to the Agency at the same time vendor submits its response to the solicitation and must only exclude or redact those exact portions which are claimed confidential, proprietary, or trade secret.

Vendor shall be responsible for defending its determination that the redacted portions of its response are confidential, trade secret or otherwise not subject to disclosure. Further, vendor shall protect, defend, and indemnify the Agency for any and all claims arising from or relating to vendor's determination that the redacted portions of its response are confidential, proprietary, trade secret or otherwise not subject to disclosure. If vendor fails to submit a Redacted Copy with its response, the Agency is authorized to produce the entire documents, data or records submitted by vendor in answer to a public records request for these records.

#### **4.12 Public Records**

The vendor shall keep and maintain public records that ordinarily and necessarily would be required by the Agency in order to perform the services specified in this contract.

The vendor shall provide the public with access to public records on the same terms and conditions that the Agency would provide the records and at a cost that does not exceed the cost provided in accordance with Agency costs and rates or as otherwise provided by law.

The vendor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

The vendor shall meet all requirements for retaining public records and transfer, at no cost, to the Agency all public records in possession of the Provider upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Agency in a format that is compatible with the information technology systems of the Agency.

If the vendor does not comply with a public records request, this shall constitute an immediate breach of contract for which the Agency may unilaterally and without prior notice terminate the Contract.

### **SECTION 5 - INSTRUCTIONS TO VENDORS FOR BID SUBMISSION**

#### **5.1 General Instructions to Respondents, Form PUR 1001**

The State of Florida Form PUR 1001, General Instructions to Respondents, contains standard terms and conditions that will apply to the purchase order that results from the ITB. In the event of any conflict between Form PUR 1001 and this solicitation, the terms of this solicitation shall take precedence over the Form PUR 1001 unless the conflicting term is required by any section of the Florida Statutes, in which cases the term contained in PUR 1001 shall take precedence. Form PUR 1001 is available at:

[PUR 1001 Web Link](#)

#### **5.2 Title Page**

The first page of the bid shall be a Title Page that contains the following:

1. ITB Number;
2. Title of the Bid;
3. Vendor's Name;

4. Agency for Persons with Disabilities to which bid is submitted;
5. Name, Title, Phone Number and Address of person who can respond to inquiries regarding the bid; and
6. Name of the Vendor's Project Director (if known)

### 5.3 Description

The bid shall include descriptive information that educates the Agency on the vendor's qualifications and capacity to provide translation services funded under this contract. At minimum, the description shall accomplish the following:

- a. Describe the approach and method the vendor will use to provide translation services
- b. Provide a detailed explanation of the quality assurance process;
- c. Summarize project(s) completed that mirror or are similar to the Scope of Work;
- d. Explain how translation software is used in the translation process, if any.

### 5.4 Required Vendor Statement or Certifications

- a. The vendor shall submit with each bid a signed Certificate of Signature Authority, which is located in Appendix I. The vendor must complete either Section A, of Appendix I (or provide a corporate resolution or other duly executed certification issued in the Vendor's normal course of business) or Section B, demonstrating that the person signing the form and its statements and certifications is authorized to make such representations and to bind the company.
- b. The vendor shall submit with each bid a copy of all applicable licenses or permits as detailed in Section 4.1.

### 5.5 Cost of Preparation of Bid

The Agency is not liable for any costs incurred by a vendor responding to this ITB.

### 5.6 Submission of Bid

The vendor must submit 1 original signed bid package and 2 copies of the bid package. The original signature must be that of an official of the vendor who is authorized to bind the vendor to the bid. Bids are due at the time, date and location specified in Section 2.4, Calendar of Events and Deadlines, and shall be sealed and submitted to the attention of the Procurement Officer as stated in Section 2.1, Contact Person.

Bids received late will not be considered for further review. The vendor may choose and is responsible for, the method of delivery to the Agency, except that facsimiles or electronic transmissions will not be accepted. The envelope must be clearly marked "Bid" with bid number on the outside of the envelope.

Vendors are encouraged **not** to use three ring binders when submitting their bids.

Vendors are cautioned when submitting bid that the delivery location is a secure building and vendors (including overnight delivery couriers) are required to sign in and be escorted throughout the building. Vendor must ensure that they have enough time to gain entry into the building and have the ITB delivered **PRIOR** to the bid opening time.

### **5.7 Verbal Instructions**

No negotiations, decisions, or actions shall be initiated or executed by the vendor as a result of any discussions with any Agency employee. Only those communications that are in writing from the Agency's Procurement Officer identified in Section 2.1, Contact Person shall be considered a duly authorized expression on behalf of the Agency. Only communications from the vendor's representative to the Agency's Procurement Officer, which are in writing and signed, will be recognized by the Agency as duly authorized expressions on behalf of the vendor.

### **5.8 Documents**

The vendor must complete all required identified documents (with the exception of Appendix IV) and return the originals as part of the bid package. Any bid which does not include the required documents may be considered non-responsive and the bid may be rejected.

- a. Appendix I - Certificate of Signature Authority
- b. Appendix II – Vendor's Certifications
- c. Appendix III – Tie Breaking
- d. Appendix IV – Mandatory Requirement's Check List (not to be completed by vendors)
- e. Appendix V - Vendor Contact Information
- f. Appendix VI - Drug-Free Workplace Program Certification
- g. Appendix VII - Price Page
- h. Appendix VIII – APD Standard Contract

## **SECTION 6 - BID RATING AND BID TABULATION SHEET**

### **6.1 Identical Tie Responses**

When evaluating responses to solicitations, if the Agency receives identical pricing, the Agency shall determine the award using the criteria in accordance with Florida Statutes.

### **6.2 ITB Tabulation Methodology**

If a bid has been determined to be both responsive and responsible, meeting all criteria specified in this ITB, then the Procurement Officer will review the Vendor's Price Sheet and record the cost on the Bid Tabulation Sheet.

### **6.3 Bid Evaluation Process**

APD will award to the Vendor who is determined to be the responsible and responsive vendor who submits the lowest bid. The Agency will determine the lowest bidder from the Price Sheet based on the six following languages to be translated: Spanish, Haitian Creole, Arabic, Vietnamese, Laotian, and Portuguese (Portugal).

## **SECTION 7- FINANCIAL SPECIFICATIONS**

### **7.1 Funding Source**

The funding source for the resulting contract will be subject to the availability of state funds.

### **7.2 Financial Penalties**

Financial penalties for this contract shall be in accordance with Section 38, APD Standard Contract, Attachment VIII.

**Certificate of Signature Authority**

<b>Check below and complete Section A or Section B</b>	
<input type="checkbox"/>	Vendor is not a sole proprietorship (Complete Section A)
<input type="checkbox"/>	Vendor is a sole proprietorship (Complete Section B)
<b>SECTION A</b>	

I \_\_\_\_\_(name), hold the office or position of \_\_\_\_\_(title) with \_\_\_\_\_

(legal name of Vendor) and have authority to make official representations by said vendor regarding its official records and hereby state that my examination of the vendor's records show that \_\_\_\_\_(name) currently holds the office or position of \_\_\_\_\_(title) with the vendor and currently has authority to make binding representations to the Agency and sign all documents submitted on behalf of the above-named vendor in response to ITB # APD 18/19-009), and, in so doing, to bind the named Vendor to the statements made therein.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

NOTE: In lieu of the above, the Vendor may submit a corporate resolution or other duly executed certification issued in the Vendor's normal course of business to prove signature authority of the named Authorized Representative.

**SECTION B**

I, \_\_\_\_\_(name) am a sole proprietor, personally doing business in the name of \_\_\_\_\_(name of Vendor) and will be personally bound by the Proposal submitted in response to ITB # APD 18/19-009.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_



APPENDIX II

Vendor's Certifications

MANDATORY CERTIFICATIONS		
MASTER CERTIFICATION		
<p>As the person named in the Certificate of Signature Authority as the Authorized Representative of the Vendor, _____ (legal name of Vendor), I confirm that I have fully informed myself of all terms and conditions of ITB # APD 18/19-009 (the ITB), the facts regarding the Proposal submitted by the Vendor in response to the ITB and the truth of each statement contained in Certifications (a) through (k) and certify, by checking the applicable "true" or "false" box below and affixing my signature hereto, that each statement in each checked certification is "true" or "false" as indicated.</p>		
<p>Check the applicable box next to the title to each certification:</p>		
True	False	
		a. Certification of Binding Proposal and Acceptance of Terms of RFP and Contract Document
		b. Certification of Representations Per Section 9 of PUR 1001
		c. Certification of Authority to Do Business in Florida
		d. Statement of No Involvement
		e. Conflict of Interest Statement (Non-Collusion)
		f. Certification Regarding Lobbying
		g. Certification Regarding Scrutinized Companies List
		h. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Contracts/subcontracts
		i. Certification Regarding Prior Contractual Obligations
		j. Certification of Representations Per sections 287.133, and 287.134, F.S.
		k. Certification of a Drug Free Workplace
<p>The content of each certification named above, set forth below, is incorporated into this Master Certification as if fully recited herein and, for each certification marked "true" above, the below signature is deemed to be affixed to each such certification. I agree that any certification not marked above will be deemed "false."</p>		
Signature of Authorized Representative:		Date:
<p><b>a. Certification of Binding Proposal and Acceptance of Terms of RFP and Contract Document</b></p> <p>By checking the "True" box in the Master Certification and signing the same, I hereby certify that the Vendor's Proposal is submitted in good faith in response to the Agency for Persons with Disabilities Invitation to Bid (the ITB) and is binding on the Vendor in accordance with the terms of the ITB, that I have read, understood and agree with the terms and conditions of the ITB and, if awarded any contract as a result of the ITB, the Vendor will comply with the requirements, terms, and conditions stated in the RFP and the contract document. The Vendor further agrees that any intent by the Vendor to deviate from the terms and conditions set forth therein may result, at the Agency's exclusive determination, in rejection of the proposal.</p>		
<p><b>b. Certification of Representations Per Section 9 of PUR 1001</b></p> <p>By checking the "True" box in the Master Certification and signing the same, I hereby certify acknowledgement all matters set forth in section 9 of PUR 1001.</p>		
<p><b>c. Certification of Authority to Do Business in Florida</b></p> <p>By checking the True" box in the Master Certification and signing the same, I hereby certify that the Vendor is an existing legal entity and satisfies all licensing and registration requirements of state law authorizing it to do business within the State of Florida.</p>		
<p><b>d. Statement of No Involvement</b></p> <p>By checking the "True" box in the Master Certification and signing the same, I hereby certify that no member of this firm or any person having interest in this firm has been awarded a contract that was procured using procedures other than those described in s. 287.057 (1-3), F.S., to perform a feasibility study of the potential implementation of a subsequent contract to support this project; Participated in drafting of a solicitation for this specific project; or Developed a program for future implementation of this project.</p>		

<p><b>e. Conflict of Interest Statement (Non-Collusion)</b></p>
<p>By checking the "True" box in the Master Certification and signing the same, I hereby certify that all persons, companies, or parties interested in the Request for Proposals as principals are named therein, that the Vendor's proposal is made without collusion with any other person, persons, company, or parties submitting a proposal; that it is in all respect made in good faith; and as the signer of the proposal, I have full authority to legally bind the Vendor to the provisions of this proposal.</p>
<p><b>f. Certification Regarding Lobbying</b></p>
<p>By checking the "True" box in the Master Certification and signing the same, I hereby certify, to the best of my knowledge and belief, that:</p> <ol style="list-style-type: none"> <li>(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or an employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.</li> <li>(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.</li> <li>(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.</li> </ol> <p>This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>
<p><b>g. Certification Regarding Scrutinized Companies List</b></p>
<p>By checking the "True" box in the Master Certification and signing the same, I hereby certify the Vendor is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or that it does not have business operations in Cuba or Syria. Both lists are created pursuant to section 215.473, Florida Statutes. I understand section 287.135, Florida Statutes, prohibits Florida state agencies from contracting with companies on either list, for goods or services over \$1,000,000, and pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney's fees, and/or costs.</p>

#### **h. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Contracts/subcontracts**

By checking the "True" box in the Master Certification and signing the same, I hereby certify, in accordance with the debarment and suspension instructions listed below, the Vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract/subcontract by any federal department or agency. Where the prospective Vendor is unable to certify to any of the statements in this certification, such prospective Vendor shall attach an explanation to this certification.

#### **INSTRUCTIONS REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION FOR CONTRACTS/SUBCONTRACTS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, signed February 18, 1986. The guidelines were published in the May 29, 1987 Federal Register (52 Fed. Reg., pages 20360-20369). (See 2 C.F.R. Part 180)

- (1) Each Vendor whose contract/subcontract equals or exceeds \$25,000 in federal moneys must sign this certification prior to execution of each contract/subcontract. Additionally, Vendors who audit federal programs must also sign, regardless of the contract amount. The Agency for Persons with Disabilities cannot contract with these types of Vendors if they are debarred or suspended by the federal government.
- (2) This certification is a material representation of fact upon which reliance is placed when this contract/subcontract is entered into. If it is later determined that the signer knowingly rendered an erroneous certification, the Federal Government may pursue available remedies, including suspension and/or debarment.
- (3) The Vendor shall provide immediate written notice to the contract manager at any time the Vendor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "debarred," "suspended," "person," "principal," and "voluntarily excluded," as used in this certification, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Agency's procurement manager for assistance in obtaining a copy of those regulations.
- (5) The Vendor agrees by submitting this certification that, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this contract/subcontract unless authorized by the Federal Government.
- (6) The Vendor further agrees by submitting this certification that it will require each subcontractor of this contract/subcontract, whose payment will equal or exceed \$25,000 in federal moneys, to submit a signed copy of this certification.
- (7) The Agency for Persons with Disabilities may rely upon a certification of a Vendor that it is not debarred, suspended, ineligible, or voluntarily excluded from contracting/subcontracting unless it knows that the certification is erroneous.

This signed certification must be kept in the contract file. Subcontractor's certification must be kept at the Vendor's business location.

**i. Certification Regarding Prior Contractual Obligations**

By checking the "True" box in the Master Certification and signing the same, I hereby certify the Vendor has not:

- (1) Failed to correct to the satisfaction of the Agency any unsatisfactory performance in a previous contract after Agency notice of unsatisfactory performance;
- (2) Had a contract terminated by the Agency for cause; and
- (3) Failed to sign a certification regarding debarment, suspension, ineligibility and voluntary exclusion contract/subcontracts prior to contract execution.

**j. Certification of Representations Per Sections 287.133 and 287.134, F.S.**

By checking the "True" box in the Master Certification and signing the same, I hereby certify the Vendor is not listed on the Convicted Vendors List created and maintained pursuant to section 287.133, Florida Statutes, or on the Discriminatory Vendors List created and maintained pursuant to section 287.134, Florida Statutes.

**k. Certification of a Drug Free Workplace**

By checking the "True" box in the Master Certification and signing the same, I hereby certify the Vendor currently maintains a drug-free workplace environment in accordance with section 287.087, Florida Statutes, and will continue to promote this policy through implementation of that section.

APPENDIX III

**TIE BREAKING CERTIFICATIONS**

Statutory Preferences When Awarding Contracts

Various provisions of Florida Statutes provide for a preference to certain qualifying Vendors the advantage of "tie breakers" whenever two or more bids, proposals, or replies received by an agency are equal with respect to price, quality, and service. In order to take advantage of the below "tie breakers" a Vendor who meets the statutory qualifications for one or more of these "tie breakers" must certify it qualifies for the cited preference. Completion of the certification is optional for qualifying Vendors; however, a Vendor waives all rights to consideration of a "tie breaker" if it fails to submit the certification on or before the deadline to submit its bid, proposal or reply.

**MASTER CERTIFICATION – TIE-BREAKING CERTIFICATIONS**

As the Authorized Representative of the Vendor, \_\_\_\_\_ (legal name of Vendor), I confirm that I have fully informed myself of all terms and conditions of ITB # APD 18/19-009 (the ITB), the facts regarding the proposal submitted by the Vendor in response to the ITB and the truth of each statement contained in Certifications (l) through (o) and certify, by checking one or more of the boxes below and affixing my signature hereto, that each statement in each checked certification is true.

Check the box next to the title to each certification that is true:

<input type="checkbox"/>	Certification of a Certified Minority Business Enterprise
<input type="checkbox"/>	Certification of a Certified Veterans Business Enterprise
<input type="checkbox"/>	Certification of a Florida Business
<input type="checkbox"/>	Certification of a Foreign Manufacturer with a Factory in Florida
<input type="checkbox"/>	Certification of a Drug Free Workplace Program

The content of each certification named above, set forth below, is incorporated into this Master Certification as if fully recited herein and, for each certification marked "true," above, the below signature is deemed to be affixed to each such certification. I agree that any certification not marked above will be deemed "false."

Signature of Authorized Representative:	Date:

**Certification of a Certified Minority Business Enterprise**

By checking the "True" box in the Master Certification – Tie-Breaking Certifications and signing the same, I hereby certify that my organization is a Certified Minority Business Enterprise in accordance with §287.0943,

**Certification of a Veterans Business Enterprise**

By checking the "True" box in the Master Certification – Tie-Breaking Certifications and signing the same, I hereby certify that my organization is a Service Disabled Veterans Business Enterprise in accordance with §295.187(4)(a),

**Certification of a Florida Business**

By checking the "True" box in the Master Certification – Tie-Breaking Certifications and signing the same, I hereby certify that my organization's principal place of business is located within Florida in accordance with §287.087, F.S.

**Certification of a Foreign Manufacturer with a Factory in Florida**

By checking the "True" box in the Master Certification – Tie-Breaking Certifications and signing the same, I hereby certify that my manufacturing organization has a factory in Florida that employs over 200 employees working in Florida in accordance with §287.092, F.S.

**Certification of a Drug Free Workplace Program.**

By checking the "True" box in the Master Certification – Tie-Breaking Certifications and signing the same, I hereby certify that my company has a drug free workplace program in accordance with §287.087, F.S.

APPENDIX IV

**Mandatory Requirements Checklist**

This document is used by the Agency to assist with determining compliance

Print Vendor's Name (Agency):		
Print Name of Agency Reviewer (Procurement Manager):		
Signature of Agency Reviewer:		Date:
Print Name of Agency Witness:		
Signature of Agency Witness:		Date:
1. Was the proposal received by the date and time specific in the solicitation: (YES) = Pass (NO) = Fail		
2. Does the proposal include the following?		
a	Signed Proof of Signature Authority, naming the Vendor and its Authorized Representative (see note at bottom of Section A for acceptable alternatives).	(YES) = Pass (NO) = Fail
b	Master Certification, including the names of Vendor and its Authorized Representative and signature of the Authorized Representative.	(YES) = Pass (NO) = Fail
3. Is the "Yes" box in the Master Certification checked for each of the following?		
a	Certification of Binding Proposal and Acceptance of Terms of RFP and Contract Document	(YES) = Pass (NO) = Fail
b	Certification of Representations Per Section 9 of PUR 1001	(YES) = Pass (NO) = Fail
c	Certification of Authority to Do Business in Florida	
d	Statement of No Involvement	(YES) = Pass (NO) = Fail
e	Conflict of Interest Statement (Non-Collusion)	(YES) = Pass (NO) = Fail
f	Certification Regarding Lobbying	(YES) = Pass (NO) = Fail
g	Certification Regarding Scrutinized Companies List	(YES) = Pass (NO) = Fail
h	Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Contracts/subcontracts	(YES) = Pass (NO) = Fail
i	Certification Regarding Prior Contractual Obligations	(YES) = Pass (NO) = Fail
j	Certification of Representations per §287.133 and §287.134, F.S.	(YES) = Pass (NO) = Fail
k	Certification of a Drug Free Workplace	(YES) = Pass (NO) = Fail
Comments:		
4. Has the Agency verified the Vendor is not on the Convicted Vendor List or the Discriminatory Vendor List? (YES) = Pass (NO) = Fail		
Comments:		

**VENDOR CONTACT INFORMATION**

Designate one person authorized to conduct Contract Administration. (Please print)

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

**DRUG-FREE WORKPLACE PROGRAM CERTIFICATION**

**Chapter 287.087, Florida Statutes.** Preference shall be given to businesses with drug-free workplace programs whenever two or more bids which are equal with respect to price, quality, and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied Vendors has a drug free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 894, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on any employee who is so convicted or require the satisfactory participation in a drug abuse assistance or rehabilitation program as such is available in the employee's community.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of applicable laws, rules and regulations.

Does the Vendor responding to this solicitation certify that their firm has implemented a drug-free workplace program in accordance with the provision of Section 287.087, Florida Statutes, as stated above? \_\_\_\_\_ YES or \_\_\_\_\_ NO

\_\_\_\_\_  
Print Name of Authorized Official

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date



APPENDIX VII

**PRICE PAGE**

The form must be completed and attached as Appendix VII to the Bid.

<b>APPENDIX VII - PRICE SHEET - TRANSLATION SERVICES</b>	
<b>LANGUAGE</b>	<b>PRICE PER WORD</b>
ALBANIAN	
<b>ARABIC*</b>	
BOSNIAN	
CHINESE	
FARSI	
FILIPINO	
FRENCH	
<b>HAITIAN CREOLE*</b>	
HINDI	
ITALIAN	
KHMER	
<b>LAOTIAN*</b>	
MALAY	
<b>PORTUGUESE*</b>	
ROMANIAN	
RUSSIAN	
<b>SPANISH*</b>	
UKRAINIAN	
<b>VIETNAMESE*</b>	
<ul style="list-style-type: none"> <li>Indicates the languages whose overall average will determine award</li> </ul>	
<b>Attach an additional Price Sheet with prices of all other languages vendor can translate</b>	
By Affixing my signature on this bid, I hereby state that I have read all bid terms, conditions, and specifications and agree to all terms, conditions, provisions, and specifications.	
Vendor Name: _____	
Vendor Mailing Address: _____	
City, State, Zip: _____	
Telephone Number: _____	
Email Address: _____	
Federal Employer Identification Number (FEID): _____	
Authorized Signature (Manual): _____	
Authorized Signature (Typed) and Title: _____	
<b>(SIGN AND RETURN THIS APPENDIX)</b>	

**PRICE PAGE (continued)**

The form must be completed and attached as Appendix VII to the Bid.

<b>APPENDIX VII - PRICE SHEET BALANCE OF LINE ITEMS</b>	
<b>LANGUAGE</b>	<b>PRICE PER HOUR</b>
ALBANIAN	
AMERICAN SIGN LANGUAGE	
ARABIC*	
BOSNIAN	
CHINESE	
FARSI	
FILIPINO	
FRENCH	
<b>HAITIAN CREOLE*</b>	
HINDI	
ITALIAN	
KHMER	
<b>LAOTIAN*</b>	
MALAY	
<b>PORTUGUESE*</b>	
ROMANIAN	
RUSSIAN	
<b>SPANISH*</b>	
UKRAINIAN	
<b>VIETNAMESE*</b>	
<b>Attach an additional Price Sheet with prices of all other languages vendor can provide additional services.</b>	
By Affixing my signature on this bid, I hereby state that I have read all bid terms, conditions, and specifications and agree to all terms, conditions, provisions, and specifications.	
Vendor Name: _____	
Vendor Mailing Address: _____	
City, State, Zip: _____	
Telephone Number: _____	
Email Address: _____	
Federal Employer Identification Number (FEID): _____	
Authorized Signature (Manual): _____	
Authorized Signature (Typed) and Title: _____	
<b>(SIGN AND RETURN THIS APPENDIX)</b>	

# APD STANDARD CONTRACT DOCUMENT

Contract No. \_\_\_\_\_

CFDA or CSFA No. \_\_\_\_\_

Client  Non-Client

FLORIDA AGENCY FOR PERSONS WITH DISABILITIES STANDARD CONTRACT

**THIS CONTRACT** is entered between the Florida Agency for Persons with Disabilities, hereinafter referred to as the "Agency," and \_\_\_\_\_ hereinafter referred to as the "Provider." The Agency and Provider agree as follows:

**1. Contract Document**

This Contract and its attachments and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties, and such documents shall collectively constitute and be referred to as the "Contract." Agency forms, policies, and operating procedures incorporated herein by reference can be obtained from the Contract Manager.

**2. Requirements of Section 287.058, Florida Statutes (F.S.)**

- a. The Provider shall provide units of deliverables that are quantifiable, measurable, and verifiable, as specified in this Contract. Each deliverable must be directly related to the scope of work and specify a performance measure. These deliverables must be received and accepted by the Contract Manager (as defined in Section 52.c. below) in writing prior to payment, subject to subsequent audit and review and to the satisfaction of the Agency. The Provider shall also provide required reports, plans, findings, and drafts, as specified in this Contract.
- b. The Provider shall submit bills for fees or other compensation for services or expenses in sufficient detail for proper pre-audit and post-audit; where itemized payment for travel expenses are permitted in this Contract, submit bills for any travel expenses in accordance with section 112.061, F.S., or at such lower rates as may be provided in this Contract.
- c. The Provider shall allow public access to all documents, papers, letters, or other public records as defined in subsection 119.011(12), F.S. and as prescribed by sections 119.07 and 119.0701, F.S., made or received by the Provider in conjunction with this Contract except that public records which are made confidential by law must be protected from disclosure. It is expressly understood that the Provider's failure to comply with this provision shall constitute an immediate breach of contract for which the Agency may unilaterally and without prior notice terminate the Contract.

**3. Requirements of Sections 215.97 and 215.971, F.S.**

In addition to the terms, conditions and provisions of this Contract, the Provider must also comply with this section if this Contract provides state financial assistance to a recipient or subrecipient, as those terms are defined in section 215.97, F.S., or provides federal financial assistance to a subrecipient, as defined by applicable United States Office of Management and Budget circulars.

- a. The provider, and any subcontractors, shall comply with Sections 215.97 and 215.971, F.S., and maintain sufficient documentation of all expenditures of funds under this Contract.
- b. The provider must monitor expenditures by Provider and any subcontractors to ensure compliance with laws, rules, and regulations applicable to expenditure of State funds.
- c. The Provider may expend funds only for allowable costs resulting from obligations incurred during the specified contract period in Section 4.
- d. The Provider must refund to the Agency any balance of unobligated funds which has been advanced or paid that is not authorized to be retained for direct program costs in a subsequent period.
- e. The Provider must refund to the Agency any funds paid in excess of the amount to which the Provider is entitled under the terms and conditions of this Contract.

Funds refunded to the Agency from the Provider for failure to perform as required under this Contract may be expended only in direct support of the program from which the contract originated.

**4. Effective and Ending Dates**

This Contract shall begin on, \_\_\_\_\_ or on the date on which the Contract has been signed by the last party required to sign it, whichever is later. It shall end at midnight, local time at \_\_\_\_\_, Florida, on \_\_\_\_\_.

**5. State of Florida Law**

This Contract is executed and entered into in the State of Florida, and all claims, controversies and causes of action arising out of or relating to this Contract shall be construed, performed and enforced in all respects in accordance with Florida law, without regard to Florida provisions for conflict of laws that would result in the application of the laws of a different jurisdiction. Courts of competent jurisdiction in Florida shall have exclusive

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jurisdiction in any action regarding this Contract and venue shall be as provided in PUR 1000 (as defined in Section 31).

**6. Contract Amount**

The Agency shall pay for contracted services according to the terms and conditions of this Contract in an amount not to exceed \_\_\_\_\_ or the rate schedule, subject to the availability of funds and satisfactory performance of all terms and conditions by the Provider. The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. Any costs or services paid for under any other contract or from any other source are not eligible for payment under this Contract.

**7. Federal Law**

- a. If this Contract contains federal funds, the Provider shall comply with the provisions of federal law and regulations including, but not limited to, 45 Code of Federal Regulations (CFR) Part 75, and other applicable regulations.
- b. If this Contract contains over \$150,000 of federal funds, the Provider shall comply with all applicable standards, orders, or regulations issued under section 306 of the Clean Air Act, as amended (42 United States Code (U.S.C.) 7401 et seq.), section 508 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), Executive Order 11738, as amended and where applicable, and Environmental Protection Agency regulations (40 CFR Chapter 1, subchapter B). The Provider shall report any violations of the above to the Agency.
- c. No federal funds received in connection with this Contract may be used by the Provider, or agent acting for the Provider, or subcontractor to influence legislation or appropriations pending before the Congress or any State legislature. If this Contract contains federal funding in excess of \$100,000, the Provider must, prior to contract execution, complete the Certification Regarding Lobbying form, Attachment \_\_\_\_\_. If a Disclosure of Lobbying Activities form, Standard Form LLL, is required, it may be obtained from the Contract Manager. All disclosure forms as required by the Certification Regarding Lobbying form must be completed and returned to the Contract Manager, prior to payment under this Contract.
- d. Unauthorized aliens shall not be employed by the Provider. The Agency shall consider the employment of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a) and section 101 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination without prior notice of this Contract by the Agency.
- e. If this Contract contains \$10,000 or more of federal funds, the Provider shall comply with Executive Order 11246, Equal Employment Opportunity, as amended by Executive Order 11375 and others, and as supplemented in Department of Labor regulation 41 CFR Part 60 and 45 CFR Part 75, if applicable.
- f. If this Contract contains federal funds and provides services to children up to age 18, the Provider shall comply with the Pro-Children Act of 1994 (20 U.S.C. 6081-6084). Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation or the imposition of an administrative compliance order on the responsible entity, or both.

**8. Audits, Inspections, Investigations, Records and Retention, Cooperation with the Inspector General**

- a. The Provider shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by the Agency under this Contract.
- b. Retention of all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Contract shall be maintained by the Provider for a period of six (6) years after completion or termination of the Contract or the resolution of any pending action (i.e., audit, legal, etc.), or longer when required by law. In the event an audit is required by this Contract, records shall be retained for a period of six (6) years after the audit report is issued or until resolution of any audit findings or litigation based on the terms and conditions of this Contract, at no additional cost to the Agency.
- c. Upon demand, at no additional cost to the Agency, the Provider will facilitate the duplication and transfer of any records or documents during the required retention period in Section 8.b.
- d. These records shall be made available at all reasonable times for inspection, review, copying, or audit by Federal, State, or other personnel duly authorized by the Agency.
- e. At all reasonable times for as long as records are maintained, persons duly authorized by the Agency and Federal auditors, pursuant to 45 CFR Part 75.364, shall be allowed full access to and the right to examine any of the Provider's contracts and related records and documents, regardless of the form in which kept.
- f. A financial and compliance audit shall be provided to the Agency as specified in this Contract and in Attachment \_\_\_\_\_.
- g. Pursuant to section 20.055(5), F.S., the Provider and any subcontractors understand and shall comply with their duty to cooperate with the Agency's Inspector General in any investigation, audit, inspection, review, or hearing.
- h. The Provider agrees to include these aforementioned audit and record keeping requirements in all approved subcontracts and/or assignments of this Contract.

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**9. Monitoring by the Agency**

The Provider shall permit all persons who are duly authorized by the Agency to inspect and copy any records, papers, documents, facilities, goods and services of the Provider that are relevant to this Contract, and to interview any clients, employees and subcontractor employees of the Provider to assure the Agency of the satisfactory performance of the terms and conditions of this Contract. Following such review, the Agency will deliver to the Provider a written report of its findings and may direct the development by the Provider of a corrective action plan. The Provider hereby agrees to timely correct all deficiencies identified in the corrective action plan. This provision will not limit the Agency's termination rights under Section 39.d.

**10. Indemnification**

- a. The Provider shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the Agency, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to any alleged act or omission by the Provider, its agents, employees, partners, or subcontractors alleged to be caused in whole or in part by Provider, its agents, employees, partners, or subcontractors, provided, however, that the Provider shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Agency.
- b. The Provider shall fully indemnify, defend, and hold harmless the State and Agency from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to Agency's misuse or modification of Provider's products or a Agency's operation or use of Provider's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Provider's opinion is likely to become the subject of such a suit, the Provider may at its sole expense procure for the Agency the right to continue using the product or to modify it to become non-infringing. If the Provider is not reasonably able to modify or otherwise secure the Agency the right to continue using the product, the Provider shall, without limiting the Agency's remedies at law for breach or nonperformance, remove the product and refund the Agency the amounts paid in excess of a reasonable rental for past use. The Agency shall not be liable for any royalties. The Provider's indemnification for violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right shall encompass all such items used or accessed by the Provider, its officers, agents or subcontractors in the performance of this Contract or delivered to the Agency for the use of the Agency, its employees, agents or contractors.
- c. The Provider shall protect, defend, and indemnify, including attorneys' fees and costs, the Agency for any and all claims and litigation (including litigation initiated by the Agency) arising from or relating to Provider's claim that a document contains proprietary or trade secret information that is exempt from disclosure or the scope of the Provider's redaction, as provided for under Section 34.
- d. The Provider shall not be liable for any cost, expense, or compromise incurred or made by the Agency in any legal action without the Provider's prior written consent, which shall not be unreasonably withheld. The Provider's inability to evaluate liability or its evaluation of liability shall not excuse its duty to defend and indemnify after receipt of notice. Only an adjudication or judgment after the highest appeal is exhausted finding the Agency negligent shall excuse the Provider of performance under this provision, in which case the Agency shall have no obligation to reimburse the Provider for the cost of its defense. If the Provider is an agency or subdivision of the State, its obligation to indemnify, defend and hold harmless the Agency shall be to the extent permitted by section 768.28, F.S. or other applicable law, and without waiving the limits of sovereign immunity.
- e. No provision in this Contract shall require the Agency to hold harmless or indemnify the Provider, insure or assume liability for the Provider's negligence, waive the Agency's sovereign immunity under the laws of Florida, or otherwise impose liability on the Agency for which it would not otherwise be responsible.

**11. Insurance**

Unless the Provider is a state agency or subdivision as defined by subsection 768.28(2), F.S., the Provider shall maintain continuous adequate liability insurance coverage during the existence of this Contract and during any renewal(s) and/or extension(s). By execution of this Contract, the Provider accepts full responsibility for identifying and determining the type(s) and extent of liability insurance necessary to provide reasonable financial protections for the Provider and the clients to be served under this Contract. The limits of coverage under each policy maintained by the Provider do not limit the Provider's liability and obligations under this Contract. Upon the execution of this Contract, the Provider shall furnish the Agency written verification supporting both the determination and existence of such insurance coverage. A current certificate of insurance, or such other documentation acceptable to the Agency, evidencing the type and extent of all insurance obtained pursuant to this Section 11 shall at all times be maintained by the Provider, and the Provider shall deliver a copy of such proof of

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insurance and any renewal or replacement thereof to the Agency. The Provider shall cause the Agency to be named as a Certificate Holder under each policy of liability insurance maintained by the Provider pursuant to this Contract, unless the Agency waives in writing this requirement. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida. The Agency reserves the right to require additional insurance as specified in this Contract.

**12. Confidentiality of Information**

The Provider shall not use or disclose and shall maintain confidentiality of any information concerning a recipient of services under this Contract for any purpose prohibited by state or federal law or regulations except with the written consent of a person legally authorized to give that consent or when authorized by law.

**13. Public Records (Section 119.0701, F.S.)**

- a. The Provider shall keep and maintain public records required by the Agency to perform the services specified in this Contract.
- b. Upon request from the Agency's Custodian of Public Records, the Provider shall provide the Agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- c. The Provider shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Provider does not transfer the records to the Agency.
- d. Upon completion of the Contract, the Provider shall transfer, at no cost, to the Agency all public records in possession of the Provider or keep and maintain public records required by the Agency to perform the service. If the Provider transfers all public records to the Agency upon completion of the Contract, the Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Provider keeps and maintains public records upon completion of the Contract, the Provider shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Agency, upon request from the Agency's Custodian of Public Records, in a format that is compatible with the information technology systems of the Agency.
- e. A request to inspect or copy public records relating to the Agency Contract must be made directly to the Agency. If the Agency does not possess the requested records, the Agency shall immediately notify the Provider of the request, and the Provider must provide the records to the Agency or allow the records to be inspected or copied within a reasonable time.
- f. If the Provider does not comply with the Agency's request for records, the Agency shall enforce the contract provisions in accordance with the Contract.
- g. If the Provider fails to provide the public records to the Agency within a reasonable time, the Provider may be subject to penalties under section 119.10, F.S.
- h. If a civil action is filed against the Provider to compel the production of public records relating to the Contract, the court shall assess and award against the Provider the reasonable costs of enforcement, including reasonable attorney fees, if (i) the court determines that the Provider unlawfully refused to comply with the public records request within a reasonable time; and (ii) at least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Provider has not complied with the request, to the Agency and to the Provider. A Provider who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.
- i. If the Provider has questions regarding the application of Chapter 119, F.S., to the Provider's duty to provide public records relating to this Contract, contact the Custodian of Public Records at:

Agency's Public Records Coordination Office  
 Agency for Persons with Disabilities  
 4030 Esplanade Way, Suite 335  
 Tallahassee, FL 32399-0950  
 (850) 410-1309  
 publicrecords@apdcares.org

**14. Assignments and Subcontracts**

- a. The Provider shall not assign the responsibility for this Contract to another party without prior written approval of the Agency, and such approval shall only be granted upon the Agency's sole determination that such assignment will not adversely affect the public interest or the Agency; however, in no event may Provider assign or enter into any transaction having the effect of assigning or transferring any right to receive payment under this Contract which right is not conditioned on full and faithful performance of Provider's duties hereunder. Any sublicense, assignment, or transfer otherwise occurring without prior approval of the Agency shall be null and void. The Provider shall not subcontract for any of the work contemplated under this Contract without prior

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written approval of the Agency, which shall not be unreasonably withheld.

- b. To the extent permitted by Florida Law, and in compliance with Section 10 of this Contract, the Provider is responsible for all work performed and for all commodities produced pursuant to this Contract whether actually furnished by the Provider or its subcontractors. Any subcontracts shall be evidenced by a written document. The Provider further agrees that the Agency shall not be liable to the subcontractor in any way or for any reason. The Provider, at its expense, will defend the Agency against such claims.
- c. The Provider shall make payments to any subcontractor within seven (7) working days after receipt of full or partial payments from the Agency in accordance with section 287.0585, F.S., unless otherwise stated in the Contract between the Provider and subcontractor. Failure to pay within seven (7) working days will result in a penalty that shall be charged against the Provider and paid by the Provider to the subcontractor in the amount of one-half of one percent (.005) of the amount due per day from the expiration of the period allowed for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen percent (15%) of the outstanding balance due.
- d. The State of Florida shall at all times be entitled to assign or transfer, in whole or part, its rights, duties, or obligations under this Contract to another governmental agency in the State of Florida, upon giving prior written notice to the Provider. In the event the State of Florida approves transfer of the Provider's obligations, the Provider remains responsible for all work performed and all expenses incurred in connection with this Contract. This Contract shall remain binding upon the successors-in-interest of either the Provider or the Agency.
- e. The Provider shall include, or cause to be included, in all subcontracts (at any tier) the substance of all clauses contained in this Contract that mention or describe subcontract compliance.

**15. Return of Funds**

The Provider shall return to the Agency any balance of unobligated funds which has been advanced or paid, any funds paid in excess of the amount to which the Provider is entitled under the terms and conditions of this Contract, overpayments due to unearned funds or funds disallowed that were disbursed to the Provider by the Agency and any interest attributable to such funds pursuant to the terms and conditions of this Contract. In the event that the Provider or its independent auditor discovers that an overpayment has been made, the Provider shall repay said overpayment immediately without prior notification from the Agency. In the event that the Agency first discovers an overpayment has been made, the Contract Manager, on behalf of the Agency, will notify the Provider by letter of such findings. Should repayment not be made: (i) within two (2) business days after discovery by the Provider of the overpayment; or (ii) within ten (10) days after the notification letter is received from the Agency, then the Provider will be charged interest at the lawful rate of interest on the outstanding balance. Payments made for services subsequently determined by the Agency to not be in full compliance with Contract requirements shall be deemed overpayments. In the event Provider owes any amount to the Agency under this Contract and fails to pay such amount within thirty (30) days after written demand, the Agency may deduct such amount from payments due to Provider from the Agency pursuant to this Contract.

**16. Client Risk Prevention and Incident Reporting**

- a. If services to clients are provided under this Contract, the Provider and any subcontractors shall conduct incident reporting in the manner prescribed in the Agency's operating procedure APD OP 3-006, Incident Reporting and Risk Prevention for Clients Living in the Community.
- b. The Provider shall immediately report any knowledge or reasonable suspicion of abuse, sexual misconduct, neglect, threatened harm, or exploitation of a child, aged person, or disabled adult to the Florida Abuse Hotline on the statewide toll-free telephone number (1-800-962-2873) (TDD 1-800-453-5145). As required by Chapters 39, 393, and 415, F.S., this provision is binding upon the Provider and its employees, subcontractors, assignees, and volunteers.

**17. Purchasing**

- a. Articles which are the subject of or are required to carry out this Contract shall be purchased from Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE) identified under Chapter 946, F.S., in the same manner and under the procedures set forth in subsections 946.515(2) and (4), F.S. For purposes of this Contract, the Provider shall be deemed to be substituted for the Agency insofar as dealings with PRIDE. This clause is not applicable to subcontractors unless otherwise required by law. An abbreviated list of products/services available from PRIDE may be obtained by contacting PRIDE, (800) 643-8459.
- b. The Provider shall procure any recycled products or materials, which are the subject of or are required to carry out this Contract, in accordance with the provisions of sections 403.7065, F.S.

**18. Civil Rights Requirements**

In accordance with Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, or the Florida Civil Rights Act of 1992, as applicable, the Provider shall not discriminate against any employee (or applicant for employment) in the performance of this Contract because of race, color, religion, sex, national origin,

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disability, age, pregnancy, or marital status. Further, the Provider agrees not to discriminate against any applicant, client, or employee in service delivery or benefits in connection with any of its programs and activities in accordance with 45 CFR Parts 80, 83, 84, 90, and 91, Title VI of the Civil Rights Act of 1964, or the Florida Civil Rights Act of 1992, as applicable. Provider agrees that compliance with this section constitutes a condition of continued receipt of funds under this Contract, and that these requirements shall apply to all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to clients or employees in connection with its programs and activities. The Provider, and any subcontractor, subgrantee, or other recipient of federal financial assistance pursuant to this Contract shall complete the Civil Rights Compliance Checklist, APD Form 946, in accordance with 45 CFR Part 80 and 45 CFR Part 84 within sixty (60) calendar days after execution of this Contract, and the Provider shall complete APD Form 946 on an annual basis thereafter during the term of this Contract. The Civil Rights Compliance Checklist is not required of Providers that have less than fifteen (15) employees, unless they provide direct client services.

**19. Independent Capacity of the Contractor**

- a. In performing its obligations under this Contract, the Provider shall at all times be acting in the capacity of an independent contractor and not as an officer, employee, or agent of the State of Florida, except where the Provider is a state agency. Neither the Provider nor its agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the Agency unless specifically authorized in writing to do so. This Contract does not create any right to state retirement, leave benefits or any other benefits of state employees as a result of performing the duties or obligations of this Contract.
- b. The Provider shall take such actions as may be necessary to ensure that each subcontractor of the Provider will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State of Florida. The Agency will not furnish services or support (e.g., office space, office supplies, telephone service, secretarial or clerical support) to the Provider, or its subcontractor or assignee, unless specifically agreed to by the Agency in this Contract.
- c. All deductions for social security, withholding taxes, income taxes, contributions to unemployment compensation funds and all necessary insurance for the Provider, the Provider's officers, employees, agents, subcontractors, or assignees shall be the sole responsibility of the Provider.

**20. Sponsorship**

As required by section 286.25, F.S., if the Provider is a non-governmental organization and sponsors a program financed wholly or in part by state funds, including any funds obtained through this Contract, it shall, in publicizing, advertising, or describing the sponsorship of the program state: "Sponsored by (Provider's name) and the State of Florida, Agency for Persons with Disabilities." If the sponsorship reference is in written material, the words "State of Florida, Agency for Persons with Disabilities" shall appear in at least the same size letters or type as the name of the organization.

**21. Publicity**

Without limitation, the Provider and its employees, agents, and representatives shall not, without prior Agency written consent in each instance, use in advertising, publicity or any other promotional endeavor any State mark, the name of the State's mark, the name of the State or any State affiliate or any officer or employee of the State, or represent, directly or indirectly, that any product or service provided by the Provider has been approved or endorsed by the State, or refer to the existence of this Contract in press releases, advertising or materials distributed to the Provider's prospective customers.

**22. Final Invoice**

The final invoice for payment shall be submitted to the Agency no more than \_\_\_\_ days after the Contract ends or is terminated. If the Provider fails to do so, all rights to payment are forfeited and the Agency will not honor any requests submitted after the aforesaid time period. Any payment due under the terms of this Contract may be withheld until performance of services and all reports due from the Provider and necessary adjustments thereto, have been approved by the Agency.

**23. Use of Funds for Lobby Prohibited**

The Provider shall comply with the provisions of sections 11.062 and 216.347, F.S., which prohibit the expenditure of Contract funds for the purpose of lobbying the Legislature, judicial branch, or a state agency.

**24. Public Entity Crime and Discriminatory Contractors**

Pursuant to sections 287.133 and 287.134, F.S., the following restrictions are placed on the ability of persons convicted of public entity crimes to transact business with the Agency. When a person or affiliate has been placed on the Convicted Vendor List following a conviction for a public entity crime, or an entity or affiliate has been placed on the Discriminatory Vendor List, such person, entity or affiliate may not submit a bid, proposal, or reply on a



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contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or the repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity; provided, however, that the prohibition on persons or affiliates placed on the Convicted Vendor List shall be limited to business in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. Provider warrants that neither it nor any affiliate is currently on the Convicted Vendor List maintained pursuant to Section 287.133, F.S., on the Discriminatory Vendor List maintained pursuant to Section 287.134, F.S., or any similar list maintained by the State of Florida or the federal government.

**25. Gratuities**

The Provider shall not offer to give or give any gift to any Agency employee. As part of the consideration for this Contract, the parties intend that this provision will survive the Contract for a period of two (2) years. In addition to any other remedies available to the Agency, any violation of this provision will result in referral of the Provider's name and description of the violation of this term to the Department of Management Services for the potential inclusion of the Provider's name on the Suspended Vendor List for an appropriate period. The Provider shall ensure that its subcontractors, if any, comply with these provisions.

**26. Patents, Copyrights, and Royalties**

- a. It is agreed that all intellectual property, inventions, discoveries, written or electronically created materials, including manuals, presentations, films, or other copyrightable materials, arising in relation to Provider's performance under this Contract, and the performance of all of its officers, agents and subcontractors in relation to this Contract, are works for hire for the benefit of the Agency, fully compensated for by the Contract amount, and that neither the Provider nor any of its officers, agents nor subcontractors may claim any interest in any intellectual property rights accruing under or in connection with the performance of this Contract. Any intellectual property, inventions, discoveries, written or electronically created material or work of authorship produced or developed by Provider shall become the property of the Agency as part of delivering the required services under this Contract, and the Agency retains all rights of use associated with this ownership. It is specifically agreed that the Agency shall have exclusive rights to all data processing software falling within the terms of section 119.084, F.S., which arises or is developed in the course of or as a result of work or services performed under this Contract, or in any way connected herewith. Notwithstanding the foregoing provision, if the Provider is a university and a member of the State University System of Florida, then section 1004.23, F.S., shall apply.
- b. If the Provider uses or delivers to the Agency for its use or the use of its employees, agents or contractors, any design, device, or materials covered by letters patent, or copyright, it is mutually agreed and understood that, without exception, the compensation paid pursuant to this Contract includes all royalties or costs arising from the use of such design, device, or materials in any way involved in the work contemplated by this Contract.
- c. All applicable subcontracts shall include a provision that the Federal awarding agency reserves all patent rights with respect to any discovery or invention that arises or is developed in the course of or under the subcontract. Notwithstanding the foregoing provision, if the Provider or one of its subcontractors is a university and a member of the State University System of Florida, then section 1004.23, F.S., shall apply, but the Agency shall retain a perpetual, fully-paid, nonexclusive license for its use and the use of its contractors of any resulting patented, copyrighted or trademarked work products.

**27. Construction or Renovation of Facilities Using State Funds**

Any state funds provided for the purchase of or improvements to real property are contingent upon the Provider granting to the state a security interest in the property at least to the amount of the state funds provided for at least five (5) years from the date of purchase or the completion of the improvements or as further required by law. As a condition of receipt of state funding for this purpose, the Provider agrees that, if it disposes of the property before the Agency's interest is vacated, the Provider shall refund the proportionate share of the state's initial investment, as adjusted by depreciation.

**28. Information Security Obligations**

- a. An appropriately skilled individual shall be identified by the Provider to function as its Data Security Officer. The Data Security Officer shall act as the liaison to the Agency's Information Security staff and will maintain an appropriate level of data security for the information the Provider is collecting or using in the performance of this Contract. An appropriate level of security includes approving and tracking all Provider employees and authorized subcontractors that request or have access to any Agency data system or information. The Data Security Officer shall ensure that user access to any Agency data system or information has been removed from all terminated, separated, and retired Provider employees, or any employees who have been reassigned to positions where access to data systems and/or information is no longer authorized.

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- b. The Provider shall provide the latest Agency security awareness training to its staff and subcontractors who have access to Agency information. The Provider shall maintain documentation of its affected staff's and subcontractors' completion of this training. The Provider shall make available to the Agency all related records and documentation of this training, upon request.
  - c. All Provider staff and subcontractors who have access to Agency information shall comply with APD OP 14-001, Information Security Incident and Breach Response; and APD Policy 6-0002, Acceptable Use of Information Technology Resources.
  - d. The Provider shall employ appropriate administrative, technical, and physical safeguards to protect against unauthorized releases of any protected health information, personally identifiable information, and/or or confidential information by ensuring both data and storage devices are adequately encrypted as prescribed in APD Policy 6-0014, Data Protection and Encryption Policy. If encryption of these devices is not possible, then the Provider shall assure that unencrypted protected health information, personally identifiable information, and/or and confidential Agency data are not stored on unencrypted storage devices. The Provider shall furnish the Agency with satisfactory assurances that the Provider's subcontractors must comply with these same requirements.
  - e. Except as otherwise provided for in the Business Associate Agreement, if applicable, the Provider agrees to notify Information Security Management at APD.ISM@apdcares.org and the Contract Manager immediately and without delay, but no later than within twenty-four hours following the discovery of any breach, potential breach, or unauthorized release of protected health information, personally identifiable information, and/or and confidential Agency data. The Provider shall require the same notification requirements of all of its subcontractors.
  - f. Except as otherwise provided for in the Business Associate Agreement, if applicable the Provider shall comply with the provisions of section 501.171, F.S. In the event of a breach of security of a system maintained by the Provider, the Provider shall notify the Agency of the breach of security, or reason to believe a breach has occurred, within 10 days following determination of the breach of security, or reason to believe a breach has occurred. The Provider shall provide the Agency with all information the Agency needs to comply with the Agency's notice requirements under section 501.171, F.S. The Provider shall require the same notification requirements of all subcontractors.
29. **Health Insurance Portability and Accountability Act (HIPAA)**  
The Provider shall, where applicable, comply with the Health Insurance Portability and Accountability Act (42 U.S.C. 1320d) as well as all regulations promulgated there under 45 CFR Parts 160, 162, and 164. If the Provider is a Business Associate, as defined in 45 CFR 160.103, the Provider shall execute and comply with the terms and conditions of the Business Associate Agreement attached hereto as Attachment \_\_\_\_\_, which is incorporated herein by reference as if set forth herein. A violation or breach of the terms and conditions of the Business Associate Agreement shall constitute a material breach of this Contract.
30. **Emergency Preparedness**
- a. If the tasks to be performed pursuant to this Contract include the physical care or supervision of clients, the Provider shall, within thirty (30) days of the execution of this Contract, submit to the Contract Manager an emergency preparedness plan that shall include, but not be limited to, provisions for records protection, alternative accommodations for clients in substitute care, supplies, and a recovery plan that will allow the Provider to continue functioning in compliance with the executed Contract in the event of an actual emergency.
  - b. The Agency agrees to respond in writing within thirty (30) days of receipt of the plan acknowledging receipt of such plan. In the event of an emergency, the Agency may contact the Provider in order to assure implementation of the Provider's emergency preparedness plan.
  - c. An updated emergency preparedness plan shall be submitted by the Provider no later than twelve (12) months following the receipt of an original plan or receipt of an updated plan. The Agency agrees to respond in writing within thirty (30) days of receipt of the updated plan acknowledging receipt of such updated plan.
31. **PUR (Purchasing) 1000 Form**  
The PUR 1000 Form dated 10/06, as amended from time to time, is hereby incorporated by reference and made a part hereof as if fully recited herein. Sections 1.d., 2-4, 6, 8-13, 19, 23, 27, 31, and 35 of the PUR 1000 Form are not applicable to this Contract. Other provisions of the PUR 1000 Form are clarified, revised or supplemented as set forth elsewhere in this Contract. In the event of any conflict between the PUR 1000 Form, and any terms or conditions of this Contract, the terms or conditions of this Contract shall take precedence over the PUR 1000 Form. Notwithstanding the foregoing, if the conflicting term in the PUR 1000 Form is required by any section of the Florida Statutes, the term in the PUR 1000 Form shall take precedence.
32. **Notification of Legal Action**

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The Provider shall notify the Agency of potential or actual legal actions taken against the Provider related to services provided through this Contract or that may impact the Provider's ability to deliver the contractual services, or that may adversely impact the Agency. The Agency's Contract Manager will be notified within ten (10) calendar days of Provider becoming aware of such actions or from the day of the legal filing, whichever comes first.

33. **Whistleblower's Act Requirements**

In accordance with subsection 112.3187(2), F.S., the Provider and its subcontractors shall not retaliate against an employee for reporting violations of law, rule, or regulation that creates substantial and specific danger to the public's health, safety, or welfare to an appropriate agency. Furthermore, agencies or independent contractors shall not retaliate against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee. The Provider and any subcontractor shall inform its employees that they and other persons may file a complaint with the Office of Chief Inspector General, Agency Inspector General, the Florida Commission on Human Relations or the Whistle-blower's Hotline number at 1-800-543-5353.

34. **Proprietary or Trade Secret Information**

a. Unless exempted by law, all public records are subject to public inspection and copying under Florida's Public Records Law, Chapter 119, F.S. Any claim by Provider of proprietary or trade secret confidentiality for any information contained in Provider's documents (reports, deliverables or work papers, etc., in paper or electronic form) submitted in connection with this Contract will be waived, unless the claimed confidential information is submitted in accordance with Section 34.b. below.

b. In accordance with Section 215.985(14), F.S., this Contract, is subject to inclusion in the web-based system called the Florida Accountability Contract Tracking System (FACTS). A copy of this Contract, any amendments, renewals, and extensions thereof, and any associated procurement documents, are subject to posting in FACTS and made available to the public. Any claim by Provider that the Contract or procurement documents contain "confidential" or "exempt" material will be waived at the time of execution of this Contract, unless the claimed confidential information is submitted in accordance with Section 34.c. below.

c. The Provider must clearly label any portion of the documents, data, or records submitted that it considers exempt from public inspection or disclosure pursuant to Florida's Public Records Law as confidential, exempt, proprietary or trade secret. The labeling will include a justification citing specific statutes and facts that authorize exemption of the information from public disclosure. If different exemptions are claimed to be applicable to different portions of the protected information, the Provider shall include information correlating the nature of the claims to the particular protected information. The Provider is deemed to have released the Agency from liability for disclosure of confidential, exempt, proprietary, or trade secret information if Provide fails to comply with this subsection at the time the Contract is executed.

d. The Agency, when required to comply with a public records request including documents submitted by the Provider, may require the Provider to expeditiously submit redacted copies of documents marked as confidential, exempt, proprietary, or trade secret in accordance with Section 34.c. above. Accompanying the submission shall be an updated version of the justification under Section 34.c. above, correlated specifically to redacted information, either confirming that the statutory and factual basis originally asserted remain unchanged or indicating any changes affecting the basis for the asserted exemption from public inspection or disclosure. The redacted copy must exclude or obliterate only those exact portions that are claimed to be proprietary or trade secret. If the Provider fails to promptly submit a redacted copy, the Agency is authorized to produce the records sought without any redaction of proprietary or trade secret information.

e. The Provider shall be responsible for defending its claim that each and every portion of the redactions of confidential, proprietary, or trade secret information are exempt from inspection and copying under Florida's Public Records Law.

35. **Contract Payment**

Pursuant to §215.422, F.S., the Agency has five (5) working days to inspect and approve goods and services, unless the bid specifications, purchase order, or this Contract specify otherwise. With the exception of payments to health care Providers for hospital, medical, or other health care services, if payment is not available within forty (40) days, measured from the latter of the date a properly completed invoice is received by the Agency or the goods or services are received, inspected, and approved, a separate interest penalty set by the Chief Financial Officer pursuant to section 55.03, F.S., will be due and payable in addition to the invoice amount. Payments to health care Providers for hospital, medical, or other health care services, shall be made not more than thirty-five (35) days from the date eligibility for payment is determined. Financial penalties will be calculated at the daily interest rate of .03333%. Invoice payment requirements do not start until a properly completed invoice is provided to the Agency. Interest penalties less than one (1) dollar will not be paid unless the Provider requests payment. Payment shall be made only upon acceptance by the Agency, but shall remain subject to subsequent audit or review to confirm Contract compliance and/or to the Return of Funds provision of Section 15 of this contract.

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A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422(7), F.S., which include disseminating information relative to prompt payment by the State and to assisting vendors in receiving their payments in a timely manner from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or (800) 342-2762, the State of Florida Chief Financial Officer's Hotline.

**37. Notice**

Any notice that is required under this Contract shall be in writing, and sent by U.S. Postal Service or any expedited delivery service that provides verification of delivery or by hand delivery. Said notice shall be sent to the representative of the Provider responsible for administration of the program, to the designated address contained in this Contract.

**38. Financial Consequences for Provider's Failure to Perform or Failure to Comply with Requirement for Corrective Actions**

- a. Corrective action plans and/or financial consequences must be required for noncompliance, nonperformance, unacceptable performance, or failure to meet the minimum level of service or performance under this Contract. Financial consequences must be imposed for failures to timely implement or to make acceptable progress on such corrective action plans.
- b. Financial consequences must include, but are not limited to, the financial consequences set forth in subsections c, d, and e below.
- c. The increments of financial consequences that shall apply must be based upon the severity of the noncompliance, nonperformance, or unacceptable performance that generated the need for a corrective action plan. The financial consequences shall not exceed ten percent (10%) of the total Contract payments during the period in which the corrective action plan has not been implemented or in which acceptable progress toward implementation has not been made. Noncompliance that is determined to have a direct effect on client health and safety shall result in the imposition of a ten percent (10%) financial consequence of the total Contract payments during the period in which the corrective action plan has not been implemented or in which acceptable progress toward implementation has not been made.
- d. Noncompliance involving the provision of service not having a direct effect on client health and safety must result in the imposition of a five percent (5%) financial consequence. Noncompliance as a result of unacceptable performance of administrative tasks must result in the imposition of a two percent (2%) financial consequence.
- e. The deadline for payment shall be as stated in the notification imposing the financial consequences. In the event of nonpayment, the Agency may deduct the amount of the financial consequences from invoices submitted by the Provider.
- f. Any payment made in reliance on the Provider's evidence of performance, which evidence is subsequently determined to be erroneous, will be immediately due as an overpayment in accordance with Section 15 above, titled "Return of Funds" to the extent of such error.
- g. If this Contract is funded with federal assistance, this provision can be excluded from the contract only if financial consequences are prohibited by the federal agency awarding the funds.

**39. Termination**

- a. This Contract may be terminated by either party without cause upon no less than thirty (30) calendar day notice in writing to the other party unless a sooner time is mutually agreed upon in writing. Said notice shall be delivered by U.S. Postal Service or any expedited delivery service that provides verification of delivery or by hand delivery to the Contract Manager or the representative of the Provider responsible for administration of the program. The Provider shall not furnish any product after it receives the written notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Provider shall be compensated for any work satisfactorily completed up to and including the date of termination but shall not be entitled to recover any cancellation charges or lost profits.
- b. In the event funds for payment pursuant to this Contract become unavailable, the Agency may terminate this Contract upon no less than twenty-four (24) hour notice in writing to the Provider. Said notice shall be sent by U.S. Postal Service or any expedited delivery service that provides verification of delivery. The Agency shall be the final authority as to the availability and adequacy of funds. In the event of termination of this Contract, the Provider will be compensated for any work satisfactorily completed prior to the effective date of the termination.
- c. In the event the Provider fails to fully comply with the terms and conditions of this Contract, the Agency may terminate the Contract upon no less than twenty-four (24) hours (excluding Saturday, Sunday, and Holidays) notice in writing to the Provider after Provider's failure to fully cure such noncompliance within the time specified in a written notice of noncompliance issued by the Agency specifying the nature of the noncompliance and the actions required to cure such noncompliance. In addition, the Agency may, if applicable, employ the default provisions in Rule 60A-1.006(3), Florida Administrative Code (F.A.C.), but is not required to do so in order to

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terminate the Contract. The Agency's failure to demand performance of any provision of this Contract shall not be deemed a waiver of such performance. The Agency's waiver of any one breach of any provision of this Contract shall not be deemed to be a waiver of any other breach and neither event shall be construed to be a modification of the terms and conditions of this Contract. The provisions herein do not limit the Agency's right to remedies at law or in equity.

- d. Failure to have performed any contractual obligations under any other contract with the Agency in a manner satisfactory to the Agency will be a sufficient cause for termination. To be terminated as a Provider under this provision, the Provider must have: (i) previously failed to satisfactorily perform in a contract with the Agency, been notified by the Agency of the unsatisfactory performance, and failed to correct the unsatisfactory performance to the satisfaction of the Agency; or (ii) had a contract terminated by the Agency for cause. Termination pursuant to this Section 39.d., shall be upon no less than twenty-four (24) hour notice in writing to the Provider (excluding Saturday, Sunday, and State Holidays).

**40. Renegotiations or Modifications**

Modifications of provisions of this Contract shall be valid only when they have been reduced to writing and duly signed by both parties during the term of the Contract. The rate of payment and the total dollar amount may be adjusted retroactively to reflect price level increases and changes in the rate of payment when these have been established through the appropriations process and subsequently identified in the Agency's operating budget. If the services provided under this Contract are the same type of service that is offered under the Developmental Disabilities Home and Community Based Waiver Services (HCBS) and the established rates are adjusted, the rates of services under this Contract may be modified to be in alignment with the adjustment, which Provider shall not unreasonably withhold consent to such modification.

**41. Dispute Resolution**

Any dispute concerning performance of the Contract or payment hereunder shall be decided by the Agency's Contract Manager, who shall reduce the decision to writing and provide a copy to the Provider. The decision shall be final and conclusive unless within twenty-one (21) calendar days from the date of receipt of the Contract Manager's decision, the Provider delivers to the Contract Manager a petition for alternative dispute resolution. After receipt of a petition for alternative dispute resolution the Agency and the Provider shall attempt to amicably resolve the dispute through negotiations. Timely delivery of a petition for alternative dispute resolution and completion of the negotiation process shall be a condition precedent to any legal action by the Provider concerning this Contract. After timely delivery of a petition for alternative dispute resolution, the parties may employ any dispute resolution procedures described in the Attachment I or other attachment, or mutually agree to an alternative binding or nonbinding dispute resolution process, the terms of which shall be reduced to writing and executed by both parties. Completion of such agreed process shall be deemed to satisfy the requirement for completion of the negotiation process. This provision shall not limit the parties' rights of termination under Section 39.d. above.

**42. Background Screening**

- a. The Provider shall ensure that all Provider's staff, and Provider's subcontractor's staff, meet Level Two Background Screening requirements in accordance with section 393.0655 and Chapter 435, F.S., as a condition of employment and continued employment. The screening includes fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, national criminal history records checks through the Federal Bureau of Investigation, and local criminal records checks through local law enforcement agencies. The Provider must submit to the Contract Manager, a signed affidavit, attesting that all current employees have been screened and cleared. An updated affidavit must be sent to the Contract Manager annually. Documentation of background screening shall be maintained in the employee's personnel file. The Provider shall be responsible for ensuring Provider's subcontractor's compliance with this section.
- b. Licensed physicians, nurses, or other professionals licensed and regulated by the Department of Health are not subject to background screening pursuant to s. 393.0655, F.S., if they are providing a service that is within their scope of licensed practice.
- c. Human resource personnel who have been fingerprinted or screened pursuant to Chapters 393, 394, 397, 402, and 409, F.S., and teachers and non-instructional personnel who have been fingerprinted pursuant to Chapter 1012, F.S. who have not been unemployed for more than ninety (90) days and who under the penalty of perjury attest to the completion of the fingerprinting or screening and to compliance with the provisions of the applicable Florida Statute(s) and the standards for good moral character shall not be required to be re-fingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.
- d. Every employee or volunteer of the Provider, or employee or volunteer of Provider's subcontractor, who provides direct services, manages or supervises a residential facility or comprehensive transitional education program, or has access to a clients living areas, funds, or personal property, must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment and agree to inform the employer immediately if arrested for any of the disqualifying offenses while employed. Annually each Provider must submit to the agency, under

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penalty of perjury, a current signed affidavit attesting to compliance with the provisions of these background screening requirements.

**43. Renewals**

This Contract may be renewed, unless specifically stated otherwise in the Attachment I, for a term not to exceed three (3) years or for the term of the original Contract, whichever is longer. Such renewal shall be made by mutual agreement and shall be contingent upon satisfactory performance evaluations as determined by the Agency. Contracts procured by an exceptional purchase pursuant to Section 287.057 (3)(a) or (3)(c), F.S., may not be renewed. Any renewal shall be subject to the availability of funds and any costs for renewing the contract shall not be charged. Any renewal must be in writing and is subject to the same terms and conditions as set forth in the initial Contract and any written amendments signed by the parties.

**44. Mandatory Reporting**

The Provider and its subcontractors must comply with and inform their employees of the following mandatory reporting requirements. Each employee, assignee and volunteer of the Provider, and of any subcontractor, providing services in connection with this Contract who has any knowledge or reasonable suspicion of a critical or reportable incident shall report such incident as follows:

- a. Reportable incidents that may involve the abuse, sexual misconduct, neglect, threatened harm, or exploitation of a client; or may have an immediate or impending impact on the health or safety of a client shall be immediately reported to the Florida Abuse Hotline on the statewide toll-free telephone number (1-800-962-2873) (TDD 1-800-453-5145). The Provider shall then notify the Contract Manager immediately and without delay, but no later than one (1) business day, of the reported incident(s) to the Florida Abuse Hotline.
- b. Other reportable incidents shall be reported to the Agency's Contract Manager immediately and without delay, but no later than one (1) business day following the discovery of the incident. A critical or reportable incident is defined in APD Operating Procedure 3-0006, Incident Reporting for Clients Living in the Community, and APD Operating Procedure 7-004, Suspected Misconduct and Dishonesty.

**45. Property**

- a. The word "property" as used in this Section means equipment, fixtures, and other tangible personal property of a nonconsumable and nonexpendable nature, the value or cost of which is \$1,000 or more and the normal expected life of which is one (1) year or more, and hardback-covered bound books that are circulated to students or the general public, the value or cost of which is \$25 or more, hardback-covered bound books, the value or cost of which is \$250 or more, and personal computers, lap top computers or other similar electronic devices. Each item of property for which it is practicable to identify by marking shall be marked in the manner required by the Auditor General. Each custodian shall maintain an adequate record of property in his or her custody, which record shall contain such information as shall be required by the Auditor General. Once each year, on July 1 or as soon thereafter as is practicable, and whenever there is a change of custodian, each custodian shall take an inventory of property in his or her custody. The inventory shall be compared with the property record, and all discrepancies shall be traced and reconciled. All publicly supported libraries shall be exempt from marking hardback-covered bound books, as required by this Section. The catalog and inventory control records maintained by each publicly supported library shall constitute the property record of hardback-covered bound books with a value or cost of \$25 or more included in each publicly supported library collection and shall serve as a perpetual inventory in lieu of an annual physical inventory. All books identified by these records as missing shall be traced and reconciled, and the library inventory shall be adjusted accordingly.
- b. When state property will be assigned to a Provider for use in performance of a contract, the title for that property or vehicle shall be immediately transferred to the Provider where it shall remain until this Contract is terminated or until other disposition instructions are furnished by the Contract Manager. When property is transferred to the Provider, the Agency shall pay for the title transfer. The Provider's responsibility starts when the fully accounted for property or vehicle is assigned to and accepted by the Provider. Business arrangements made between the Provider and its subcontractors shall not permit the transfer of title of state property to subcontractors. While such business arrangements may provide for subcontractor participation in the use and maintenance of the property under the Provider control, the Agency shall hold the Provider solely responsible for the use and condition of said property. Provider inventories shall be conducted in accordance with Agency requirements.
- c. If any property is purchased by the Provider with funds provided by this Contract, the Provider shall inventory all nonexpendable property including all computers. A copy of which shall be submitted to the Agency along with the expenditure report for the period in which it was purchased. At least annually the Provider shall submit a complete inventory of all such property to the Agency whether new purchases have been made or not.
- e. The Contract Manager must provide disposition instructions to the Provider prior to the end of the Contract period. The Provider cannot dispose of any property that reverts to the Agency without the Contract Manager's prior approval. The Provider shall furnish a closeout inventory no later than 30 days before the completion or

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termination of this Contract. The closeout inventory shall include all nonexpendable property including all computers purchased by the Provider. The closeout inventory shall contain, at a minimum, the same information required by the annual inventory.

- f. The Provider hereby agrees that all inventories required by this Contract shall be current and accurate and reflect the date of the inventory. If the original acquisition cost of a property item is not available at the time of inventory, an estimated value shall be agreed upon by both the Provider and the Agency and shall be used in place of the original acquisition cost.
  - g. Title (ownership) to and possession of all property purchased by the Provider pursuant to this Contract shall be vested in the Agency upon completion or termination of this Contract. During the term of this Contract, the Provider is responsible for insuring all property purchased by or transferred to the Provider is properly maintained and is in good working order. The Provider hereby agrees to pay the cost of transferring title to and possession of any property for which ownership is evidenced by a certificate of title. The Provider shall be responsible for repaying to the Agency the replacement cost of any property inventoried and not transferred to the Agency upon completion or termination of this Contract. When property transfers from the Provider to the Agency, the Provider shall be responsible for paying for the title transfer.
  - h. Any warranties for property purchased by the Provider pursuant to this Contract shall be transferrable and vested in the Agency upon completion or termination of this Contract. The Provider hereby agrees to pay the cost of transferring warranties of any property for which ownership is evidenced by a certificate of title. When property transfers from the Provider to the Agency, the Provider shall be responsible for paying for the warranty transfer.
  - i. If the Provider replaces or disposes of property purchased by the Provider pursuant to this Contract, the Provider is required to provide accurate and complete information pertaining to replacement or disposition of the property as required on the Provider's annual inventory.
  - j. The Provider hereby agrees to indemnify the Agency against any claim or loss arising out of the operation of any motor vehicle purchased by or transferred to the Provider pursuant to this Contract.
  - k. A formal contract amendment is required prior to the purchase of any property item not specifically listed in the approved budget.
46. **Verification of Employment Status (E-Verify)**  
Pursuant to State of Florida Executive Order Number 11-116, the Provider and its subcontractors shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Provider during the Contract term. The Provider shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to this contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the Contract term. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>. Evidence of the use of the E-Verify system shall be maintained in the employee's personnel file.
47. **MyFloridaMarketPlace Registration**  
To comply with Rule 60A-1.033, F.A.C., each Provider doing business with the State of Florida for the sale of commodities or contractual services as defined in section 287.012, F.S., shall register in the MyFloridaMarketPlace system, unless exempted under Rule 60A-1.033(3), F.A.C. Information about the registration process is available, and registration may be completed, at the MyFloridaMarketPlace website (link under Business on the State portal at [www.myflorida.com](http://www.myflorida.com)).
48. **MyFloridaMarketPlace Transaction Fee**  
The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement System. Pursuant to subsection 287.057(22), F.S., all payments shall be assessed a transaction fee of one percent (1.0%), which the Provider shall pay to the State unless exempt pursuant to 60A-1.031, F.A.C. For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Provider. If automatic deduction is not possible, the Provider shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Provider certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

The Provider shall receive a credit of any transaction fee paid by the Provider for the purchase of any item(s) if such item(s) are returned to the Provider through no fault, act, or omission of the Provider. A Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Provider's failure to perform or comply with specifications or requirements of the agreement.

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Failure to comply with these requirements shall constitute grounds for declaring the Provider in default and recovering procurement costs from the Provider in addition to all outstanding fees. **VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

**49. Scrutinized Companies**

If this Contract is valued at \$1,000,000 (total Contract value) or more, awarded, extended, or renewed on or after July 1, 2011, the Provider agrees to refrain from any of the prohibited business activities with the Governments of Sudan and Iran as described in section 215.473, F.S. If this Contract is valued at \$1,000,000 (total Contract value) or more, awarded, extended, or renewed on or after July 1, 2012, the Provider also agrees to not engage in business operations in Cuba or Syria as described in section 287.135, F.S. If this Contract is valued at \$1,000,000 (total Contract value) or more, awarded, extended, or renewed on or after October 1, 2016, the Provider also agrees to refrain from the boycott of Israel as described in section 215.4725, F.S. Pursuant to section 287.135, F.S., the Agency may immediately terminate this Contract for cause if the Provider is found to have submitted a false certification required under Section 287.135(5), F.S., or the Provider is placed on the Scrutinized Companies that Boycott Israel List, or is engaged in the boycott of Israel as described in section 215.4725, F.S, or is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engaged in business operations in Cuba or Syria during the term of the Contract. If this Contract is valued at \$1,000,000 (total Contract value) or more, in execution of this Contract, Provider certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, is not participating in a boycott of Israel, and has not engaged in business operations in Cuba or Syria.

**50. Transportation Disadvantaged**

The Provider agrees to comply with the provisions of Chapter 427, F.S., Part I, Transportation Services, and Chapter 41-2, F.A.C., Commission for the Transportation Disadvantaged, if public funds provided under this contract would be used to transport clients.

**51. Official Payee Representatives** (Names, Addresses, Telephone Numbers, E-mail addresses):

a. The Provider name, as shown on page 1 of this Contract, and mailing address of the official payee to whom the payment shall be made is:

<b>Name</b>
<b>Address</b>
<b>City, State, Zip</b>
<b>Phone &amp; Extension</b>
<b>Email</b>

c. The name, mailing address, telephone number, and e-mail address of the Contract Manager for the Agency for this Contract is:

<b>Name</b>
<b>Address</b>
<b>City, State, Zip</b>
<b>Phone &amp; Extension</b>
<b>Email</b>

b. The name of the contact person and street address where financial and administrative records are maintained is:

<b>Name</b>
<b>Address</b>
<b>City, State, Zip</b>
<b>Phone &amp; Extension</b>
<b>Email</b>

d. The name, mailing address, telephone number, and e-mail address of the representative of the Provider responsible for administration of the program under this Contract is:

<b>Name</b>
<b>Address</b>
<b>City, State, Zip</b>
<b>Phone &amp; Extension</b>
<b>Email</b>

Upon change of representative information (names, addresses, telephone numbers or e-mail addresses) by either party, notice shall be provided in writing to the other party and the notification attached to the originals of this Contract.

**52. All Terms and Conditions Included**

This Contract and its attachments, \_\_\_\_\_ and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. Provider shall comply with all applicable federal, state, and local laws and regulations. If any term or provision of this Contract is legally determined unlawful or unenforceable, the remainder of the Contract shall remain in full force and effect and such term



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or provision shall be stricken. In the event of a conflict between the provisions of the documents, the documents shall be interpreted in the following order of precedence:

- a. Attachment I and other attachments, if any;
- b. Any documents incorporated into any attachment by reference;
- c. The Standard Contract; and
- d. Any documents incorporated in the Standard Contract by reference to include the original RFP, official answers to any RFP questions and the vendor response to the RFP.

**By signing this Contract, the parties acknowledge that they have read and agree to the entire Contract, as described in Section 52 above.**

**IN WITNESS THEREOF**, the parties hereto have caused this \_\_\_\_\_ page Contract to be executed by their undersigned officials as duly authorized.

**FLORIDA AGENCY FOR PERSONS WITH DISABILITIES**

**SIGNATURE** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

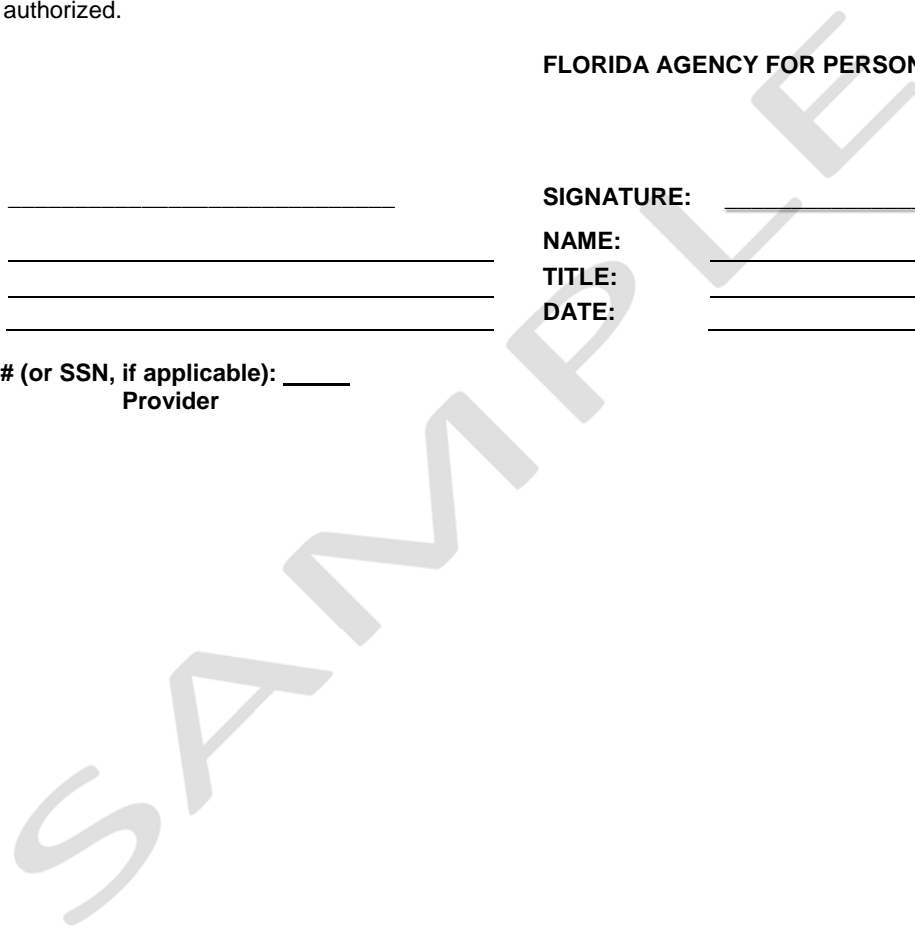
**SIGNATURE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**FEDERAL EID # (or SSN, if applicable):** \_\_\_\_\_  
Provider



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EXHIBIT A  
APD STANDARD CONTRACT

COST PAGE FROM THE ITB

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1.1 **EXHIBIT B**

REPORTS  
REPORTS FROM THE ITB

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**1.2 APD STANDARD CONTRACT ATTACHMENT II**

The administration of resources awarded by the Agency for Persons with Disabilities to the Provider may be subject to audits and/or monitoring by the Agency as described in this attachment.

**15.12.1 Monitoring**

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, the Agency for Persons with Disabilities (APD) or other State agencies may monitor or conduct oversight reviews to evaluate compliance with the contract, management and programmatic requirements. Such monitoring or other oversight procedures may include, but not be limited to, on-site visits by APD and/or other State agencies' staff, limited scope audits as defined by OMB Circular A-133, as revised or other procedures. By entering into this contract, the Provider agrees to comply and cooperate with any monitoring procedures deemed appropriate by APD and/or other State agencies. In the event that APD and/or another State agency determines that a limited scope audit of the Provider is appropriate, the Provider agrees to comply with any additional instructions provided by APD and/or other State agencies regarding such audit. The Provider further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the APD Inspector General, the state's Chief Financial Officer or the Auditor General.

**16 PART I: FEDERAL REQUIREMENTS**

This part is applicable if the Provider is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the Provider expends \$750,000 or more in Federal awards during its fiscal year, the Provider must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. In determining the Federal awards expended during its fiscal year, the Provider shall consider all sources of Federal awards, including Federal resources received from APD, Federal government (direct), other state agencies, and other non-state entities. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Provider conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part. In connection with the above audit requirements the Provider shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

The schedule of expenditures should disclose the expenditures by contract number for each contract with APD in effect during the audit period. The financial statements should disclose whether or not the matching requirement was met for each applicable contract. All questioned costs and liabilities due APD shall be fully disclosed in the audit report package with reference to the specific contract number.

2. If the Provider expends less than \$750,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event the Provider expends less than \$750,000 in Federal awards during its fiscal year, the Provider agrees to provide certification to APD's Contract Administration and its Contract Manager that a single audit was not required. In the event that the Provider expends less than \$750,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from Provider resources obtained from other than Federal entities).
3. The OMB Circular A-133 and compliance supplement are available at the following address:  
<http://www.whitehouse.gov/omb/circulars/>

**16 PART II: STATE REQUIIEMENTS**

This part is applicable if the Provider is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

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1. In the event the Provider expends \$750,000 or more in state financial assistance during its fiscal year, the Provider must have a State single or project-specific audit conducted in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended during its fiscal year, the Provider shall consider all sources of state financial assistance, including state financial assistance received from APD, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

In connection with the audit requirements addressed in the preceding paragraph, the Provider shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 or 10.650, Rules of the Auditor General.

The schedule of expenditures should disclose the expenditures by contract number for each contract with APD in effect during the audit period. The financial statements should disclose whether or not the matching requirement was met for each applicable contract. All questioned costs and liabilities due APD shall be fully disclosed in the audit report package with reference to the specific contract number.

2. If the Provider expends less than \$750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event the Provider expends less than \$750,000 in state financial assistance during its fiscal year, the Provider agrees to provide certification to APD's Contract Administration and its Contract Manager that a single audit was not required. In the event that the Provider expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the Provider's resources obtained from other than State entities).
3. The State Projects Compliance Supplement is available at the following address:  
<https://apps.fldfs.com/fsaa/compliance.aspx>

## 16 PART III: REPORT SUBMISSION

Any reports, management letters, or other information required to be submitted to APD pursuant to this contract shall be submitted within 180 days after the end of the Provider's fiscal year or within 30 days of the Provider's receipt of the audit report, whichever occurs first, directly to each of the following unless otherwise required by Florida Statutes:

- A. The Contract Manager for this contract at the email address specified in the Standard Contract.
- B. The Agency for Persons with Disabilities Contract Administration at the following email address:  
[apd.fsaa@apdcares.org](mailto:apd.fsaa@apdcares.org).
- C. Reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Attachment shall be submitted, when required by §\_\_\_.320(d), OMB Circular A-133, as revised, by or on behalf of the Provider directly to the Federal Audit Clearinghouse using the Federal Audit Clearinghouse's Internet Data Entry System at:  
<http://harvester.census.gov/fac/collect/ddeindex.html> and other Federal agencies and pass-through entities in accordance with §\_\_\_.320(e) and (f), OMB Circular A-133, as revised.
- D. Copies of reporting packages required by Part II of this agreement shall be submitted by or on behalf of the Provider directly to the following address:

Auditor General  
 Local Government Audits/342  
 Claude Pepper Building, Room 401  
 111 West Madison Street  
 Tallahassee, Florida 32399-1450  
 Email address: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

Providers, when submitting audit report packages to Agencies for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit or for-profit organizations), Rules of the Auditor

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General, should include, when available, correspondence from the auditor indicating the date the audit report package was delivered to them. When such correspondence is not available, the date that the audit report package was delivered by the auditor to the Provider must be indicated in correspondence submitted to the Agency in accordance with Chapter 10.558(3) or Chapter 10.657(2), Rules of the Auditor General.

**16 PART V: RECORD RETENTION**

The Provider shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of six (6) years from the date the audit report is issued, and shall allow APD or its designee, Chief Financial Officer or Auditor General access to such records upon request. The Provider shall ensure that audit working papers are made available to APD, or its designee, Chief Financial Officer, or Auditor General upon request for a period of three years from the date the audit report is issued, unless extended in writing by APD.

**PART VI: EXHIBITS**

- Exhibit A: Post Award Notice
- Exhibit B: Provider Determination

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1.3 **EXHIBIT A**

**POST AWARD NOTICE**

Provider: \_\_\_\_\_

Contract: \_\_\_\_\_

**1. FEDERAL RESOURCES AWARDED TO THE PROVIDER PURSUANT TO THIS CONTRACT CONSIST OF THE FOLLOWING:**

Federal Program 1: \_\_\_\_\_

CFDA#: \_\_\_\_\_

Title: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Federal Program 2: \_\_\_\_\_

CFDA#: \_\_\_\_\_

Title: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

TOTAL FEDERAL AWARDS \$ \_\_\_\_\_

COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS CONTRACT CAN BE FOUND IN OMB CIRCULAR A-133, APPENDIX B: COMPLIANCE SUPPLEMENT AT:

<http://www.whitehouse.gov/omb/circulars>

**2. STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS CONTRACT CONSIST OF THE FOLLOWING:**

Matching resources for federal program(s): \_\_\_\_\_

CFDA#: \_\_\_\_\_

Title: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

State financial assistance subject to Sec. 215.97, Florida Statutes:

CSFA#: \_\_\_\_\_

Title: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

TOTAL STATE FINANCIAL ASSISTANCE AWARDED PURSUANT TO SECTION 215.97, FLORIDA STATUTES \$ \_\_\_\_\_

**State funds reported above may include Maintenance of Effort (MOE) funding. This occurs when a CFDA number is associated with State funds used to meet Federal maintenance of effort requirements**

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS CONTRACT CAN BE FOUND IN PART FOUR: STATE PROJECT COMPLIANCE REQUIREMENTS OF THE FLORIDA SINGLE AUDIT ACT AT: <https://apps.fldfs.com/fsaa/compliance.aspx>

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**1.4 EXHIBIT B**

**PROVIDER DETERMINATION**

**PART I: AUDIT RELATIONSHIP DETERMINATION**

Providers who receive state or federal resources may or may not be subject to the audit requirements of OMB Circular A-133, as revised, and/or Section 215.97, Florida Statutes. Providers who are determined to be recipients or subrecipients of federal awards and/or state financial assistance may be subject to the audit requirements if the audit threshold requirements set forth in Part I and/or Part II of Attachment are met. Providers who have been determined to be vendors are not subject to the audit requirements of OMB Circular A-133, as revised, and/or Section 215.97, Florida Statutes. Regardless of whether the audit requirements are met, Providers who have been determined to be recipients or subrecipients of Federal awards and/or state financial assistance must comply with applicable programmatic and fiscal compliance requirements.

In accordance with Sec. 210 of OMB Circular A-133 and/or Rule 691-5.006, FAC, Provider has been determined to be:

\_\_\_\_\_ Vendor not subject to OMB Circular A-133 and/or Section 215.97, Florida Statutes

\_\_\_\_\_ Recipient/subrecipient subject to OMB Circular A-133 and/or Section 215.97, Florida Statutes

\_\_\_\_\_ Exempt organization not subject to OMB Circular A-133 and/or Section 215.97, Florida Statutes. For Federal awards, for-profit organizations are exempt; for state financial assistance projects, public universities, community colleges, district school boards, branches of state (Florida) government, and charter schools are exempt. Exempt organizations must comply with all compliance requirements set forth within the contract or award document

NOTE: If a Provider is determined to be a recipient/subrecipient of federal and or state financial assistance and has been approved by APD to subcontract, they must comply with Section 215.97(7), F.S., and Rule 691-5.006(2), FAC [state financial assistance] and §\_\_ .400 OMB Circular A-133 [federal awards].

**PART II: FISCAL COMPLIANCE REQUIREMENTS**

**FEDERAL AWARDS OR STATE MATCHING FUNDS ON FEDERAL AWARDS.** Providers who receive Federal awards, state MOE funds, or state matching funds on Federal awards and who are determined to be a recipient or subrecipient, must comply with the following fiscal laws, rules and regulations:

**STATES, LOCAL GOVERNMENTS AND INDIAN TRIBES MUST FOLLOW:**

- 2 CFR 225 a/k/a OMB Circular A-87 – Cost Principles\*
- OMB Circular A-102 – Administrative Requirements\*\*
- OMB Circular A-133 – Audit Requirements
- Reference Guide for State Expenditures
- Other fiscal requirements set forth in program laws, rules and regulations

**NON-PROFIT ORGANIZATIONS MUST FOLLOW:**

- 2 CFR 230 a/k/a OMB Circular A-122 – Cost Principles\*
- 2 CFR 215 a/k/a OMB Circular A-110 – Administrative Requirements
- OMB Circular A-133 – Audit Requirements
- Reference Guide for State Expenditures
- Other fiscal requirements set forth in program laws, rules and regulations

**EDUCATIONAL INSTITUTIONS (EVEN IF A PART OF A STATE OR LOCAL GOVERNMENT) MUST FOLLOW:**

- 2 CFR 220 a/k/a OMB Circular A-21 – Cost Principles\*
- 2 CFR 215 a/k/a OMB Circular A-110 – Administrative Requirements
- OMB Circular A-133 – Audit Requirements



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Reference Guide for State Expenditures  
Other fiscal requirements set forth in program laws, rules and regulations

\*Some Federal programs may be exempted from compliance with the Cost Principles Circulars as noted in the OMB Circular A-133 Compliance Supplement, Appendix 1.

\*\*For funding passed through U.S. Health and Human Services, 45 CFR 92; for funding passed through U.S. Department of Education, 34 CFR 80.

**STATE FINANCIAL ASSISTANCE.** Providers who receive state financial assistance and who are determined to be a recipient/subrecipient, must comply with the following fiscal laws, rules and regulations:

Section 215.97, Florida Statutes  
Chapter 69I-5, Florida Administrative Code  
State Projects Compliance Supplement  
Reference Guide for State Expenditures  
Other fiscal requirements set forth in program laws, rules and regulations

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1.5 ATTACHMENT IV

**CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION  
CONTRACTS/SUBCONTRACTS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, signed February 18, 1986. The guidelines were published in the May 29, 1987 Federal Register (52 Fed. Reg., pages 20360 - 20369).

**INSTRUCTIONS**

1. Each Provider whose contract/subcontract equals or exceeds \$25,000 in federal funds must sign this certification prior to execution of each contract/subcontract. Additionally, providers who audit federal programs must also sign, regardless of the contract amount. The Agency for Persons with Disabilities cannot contract with these types of providers if they are debarred or suspended by the federal government.
2. This certification is a material representation of fact upon which reliance is placed when this contract/subcontract is entered into. If it is later determined that the signer knowingly rendered an erroneous certification, the federal government may pursue available remedies, including suspension and/or debarment.
3. The Provider shall provide immediate written notice to the contract manager at any time the Provider learns that its certification was erroneous when submitted or has become erroneous by reason of changed Circumstances.
4. The terms "debarred", "suspended", "ineligible", "person", "principal", and "voluntarily excluded", as used in this certification, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department's Contract Manager for assistance in obtaining a copy of these regulations.
5. The Provider agrees by submitting this Certification that, it shall not knowingly enter into any Subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this Contract/Subcontract unless authorized by the federal government.
6. The provider further agrees by submitting this Certification that it will require each Subcontractor of this Contract/Subcontract, whose payment will equal or exceed \$25,000 in federal funds, to submit a signed copy of this Certification.
7. The Agency for Persons with Disabilities may rely upon a certification of a Provider that it is not debarred, suspended, ineligible, or voluntarily excluded from contracting/subcontracting unless it knows that the Certification is erroneous.
8. This signed Certification must be kept in the Contract Manager's file. The Subcontractor's Certification must be kept at the Provider's business location.

**CERTIFICATION**

- (1) The prospective Provider certifies, by signing this Certification, that neither he nor his principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract/Subcontract by any federal department or agency.
- (2) Where the prospective Provider is unable to certify to any of the statements in this certification, such prospective Provider shall attach an explanation to this certification.

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

\_\_\_\_\_

Name (Type or Print)

\_\_\_\_\_

Title

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1.6 ATTACHMENT V

**CERTIFICATION REGARDING LOBBYING  
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND  
COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or an employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds, other than federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Authorized Individual

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Address of Organization

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1.7 ATTACHMENT VII

**CONTRACT # \_\_\_\_\_**  
**BUSINESS ASSOCIATE AGREEMENT**  
**BETWEEN**  
**FLORIDA AGENCY FOR PERSONS WITH DISABILITIES (“AGENCY”)**  
**AND (“PROVIDER”)**

This Business Associate Agreement (“Agreement”) is made by and between Covered Entity, the Florida Agency for Persons with Disabilities (“Agency” or “Covered Entity”) and Business Associate, \_\_\_\_\_, (“Provider” or “Business Associate”) to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), 45 CFR Parts 160, 162, and 164, as well as other applicable federal and state confidentiality laws.

RECITALS

WHEREAS, Business Associate will provide certain services to or on behalf of the Agency. In providing such services, Business Associate may receive from the Agency, and/or may maintain, create, or transmit information on behalf of the Agency that contains protected health information (“PHI”) or electronic protected health information (“E-PHI”) (both defined below), as collectively referred to herein as “PHI” or “protected health information.”

WHEREAS, each party separately acknowledges and agrees that PHI, whether electronic, written, or in oral form shall be safeguarded and any access, use, or disclosure of such information that is created, received, maintained, and/or transmitted between the Agency and the Business Associate, or on behalf of the Agency by Business Associate, shall comply with the requirements of the HIPAA rules.

WHEREAS, the HIPAA rules require that the Agency receive adequate assurances that Business Associate will use appropriate administrative, technical, and physical safeguards to protect the confidentiality of PHI, as shared within the course of providing services to or on behalf of the Agency.

NOW THEREFORE, in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions. The definition of the terms contained in this Agreement shall have the same meaning and effect as those terms contained in the HIPAA rules, 45 CFR Parts 160, 162, and 164. In the event of any inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA rules, the HIPAA rules shall control.
  - 1.1. “Business Associate” has the same meaning as the term “Business Associate” which is defined in 45 CFR § 160.103.
  - 1.2. “Covered Entity” has the same meaning as the term “Covered Entity” which is defined in 45 CFR § 160.103, and in this Agreement means the Florida Agency for Persons with Disabilities (“Agency”).
  - 1.3. “HIPAA Rules” means the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), as set forth in 45 CFR Parts 160, 162, and 164.
  - 1.4. “Breach” means the unauthorized acquisition, access, use, or disclosure of PHI under the HIPAA rules which compromises the confidentiality of the PHI. 45 CFR §164.402.
  - 1.5. “Protected Health Information or (PHI)” means individually identifiable health information that is: transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium relating to past, present, or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual. (“Electronic PHI” or “E-PHI” means information transmitted by or maintained in electronic media).

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- 1.6. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. 45 CFR § 164.304.
- 1.7. "Unsecured PHI" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services in the guidance issues under section 13402(h)(2) of Public Law 111-5. 45 CFR § 164.402.
2. Purposes for which PHI May Be Disclosed to Business Associate. In connection with the services provided by Business Associate to or on behalf of the Agency, the Agency shall only disclose PHI to Business Associate for the stated purposes referenced in Contract # \_\_\_\_\_ and shall limit disclosure to the minimum necessary information to accomplish the intended purpose referenced in Contract # \_\_\_\_\_
3. Disclosure to Third Parties, Agents, and Subcontractors. Business Associate shall not divulge, disclose, or communicate any PHI to any third party which does not comport with this Agreement without prior written approval from the Agency. Prior to the Business Associate disclosing any PHI received from the Agency, or created or received by Business Associate on behalf of the Agency, to any agent or subcontractor, if applicable, Business Associate shall require its agent or subcontractor to enter into a written contract that fully complies with the terms and conditions of this Agreement and the requirements of 45 CFR § 164.314(a). Business Associate acknowledges and agrees that it shall be responsible to the Agency for any acts, failures or omissions of its agents or subcontractors in providing the services as if they were the Business Associate's own acts, failures or omissions, to the extent permitted by law.
4. Business Associate Responsibilities. Business Associate may only access, use, or disclose the minimum necessary PHI needed to accomplish the intended functions, services, or activities on behalf of the Agency. Business Associate shall comply with the following requirements:
- 4.1. Business Associate acknowledges and agrees that it must review, understand, and comply with applicable federal and state confidentiality and security laws; specifically, the provisions of the HIPAA rules at 45 CFR Parts 160, 162, and 164, Fla. Stat. § 501.171, as well as any applicable amendments.
- 4.2. Business Associate shall familiarize its workforce members with the requirements of this Agreement, shall provide HIPAA training to any member of its workforce that is authorized to access, use, or disclose PHI, and shall develop and implement a sanctions policy in accordance with 45 CFR 164.530(e) for any workforce member, agent, or subcontractor who violates this Agreement or the requirements of HIPAA.
- 4.3. Business Associate shall not use or disclose PHI other than as permitted or required by the Agency or as required by federal or state law.
- 4.4. Business Associate will implement and maintain appropriate administrative, technical, and physical safeguards that protect the confidentiality, integrity, and privacy of PHI which Business Associate receives, creates, maintains, or transmits on behalf of the Agency.
- 4.5. Use appropriate safeguards and comply, where applicable, with Subpart C of 45 CFR Part 164 regarding electronic PHI, to prevent the access, use, or disclosure of PHI for any purpose not in conformity with the functions, service, or activities provided on behalf of the Agency, this Agreement, or federal or state law.
- 4.6. Business Associate shall make a good faith effort to identify any access, use, or disclosure of PHI that is not authorized under this Agreement nor permitted under the HIPAA rules and report the same to the Agency, including breaches by Business Associate or its subcontractor of unsecured PHI, per 45 CFR §164.410, and any security incidents.
- 4.6.1. Notice to the Covered Entity. Business Associate will report to the Agency, within twenty-four (24) hours of discovery, any access, use, or disclosure of PHI that is not authorized under this Agreement nor permitted under the HIPAA rules of which Business Associate becomes aware. Business Associate acknowledges and agrees that its failure and/or refusal to comply with the reporting requirements set forth in this paragraph shall be a material violation of this Agreement. The requisite notice shall, to the extent possible, include the full name of each individual whose unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, used, or disclosed

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during the incident; as well as, Business Associate's written risk assessment which shall provide a brief description of what happened, including the date of the breach and the date of discovery of the breach, a description of the types of unsecured PHI that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved), as well as a description of what steps Business Associate is taking to investigate the breach, to mitigate harm to individuals, and to protect against further breaches.

4.6.2. Notice to Individuals, Media, Secretary of Health and Human Services, and the Florida Department of Legal Affairs. Upon discovering a breach of PHI, Business Associate shall first notify the Agency regarding the pertinent details of the incident / breach; thereafter, upon the approval of the Agency, Business Associate shall notify each individual whose unsecured PHI has been, or is reasonably believed by Business Associate to have been accessed, acquired, used, or disclosed as a result of such breach, the media, the Secretary of the U.S. Department of Health and Human Services, and/or the Florida Department of Legal Affairs, as follows:

4.6.2.1. Content of Notices (Generally). Breach notification letters to individuals shall be sent by first-class mail, certified mail, return receipt requested, to the individual at the last known address of the individual. If the individual agrees to electronic notice and such agreement has not been withdrawn, by electronic mail. The notification shall be provided in one or more mailings as information is available. If Agency knows that the individual is deceased and has the address of the next of kin or personal representative of the individual, written notification by first-class mail, certified mail, return receipt requested, to the next of kin or person representative shall be carried out. If there is insufficient or out-of-date contact information that precludes direct written or electronic notification, a substitute form of notice reasonably calculated to reach the individual shall be provided. If there is insufficient or out-of-date contact information for fewer than 10 individuals, then the substitute notice may be provided by an alternative form of written notice, by telephone, or by other means. If there is insufficient or out-of-date contact information for 10 or more individuals, then the substitute notice shall be in the form of either a conspicuous posting for a period of 90 days on the home page of Agency's website, or a conspicuous notice in major print or broadcast media in the geographic areas where the individuals affected by the breach likely reside. The notice shall include a toll-free number that remains active for at least 90 days where an individual can learn whether his or her PHI may have been included in the breach.

4.6.2.2. For Breaches Involving 500 or Less Individuals. If Business Associate discovers a breach of unsecured PHI that involves 500 or less affected individuals, Business Associate shall first notify the Agency regarding the pertinent details of the incident / breach as called for in section 4.6.1; thereafter, after the approval of the Agency, Business Associate shall provide timely notice to affected individuals in accordance with 45 CFR § 164.404 and Fla. Stat. § 501.171, within thirty (30) calendar days. Business Associate shall maintain a log or other documentation of such breaches and, not later than sixty (60) days after the end of each calendar year, provide notice to the Secretary of the U.S. Department of Health and Human Services in accordance with 45 CFR § 164.408(c) and shall contemporaneously submit copies of such notices to the Agency.

4.6.2.3. For Breaches Involving 500 or More Individuals. If Business Associate discovers a breach of unsecured PHI that involves 500 or more affected individuals, Business Associate shall first notify the Agency regarding the pertinent details of the incident / breach as called for in section 4.6.1; thereafter, after the approval of the Agency, Business Associate shall provide timely notice to affected individuals in accordance with 45 CFR § 164.404 and Fla. Stat. § 501.171, within thirty (30) calendar days; provide timely notice to prominent media outlets in accordance with 45 CFR § 164.406; provide timely notice to the Florida Department of Legal Affairs by no later than thirty (30) calendar days from the date of discovering the breach pursuant to the requirements of Fla. Stat. § 501.171(3)(b); and, assist the Agency in providing timely notice to the Secretary of the U.S. Department of Health and Human Services by no later than sixty (60) calendar days from the date of discovering the breach pursuant to 45 CFR §164.408(b).

4.7. In accordance with 45 CFR §164.502(e)(1)(ii) and § 164.308(b)(2), if applicable, ensure that every agent or subcontractor of Business Associate that creates, receives, maintains, or transmits PHI on behalf of Business Associate, for the benefit of the Agency, executes a written agreement requiring the agent or

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- subcontractor to agree to the same restrictions, conditions, and requirements that apply to Business Associate.
- 4.8. Business Associate shall make PHI, in a designated record set, available to an individual via the Agency, as necessary, to satisfy the requirements of 45 CFR § 164.524. More specifically, within ten (10) calendar days of a request by an individual for his or her right of access to PHI contained in a designated record set, Business Associate shall forward any individual requests to the Agency to fulfill such requests.
  - 4.9. Business Associate shall make any amendment(s) to PHI, in a designated record set, as directed or agreed upon by the Agency pursuant to 45 CFR § 164.526, or take other measures as necessary to satisfy the Agency's obligations.
  - 4.10. Business Associate shall maintain and make available the information required to provide an accounting of disclosures to the Agency pursuant to the requirements of 45 CFR §164.528. Business Associate shall document all disclosures of PHI as needed for the Agency to respond to a request for an accounting of disclosures. Within ten (10) calendar days of making a disclosure of PHI, other than disclosures excepted under 45 CFR § 164.528(a), Business Associate shall provide the Agency with a written report of such disclosures to the Agency for the Agency to fulfill such requests. At a minimum, Business Associate shall provide the following information for each disclosure: (i) the date of the disclosure; (ii) the name of the entity or person who received the PHI and, if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure or, in lieu of such statement, a copy of a written request for a disclosure under §164.502(a)(2)(ii) or §164.512, if any. Such information must be maintained by Business Associate and its agents and subcontractors for a period of six (6) years from the date of each disclosure.
  - 4.11. To the extent Business Associate is to carry out one or more of the Agency's obligations under Subpart E of 45 CFR 164, it shall comply with the requirements of Subpart E that apply to the Agency in the performance of such obligation(s). 45 CFR§ 164.504.
  - 4.12. Make its internal practices, books, records relating to the access, use, and disclosures of PHI received from, or created or received by Business Associate on behalf of, the Agency available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance with the HIPAA rules. 45 CFR § 164.504.
  - 4.13. Business Associate agrees to notify Agency within five (5) calendar days of Business Associate's receipt of any request, subpoena, or judicial or administrative order to disclose PHI. If the Agency decides to challenge the validity of such request, subpoena or order, Business Associate agrees to cooperate with Agency in such challenge.
  - 4.14. Business Associate shall provide information and training to members of Business Associate's workforce regarding the requirements of the HIPAA privacy and security rules as well as the specific requirements of this Agreement.
  - 4.15. Business Associate acknowledges and agrees that it must immediately notify the Agency's HIPAA Privacy Official regarding any incidents in which PHI is accessed, used, or disclosed for a purpose that is not authorized under this Agreement or the HIPAA rules.
5. Use and Disclosure of Information for Management, Administration, and/or Legal Responsibilities. Business Associate may not use or disclose PHI in a manner that violates the HIPAA rules, if done by the Agency, or that exceeds the permitted uses set forth in this Agreement. Notwithstanding, in accordance with 45 CFR § 164.504(e)(4), the Agency acknowledges that Business Associate is permitted to use and disclose PHI received from the Agency for the proper management and administration of the Business Associate and to carry out the legal responsibilities of Business Associate to the extent that such disclosures are required by law or Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that: (1) the PHI will be held confidentially; (2) the PHI will be used or further disclosed only as required by law or for the purposes for which it was disclosed to the person; and (3) the person notifies Business Associate of any instance of which it is aware in which the confidentiality of the PHI has been breached.

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6. Prohibited Uses. Unless specifically stated in the "Purposes for which PHI May Be Disclosed to Business Associate" section of this Agreement, Business Associate, nor any of its officers, employees, subcontractors, or agents shall not access, use, or disclose any PHI for the purposes of marketing, fundraising, or selling PHI.
7. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effects that arises from the unauthorized access, use, or disclosure of PHI by Business Associate in violation of the requirements of this Agreement and the HIPAA rules.
8. Indemnification. Business Associate shall indemnify and hold harmless the Agency from and against any and all losses, costs, expenses, or damages that Agency sustains as a result of, or arising out of a breach of this Agreement or the HIPAA rules by Business Associate or any of its agents or subcontractors.
9. Term and Termination.
  - 9.1. Term. The Term of this Agreement shall be effective upon both parties executing this Agreement and will continue until such time as the main underlying agreement has been concluded or terminated via the terms and conditions of this Agreement
  - 9.2. Termination Without Cause. Either party may terminate this Agreement without cause upon no less than thirty (30) calendar days' written notice to the other party unless a lesser time is mutually agreed upon, in writing, by both parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.
  - 9.3. Termination for Cause. If the Agency determines that Business Associate has violated a material term of this Agreement, the Agency may terminate this Agreement upon twenty-four (24) hours written notice to Business Associate.
  - 9.4. Obligations of Business Associate Upon Termination. Upon termination of the contract, if feasible, Business Associate shall return all PHI received from, or created, or received by Business Associate on behalf of the Agency that Business Associate still maintains in any form, including any copies or hybrid or merged databases made by Business Associate. Business Associate shall not retain any paper or electronic copies of the PHI unless approved, in writing, by the Agency. If the Agency provides Business Associate with written authorization to destroy the PHI, Business Associate must properly dispose of the PHI to ensure the PHI is no longer accessible and provide the Agency with written confirmation of such destruction of the PHI. If the return or destruction of the PHI is determined infeasible by the Agency, Business Associate shall continue to extend the protections of this Agreement to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
10. Survival. Business Associate's obligations under paragraph 9.4 shall survive the termination of this Agreement.
11. Relationship of the Parties. None of the provisions of this Agreement are to be construed as creating any agency relationship (as defined under the Federal common law of agency) between the parties.
12. Interpretation. Each party acknowledges and agrees that it entered into this Agreement with the intention of complying with the requirements of HIPAA as well as other applicable federal and state confidentiality laws. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA rules.
13. Severability. In the event that any term or provision of this Agreement is legally determined to be unlawful or unenforceable, the remainder of this Agreement shall remain in full force and effect and such term or provision shall be stricken.
14. Regulatory References. Any reference in this Agreement to any statutory or regulatory authority means that which is currently in effect as well as any future amendments.
15. Amendments. This Agreement may not be modified or amended except in a writing duly executed by authorized representatives of both parties. The parties agree to amend this Agreement to the extent necessary to allow each party to comply with the standards and requirements of HIPAA, the HITECH Act, as well as other applicable federal and state laws relating to the security and confidentiality of PHI and/or personal information.



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- 16. Waiver. Either party's failure to enforce any provision of this Agreement shall not, in any way, be construed as a waiver of such provision or prevent that party from enforcing it and every other provision of this Agreement.
- 17. Miscellaneous. If the Agency determines that Business Associate is not performing its duties under the terms and conditions of this Agreement, the Agency may, at its sole discretion, allow Business Associate a period of time to cure its deficiencies to achieve compliance.

**BY SIGNING THIS AGREEMENT THE PARTIES ACKNOWLEDGE THEY HAVE READ AND AGREE TO THE ENTIRE AGREEMENT.**

**IN WITNESS THEREOF, THE PARTIES HERETO HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR UNDERSIGNED OFFICIALS AS DULY AUTHORIZED.**

**INSERT NAME OF PROVIDER**

**FLORIDA AGENCY FOR PERSONS WITH  
DISABILITIES**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Title**

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**Title**

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**Date**

