

**Model Municipal Contract
For
The Early Intervention Program
Under Title II-A of Article 25 of the Public Health Law**

Table of Contents

Early Intervention Services Agreement	4
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Exhibit A - General Terms and Conditions

1. Definitions.....	5
2. Contractor Responsibilities	9
3. Inconsistent Provisions	9
4. Term and Termination of Agreement	9
a. Term of Agreement	9
b. Termination for Cause by County	9
c. Termination for Convenience by County	10
d. Termination for Convenience by Contractor.....	10
e. Release/Payment.....	11
f. Notices	11
g. Renegotiation and Interim Automatic Renewal	11
h. Temporary Suspension of Provider Enrollment for Children.....	12
5. Qualifications and Licenses	12
a. Qualifications	12
b. Documentation of Professional Standards	13
c. Central Register of Child Abuse and Maltreatment	13
d. Copies of Federal, State or Local Evaluations/Reports.....	14
6. Compliance with Law	15
7. Offset of Arrears or Default	15
8. Confidentiality	15
a. Confidentiality of Information.....	15
b. Contractor Responsibilities Regarding AIDS & HIV-Related Information	17
c. Maintenance of Records	17
9. Gratuities	18
10. Conflict of Interest	19
11. Independent Contractor	19
12. Insurance	19
13. Indemnification.....	21
14. Nondiscrimination in Employment.....	20
15. Nondiscrimination in Services	21
16. Nonsectarian Declaration.....	22
17. Cooperation on Claims	22
18. Assignment/Subcontracting	22
19. Investigations	23
20. No Implied Waiver.....	24
21. Merger; No Oral Changes	24
22. Provider Publications	24
23. Notices and Contact Persons.....	25
24. Severability	25

Exhibit B - Financial Terms and Conditions

1. Payment for Services Upon Submission of Bills 26
2. Solicitation Prohibited 26
3. Requirements Prior to Payment..... 26
4. Payments subject to Maintenance of Licenses..... 27
5. Taxes..... 27
6. Payment Contingent on Receipt of Aid..... 27
7. Fiscal Records Retention 28
8. Financial Audits and Programmatic Monitoring 28

Exhibit C - Variable Terms Specific To County 30

(None, unless signed by the parties as set forth in Exhibit C)

Exhibit D - Description of Services

1. Representations..... 31
2. Early Intervention Provider Approval..... 31
3. Immunizations..... 32
4. Provision of Services 32
5. New York State Department of Health and State Education Department
Approval Letters..... 33
6. Quality Assurance..... 33
7. Attendance at Mediations and Impartial Hearings..... 33
8. Attendance at Training Sessions 34
9. Records 34
10. Progress Reports on Individual Eligible and Referred Children 37
11. Cooperation with Service Coordinators..... 37
12. Facilities..... 38
13. Medical Assistance (Medicaid) and Private Insurance..... 38
14. Provider Agreement between New York State Department of Health
and Service Providers and Statement Reassignment..... 38
15. Participation in the IFSP Process..... 39
16. Screenings and Evaluations..... 39
17. Service Coordination..... 40
18. Early Intervention Provider Services 41
19. Transition Services 42
20. Transportation Information..... 43
21. Respite Services 43

Exhibit E - Agency Provider Information Form	44
Exhibit F - Individual Provider Information Form.....	48
Exhibit G - Site Information Form.....	49
Exhibit H - Provider Agreement Between the New York State Department of Health and Service Providers in the New York State Early Intervention Program.....	50
Exhibit I - Statement of Reassignment.....	51
Exhibit J - New York State Approval Letter and/or Amended Approval Letters.....	52

Early Intervention Services Agreement

This Agreement (**Agreement**) is between _____ (insert county or City of New York), acting through its duly constituted Department of _____ (insert name of local lead agency) (**County**), located at _____; and

_____ (**Contractor**), an individual or sole proprietorship (business/not-for-profit) corporation, partnership or state-operated facility organized under the laws of the State of New York, having its principal place of business at _____

The parties hereto desire to make available to the County Early Intervention Services for Children with Special Needs (Early Intervention Services), as defined in Exhibit D, or as applicable, Early Intervention Provider Services (Early Intervention Provider Services), as defined in Exhibit D, collectively hereinafter referred to as Services. Sufficient funding exists in the _____ (insert county) County Operating Budget.

Total Cost of Agreement: The Total Cost of the Agreement shall be in accordance with rates set forth in paragraph 1 of Exhibit B and paragraph 21 of Exhibit D.

Term of Agreement: _____ (insert timeframe) unless sooner terminated or extended as provided in Exhibit A of the Agreement.

Terms and Conditions: Shall be as set forth in Exhibits A through J, attached.

In Witness Whereof, the parties hereto have executed this agreement as of the latest date written below.

Contractor: _____ **County:** _____

By: _____ Date: _____

Name:

Title:

Social Security or Federal Tax ID. #:

Approved By: _____
(Insert name of local lead agency)

_____ Date: _____

County Attorney

Exhibit A
General Terms and Conditions

1. Definitions:

The following terms shall have the meaning defined below for the purposes of this agreement.

- a. **Act:** means Title II-A of Article 25 of the New York State Public Health Law (PHL), which covers the Early Intervention Program for Infants and Toddlers with Disabilities and Their Families (Program), and any amendments thereto during the term of this agreement. Terms not defined herein shall have the meanings provided in the Act and Regulations thereunder or, in the absence of definition herein or therein, shall have the meanings designated by the Early Intervention Official (EIO).
- b. **Agency Contractor:** means incorporated entities, sole proprietorships, partnerships, and state-operated facilities approved to provide early intervention services in accordance with Regulations having contracts with the county.
- c. **Agreement:** means the basic contract provisions as set forth in this document, together with appendices attached hereto and incorporated herein.
- d. **Assistive Technology Devices:** means those devices as defined in Regulations.
- e. **Audit:** means an examination and/or verification of financial records or accounts by the county or the NYSDOH or appropriate designee.
- f. **Authorization or Service Authorization:** means written notification from the county which gives the contractor permission to perform and bill for payment from the county for a special early intervention service (screening and evaluation, service coordination, provider services and assistive technology devices) and the date(s) for which said services are authorized.
- g. **Bill:** means a request to the county for payment for contract services rendered, on a document in a paper or electronic format prescribed by the county, to the county from the contractor.
- h. **Child:** means an “Eligible Child” or a “Referred Child”, as appropriate in the context.

- i. **Claim:** means a request for reimbursement to the NYSDOH from the county, for contract services rendered, on a document in a paper or electronic format prescribed by the NYSDOH.
- j. **Commissioner:** means the Commissioner of the New York State Department of Health.
- k. **County:** means the county agency responsible for the administration of the Early Intervention Program within the municipality or the City of New York.
- l. **Days:** means calendar days, unless otherwise specified.
- m. **Early Intervention Official (EIO):** means the appropriately designated municipal official and an appropriate designee of such official who is responsible for the Early Intervention Program within the county.
- n. **Early Intervention Services:** has the same definition as in PHL Section 2541 and the Regulations, except that, for the purposes of this agreement, it may include respite services.
- o. **Early Intervention Provider Services:** means Early Intervention Services other than Service Coordination, Screenings and Evaluations.
- p. **Eligible Child:** has the same definition as in PHL Section 2541 and the Regulations.
- q. **Evaluation:** has the same definition as in PHL Section 2541 and the Regulations.
- r. **Evaluator:** has the same definition as in PHL Section 2541 and the Regulations.
- s. **Individual Contractor:** means individuals who are qualified personnel approved to provide Early Intervention Services in accordance with Regulations having contracts with the county.
- t. **Individualized Family Service Plan (IFSP) or Interim Individualized Family Service Plan:** has the same definition as contained in PHL Sections 2541, 2545 and 2546 and the Regulations.
- u. **Initial Service Coordinator:** means the service coordinator designated by the Early Intervention Official in accordance with the Regulations.

- v. **Medical Assistance Program or Medicaid:** means the program authorized by Title II of Article 5 of the New York State Social Service Law.
- w. **Monitoring:** means a program review conducted by the county or NYSDOH or appropriate designee for the purpose of determining regulatory compliance and areas for quality improvement.
- x. **Multidisciplinary:** means the involvement of two or more professionals from different disciplines who are trained to utilize appropriate methods and procedures, at least one of whom shall be a specialist in the area of the child's suspected delay or disability, to conduct screenings and evaluations to determine eligibility for the Early Intervention Program.
- y. **Natural Environment:** has the same definition as in PHL Section 2541 and the Regulations.
- z. **NYSDOH:** means the New York State Department of Health.
- aa. **NYSED:** means the New York State Education Department.
- bb. **Ongoing Service Coordinator:** means the service coordinator selected by the parent at the IFSP meeting or thereafter and designated in the IFSP or amendments thereto.
- cc. **PHL:** means New York State Public Health Law.
- dd. **Parent:** means the parent of an Eligible or Referred Child or other person authorized to give parental consent under the Act or Regulations on behalf of an Eligible or Referred Child.
- ee. **Program:** means the Early Intervention Program.
- ff. **Provider:** means an Individual or Agency approved by the NYSDOH or NYSED to perform screenings, evaluations, service coordination and/or early intervention services as required under Article 25 of the PHL and may refer either to the contractor, or a third person, as appropriate.
- gg. **Qualified Personnel:** means those individuals who are approved to deliver services to the extent authorized by their licensure, certification or registration as defined in Regulations.
- hh. **Record:** or Early Intervention Program record means any information recorded in any way, maintained by the EIO, designee,

or approved evaluator, service provider or service coordinator as contained in Regulations.

- ii. **Referred Child:** means a child thought to be an Eligible Child under PHL Section 2544 who has been referred to the Early Intervention Official as provided by the Act.
- jj. **Regulations:** means the NYSDOH Regulations related to Early Intervention, Subpart 69-4 of Subchapter H of Chapter II of Title 10 (Health) of the Official Compilation of Codes, Rules, and Regulations of the State of New York, as the same may be in effect or amended during the term of this agreement.
- kk. **Respite Services:** means respite services to eligible children and their families pursuant to PHL Section 2547 and in accordance with the Regulations.
- ll. **Screening:** means those instruments, procedures, family information and observations, and clinical observations used by an approved evaluator to assess a child's developmental status to indicate what type of evaluation, if any, is warranted.
- mm. **Services:** means, as applicable, the provision of Service Coordination, Screenings and Evaluations, and Early Intervention Provider Services to Eligible Children, Referred Children and families of Eligible Children.
- nn. **Service Coordinator:** means the person defined in PHL Section 2541(16) and Regulations, who is assigned or chosen by the parent to provide Service Coordination and may refer to either the contractor or a third person, as appropriate.
- oo. **Service Coordination:** means the services provided by a Service Coordinator as defined in PHL Section 2541.
- pp. **State:** means the State of New York.
- qq. **Supplemental Evaluation:** means physician or non-physician supplemental evaluations as defined in Regulations.

2. **Contractor Responsibilities:**

The Contractor shall perform such services as may be necessary to accomplish the work required to be performed under and in accordance with this Agreement, as more particularly provided in Exhibits A through J. The Contractor agrees to abide by NYSDOH and County written policies

and procedures and utilize forms and procedures established by the NYSDOH and County related to work performed in accordance with this Agreement as provided to the Contractor.

3. Inconsistent Provisions:

The provisions of this Exhibit A shall prevail over inconsistent provisions of any other Exhibit, and over any other document not specifically referred to in this Agreement or made part thereof by this Agreement or by subsequent amendment in writing and signed by both parties, except to the extent that provisions of this Exhibit A are specifically referred to and amended or superseded by exhibits or amendments.

4. Term and Termination of Agreement:

a. Term of Agreement:

The Term of this Agreement shall be as set forth on page four of this Agreement; provided, however, that this Agreement shall be deemed terminated immediately upon the Commissioner's revocation of approval for the Contractor to provide the services described herein.

b. Termination for Cause by County:

The County shall have the right to terminate this Agreement, in whole or with respect to any identifiable part of the Program, effective immediately in cases of imminent danger to the health and safety of Eligible Children, Parents and/or staff, or, at its option, effective at a later date specified in the notice of such termination to the Contractor, on the following bases:

- i. if the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement;
- ii. if the Contractor becomes bankrupt or insolvent or falsifies its records or reports, or misuses its funds from whatever source;
- iii. upon the conviction of an Individual Contractor or principal of an Agency contractor of a criminal offense by any court of competent jurisdiction, or action on License by the NYSDOH or NYSED;
- iv. if an Agency Contractor knowingly fails to act upon the conviction of an employee or employees of a criminal offense or action on license by the NYSDOH or NYSED;

- v. upon failure of the Contractor to cooperate with an audit, programmatic monitoring and/or quality improvement Monitoring by the County or NYSDOH or its respective designee;
- vi. upon the failure of the Contractor to implement recommendations resulting from Monitoring by the County, NYSDOH, or NYSED that are necessary to bring the Contractor into compliance with the Act and Regulations;
- vii. engages in any act which constitutes an unacceptable practice under the Medical Assistance Program as enumerated in Title 18 of the New York Code of Rules and Regulations Section 515.2 (a) and (b)(1) through (b)(15).

c. Termination for Convenience by County:

If the County shall deem it in its best interest to terminate this Agreement, it shall have the right to do so upon ninety (90) days prior written notice. The notice shall contain specific reason(s) for such termination.

d. Termination for Convenience by Contractor:

If the Contractor shall deem it in its best interest to terminate this Agreement, it shall have the right to do so upon ninety (90) days prior written notice. Should the Contractor choose to exercise this option, it shall, together with any notice of termination, provide the County with a Plan and Timetable for the orderly transition of Services, and a copy of any proposed notification to Parents, transporters, employees or subcontractors, which shall be issued only by the County. The notice of termination and transition plan shall be submitted to the County and the NYSDOH not less than ninety (90) days prior to the termination of the Agreement.

e. Release/Payment:

The County shall be released from any and all responsibilities and obligations arising from the Agreement, effective as of the date of termination, but the County shall be responsible for payment of all bills for authorized Services provided by the Contractor prior to termination of this Agreement, that are pursuant to, and after the Contractor's compliance with, the terms and conditions of this Agreement.

f. Notices:

All notices regarding termination shall be sent to the parties as provided in paragraph 23, entitled “Notices and Contact Persons,” of this Exhibit A. All notices of termination shall contain the specific date on which the Contractor shall cease providing Early Intervention Services.

The County shall notify the NYSDOH immediately when the Agreement is terminated either in whole or in part. When the Agreement is terminated in part, the County shall provide specifics to the NYSDOH regarding the limitations and/or parameters of the partial termination of the Agreement.

g. Renegotiation and Interim Renewals:

i. Automatic Six (6) Month Renewal and Payment:

In the event a successor agreement is not executed by the parties on or before _____ (insert date) or either party fails to give the other party at least thirty (30) days written notice prior to _____ (insert date) of its intent not to renew this Agreement, then, notwithstanding anything contrary herein, this Agreement shall be extended automatically for a period of six (6) months.

ii. Discretionary Six (6) Month Renewal and Payment:

In the event a new agreement is not executed by the parties on or before _____ (insert date) or either party fails to give the other at least ninety thirty (90) days written notice prior to _____ (insert date) of its intent not to renew this Agreement, then, notwithstanding anything to the contrary herein, this Agreement may be extended for a second period of six (6) months, at the County’s option. In the event the Contractor provides (90) ninety days written notice of its intent not to renew this Agreement, it shall provide the County with a Plan and Timetable for the orderly transition of Services, and a copy of any proposed notification to parents, transporters, employees or subcontractors, which shall be issued only by the County. This Plan and Timetable must be submitted at the time of the (90) ninety-day notice.

h. Temporary Suspension of Provider Enrollment of Children

- i. The Contractor shall provide services to the extent allowed by his/her/its capacity to the entire County for which he/she/it has

NYSDOH approval and will not exclude services for an Eligible Child due to circumstances such as travel time, neighborhood in which the Eligible Child resides or receives services or other issues unrelated to the Contractor's capacity.

- ii. In the event circumstances occur giving the County the right to terminate this Agreement under paragraph 4.b. of this Exhibit A, in lieu of termination, the County may temporarily suspend enrollment or service delivery privileges for a period of not more than six months or until the Contractor comes into compliance with the Act and Regulations. The EIO shall notify the NYSDOH in writing of any suspension, including the reason(s) for suspension and length of time of the suspension. The NYSDOH pursuant to Section 12 of the Public Health Law and/or County may also levy fines of up to \$2,000 per violation of provision of the Act or Regulations. Upon the failure of the Contractor to comply with the Act and Regulations, the NYSDOH may disqualify the Contractor as an approved provider of Early Intervention Services.

5. Qualifications and Licenses:

a. Qualifications

The Contractor specifically represents and warrants that, in the case of an Individual provider, he/she has and shall possess, and that, to the extent applicable for Agency providers, its employees, agents and subcontractors have and shall possess, the required education, knowledge, experience and character necessary to qualify them individually for the particular duties they perform and that the Contractor has and shall have, and, to the extent applicable, its employees, agents and subcontractors have and shall have, all required New York State approvals, authorization(s), certification(s), registration(s), license(s) or permit(s) required by the State, County or local authorities for the Services (collectively called license). The Contractor shall immediately notify the County and NYSDOH in writing of any disciplinary proceedings filed against the holder of any License by the New York State Education Department or the New York State Department of Health or other issuer of a License of which the Contractor is or should be aware. In the event that the Contractor or such other holder of a License is no longer licensed for any one or more of the Services, the Contractor must immediately so notify the County and NYSDOH. It is understood that the Contractor shall not be reimbursed for any Services rendered after the effective date of termination of such License.

b. Documentation of Professional Standards

Contractors that are Agency providers shall make sufficient investigations to ascertain, and maintain on file appropriate records that demonstrate that all professionals employed or contracted and all paraprofessionals employed by the Contractor meet the standards specified by the New York State Department of Health and the New York State Education Department. The Contractor shall review original and renewal registrations and/or certifications for all individual professionals providing Services that require Licenses and/or Certifications and obtain copies thereof. Contractors that are Individual providers shall maintain records that demonstrate that he/she meets the standards specified by the NYSDOH and the NYSED. Such documentation shall be kept, maintained, and available for audit and inspection by the County and/or NYSDOH or the respective designee. The Contractor shall notify the County in writing of the location of such files.

c. Central Register of Child Abuse and Maltreatment

- i. All Early Intervention Providers, including Evaluators, Service Coordinators and Service Providers must report suspected cases of child abuse and/or maltreatment to the New York State Central Register of Child Abuse and Maltreatment whenever they believe that there is reasonable cause to suspect that a child is or has been abused or maltreated. Individuals in those professions required under Article 6 Title 6 of New York State Social Services Law on Child Protective Services to report cases of suspected child abuse or neglect (mandated reporters), must call the Mandated Reporter's number (1-800-635-1522) of the State Central Register of Child Abuse and Maltreatment. All other individuals who are not mandated reporters must call the State Central Register of Child Abuse and Maltreatment at 1-800-342-3720, when, based on their observations, they believe that there is reasonable cause to suspect abuse, maltreatment or neglect.
- ii. Under Section 424-a of New York State Social Service Law, as amended by Chapter 578 of the Laws of 1997, EIOs are required to obtain clearance from the State Central Register of Child Abuse and Maltreatment (SCR) of any Individual Contractor who will have the potential for regular and substantial contact with a Referred or Eligible Child. Individual Contractors shall provide the EIO with all necessary information to allow for clearance from the SCR.
- iii. All Agency Contractors are required to complete SCR clearance on any person who is being actively considered for employment,

their employees or subcontractors that meet the standard of having the potential for regular and substantial contact with the Referred or Eligible Child. The Contractor shall adhere to the procedures established by the Office of Children and Family Services, including processing fees, in accessing the New York State Central Register of Child Abuse and Maltreatment (SCR), as per Chapter 578. Nothing shall prevent the County from requiring a fee from the Individual Contractor in reference to processing and adhering to State requirements.

- iv. If an individual screened through the SCR is the subject of an indicated report, then the Contractor shall notify the EIO in writing immediately. Failure of the Contractor to immediately remove the indicated subject from contact with Referred or Eligible Children may result in immediate termination of this Agreement, as well as such other sanctions as may be provided by applicable law, rule or regulation.

d. Copies of Federal, State or Local Evaluations/Reports:

On an annual basis, the Contractor shall provide to the EIO a listing of all Evaluations of and reports on the Contractor related to the Early Intervention Program or programs co-located with the Early Intervention Program conducted by the State Departments of Health, Education or by any other Federal, State or local agencies during the preceding twelve months. Copies of all reports and replies or responses thereto by the Contractor shall be provided to the EIO upon request.

6. Compliance with Law:

The Contractor and its officers and directors, partners, trustees or other members of its governing body and personnel, employed or contracted, shall render Services under this Agreement in compliance with all applicable local, State, Federal laws, regulations, rulings and requirements of law.

7. Offset of Arrears or Default:

The Contractor warrants that it is not, and shall not be during the Term of this Agreement, knowingly in arrears to the County or State for taxes or upon debt or contract and is not, and shall not be during the Term of this Agreement, in default as surety, Contractor or otherwise on any other obligation to the County or State, and the Contractor agrees that the

County may withhold the amount of any such arrearage or default from amounts payable to the Contractor under this Agreement.

8. Confidentiality:

a. Confidentiality of Information

The Contractor expressly agrees to preserve the confidentiality of all electronic and/or hard-copy data and information, both historical and current data, shared, received, collected, or obtained as a result of this Agreement. No disclosure, redisclosure or release of such data or information is to be made, permitted, or encouraged by the Contractor or, for Agency providers, its officers or employees, except as expressly authorized by law. It is further understood and agreed that no such data or information is to be used for personal benefit. The Contractor further agrees that its employees, subcontractors and assignees shall be specifically instructed in regard to their obligation to keep such data and information in confidence and their liability upon breach of confidentiality to all the penalties prescribed by law. The Contractor further agrees to implement such procedures for safeguarding information, as the County shall require.

All information related to services provided under this Agreement shall be confidential pursuant to Title 34 of the Code of Federal Regulations Part 99 (Family Education Rights and Privacy Act), Title 34 of the Code of Federal Regulations Section 300.560 through 300.576 (with the modifications specified in Section 303.5[b], Title 34 of the Code of Federal Regulations), Part 303 Individuals Disabilities Education Act, New York State Public Health Law Article 25 and 27F, Article 5 Title 11 Section 367-b(4) of the New York State Social Services Law, 42 U.S.C. Section 1396a(a)(7) [Section 1902(a)(7) of the Federal Social Security Act], Article 33 Section 33.13 of the NYS Mental Hygiene Law, and regulations promulgated under such laws including 42 CFR Part 2 pertaining to Alcohol and Substance Abuse Services. Such information, including information relating to services under this Agreement, shall be used or disclosed by the Contractor only for a purpose directly connected with performance of the Contractor's obligations.

Contractors, including Individual Early Intervention providers with home offices, must have and implement appropriate procedures to ensure the confidentiality of personally identifiable information and to document access to children's early intervention records in accordance with these requirements. At a minimum, the Contractor must:

Have a designated individual responsible for ensuring the confidentiality of personally identifiable information in children's

early intervention records (in the case of self-employed Early Intervention providers, that Early Intervention provider is responsible for this function).

Ensure that all early intervention records containing personally identifiable information are maintained in secure locations. Any Early Intervention provider who travels to a variety of locations to deliver Services must ensure the security and confidentiality of early intervention records when off-site.

Ensure that when early intervention records contain information about multiple children, a parent who requests access to his/her child's record only receives the record(s) pertaining to that child/family.

Maintain a record of any individual who accesses children's early intervention records, the purpose for which the record was accessed and a copy of authorization for consent (with the exception of the parent, employees of the municipality, early intervention providers, or Department staff or designees).

Assure that all employees and subcontractors, consultants, and volunteers are informed about and are required to adhere to the confidentiality policies and procedures.

Adhere to all legal requirements that protect early intervention records containing sensitive information (such as sexual or physical abuse, HIV status, treatment for mental illness, the child's parentage, etc).

Ensure the confidentiality of all information maintained in an electronic format.

b. Contractor Responsibilities Regarding AIDS and HIV-Related Information:

- i. The Contractor agrees to develop and maintain specific procedures ensuring the protection of health history information related to an individual who has been diagnosed as having AIDS or HIV-related illness or HIV infection or laboratory tests performed on an individual for HIV-related illness.
- ii. The Contractor agrees to ensure that staff, to whom confidential HIV-related information is disclosed as a necessity for providing services and in accordance with Part 403 of New York State Social Service Law and Section 2782 of Public Health Law, are fully informed of the penalties and fines for redisclosure in violation of State law and regulations.

- iii. The Contractor fully agrees that any disclosure of confidential HIV-related information shall be accompanied by a written statement as follows:

This information has been disclosed to you from confidential records, which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is NOT sufficient authorization for further disclosure.

c. Maintenance of Records:

The individual case records for each Eligible Child participating in the Early Intervention Program conducted pursuant to the Agreement shall be kept and maintained in a confidential manner in compliance with all applicable laws, regulations and guidelines of Federal, State and local governments and their agencies, including requirements that apply to professions licensed, registered, or certified under State Education Law.

The Contractor shall continue to maintain the confidentiality of individual case records and safeguard such records against destruction, as set forth above, after termination of this Agreement or any subsequent agreements, until final disposition of such case records is made in accordance with all applicable laws, regulations and guidelines. The Contractor and County shall establish a mutually agreed upon procedure for maintenance of all records in the event of the termination of the Agreement or dissolution of the agency.

- i. At a minimum, the Contractor shall preserve and retain all records for each Eligible Child under this Agreement in readily accessible form during the term of this Agreement and for a period of six (6) years from the date that care, services, or supplies were provided to the Child and family.
- ii. Individual Contractors who are Qualified Personnel in the fields of medicine, physical therapy, occupational therapy, speech language pathology, audiology, and nursing must retain records in accordance with the laws and regulations that apply to their profession. All professionals are required to maintain a record for each Referred or Eligible Child which accurately reflects Early Intervention Services provided to the Referred or Eligible Child.

All provisions of this Agreement relating to record maintenance and retention shall survive the termination of this Agreement and shall bind the Contractor until the expiration of the period commencing with termination of this Agreement or if an audit is commenced by the County or NYSDOH, until the completion of the audit, whichever occurs later. If the Contractor becomes aware of any litigation, claims, financial management review or audit that is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, financial management reviews or audit findings involved in the record have been resolved and final action taken.

9. Gratuities:

The Contractor warrants and represents that (a) it has not been asked to pay, nor has paid, any illegal consideration, whether monetary or otherwise, in connection with the procurement of this Agreement; (b) it has not solicited or it has not employed any person to solicit or procure this Agreement, and has not made, and shall not make, any payment in any agreement for the payment of any commission, percentage, brokerage, contingent fee or any other compensation in connection with the procurement of this Agreement; and (c) it has not offered or given any gratuity to any official, employee or agent of _____ County or New York State or of any political party, with the purpose or intent of securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement.

10. Conflict of Interest:

The Contractor represents and warrants that neither it nor, in the case of Agency providers, any of its directors, officers, members, partners, employees or subcontractors, has any interest nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance of the services hereunder. The Contractor further represents and warrants that in the performance of this Agreement no person having such interest or possible interest shall be employed by it.

No elected official or other officer or employee of _____ (insert name), nor any person whose salary is payable in whole or in part from the _____ (insert name of county) Treasury, shall participate in any decision relating to this Agreement which affects his/her own personal interest or the interest of any corporation, partnership, or association in which he/she is, directly or indirectly, interested; nor shall

any such person have any interest, direct or indirect, in this Agreement or the proceeds thereof.

11. Independent Contractor:

The relationship of the Contractor to the County shall be that of an independent Contractor. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that neither the Contractor nor in the case of an Agency provider, any of its officers, directors, employees or subcontractors will hold itself or themselves out as, or claim to be, an officer or employee of the County by reason of this Agreement, and that neither it nor any of them will, by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County, including, but not limited to, Worker's Compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership credits.

12. Insurance:

- a. The Contractor agrees to procure, pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types specified by the County. Unless otherwise specified by the County and agreed to by the Contractor, in writing, such insurance will be as follows:
 - i. **Commercial General Liability** insurance including contractual coverage, in an amount no less than _____ combined single limit for bodily injury and property damage per occurrence.
 - ii. **Automobile Liability** insurance (if any vehicles are used in the performance of this Agreement) in an amount not less than _____ combined single limit for bodily injury and property damage occurrence.
 - iii. **Professional Liability** insurance in an amount not less than _____, with the exception of Special Education Teachers, Teachers of the Deaf and Hearing Impaired and Teachers of the Visually Impaired, for whom such amount shall be _____.
 - iv. In the case of Agency providers, **Worker's Compensation and Employer's Liability** insurance in compliance with all applicable New York State laws and Regulations and **Disability Benefits** insurance, if required by law. Contractor shall furnish to the County, prior to its execution of this Agreement, the documentation required by the New York State Workers'

Compensation Board of coverage or exemption from coverage pursuant to Sections 57 and 220 of the NYS Workers' Compensation Law. In accordance with Article 5-A Section 108 of NYS General Municipal Law, this Agreement shall be void and of no effect unless the Contractor shall provide and maintain coverage during the term of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

- b. All policies providing such coverage shall be issued by insurance companies with an A.M. Best rating of A- or better.
- c. The Contractor shall furnish to the County certificates of insurance or, on request, original policies, evidencing compliance with the aforesaid insurance requirements. In the case of commercial liability insurance, said certificates or other evidence of insurance shall name the County of _____ as an additional insured. All such certificates or other evidence of insurance shall provide for the County of _____ to be a certificate holder and to be notified in writing thirty (30) days prior to any cancellation, non-renewal or material change. Such certificates, policies or other evidence of insurance and notices shall be mailed to the County at the address at the head of this Agreement or at any such other address of which the County shall have given the Contractor notice in writing.

13. Indemnification:

The Contractor shall indemnify and hold harmless the County, its consultant (if any), employees, agents and other persons from and against all losses, claims, costs, judgments, liens, encumbrances and expenses, including attorney's fees, by reason of liability imposed by law, for damage because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, arising out of the acts or omissions or negligence of the Contractor, its agents, employees or subcontractors or of other persons, in connection with the services described or referred to in this Agreement, even if such injuries to persons or damage to property are due, or are claimed to be due, to passive negligence of the County, its employees, agents or subcontractors or other persons, except only in cases of the County's sole active negligence. This provision shall survive the termination of this Agreement.

14. Nondiscrimination in Employment:

In accordance with Article 15 of the New York State Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment or in the selection of subcontractors on the basis of age, race, creed, color, national origin, sex, disability, genetic predisposition or carrier status, sexual orientation or marital status.

15. Nondiscrimination in Services:

- a. The Contractor, in providing Services under this Agreement, shall not, on the grounds of race, creed, color, national origin, sex, age, disability, sexual orientation, genetic predisposition or carrier status or marital status:
 - i. Deny an individual any Services or other benefits provided under the Program;
 - ii. Provide any Services or other benefits to an individual which are different, or are provided in a different manner, from those provided to others under the Program;
 - iii. Subject an individual to segregation or separate treatment in any manner related to his/her receipt of any Services or other benefits provided under the Program;

- iv. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any Services or benefits provided under the Program;
 - v. Treat an individual differently from others in determining whether or not the individual satisfies any eligibility of other requirements or conditions, which individuals must meet in order to receive aid, care, Services, or other benefits provided under the Program.
- b. The Contractor shall comply with the requirements of the Civil Rights Act of 1964, as amended; with 44 CFR Part 7, entitled “Nondiscrimination in Federally Administered Programs”; and with 45 CFR Parts 84 and 85, entitled “Non-Discrimination on the Basis of Handicap in Program Activities Receiving or Benefiting from Federal Financial Assistance.”

16. Nonsectarian Declaration:

The Contractor agrees that all Services performed under this Agreement are secular in nature, that no funds received pursuant to this Agreement will be used for sectarian purposes or to further the advancement of any religion, and that no Services performed under the Program will discriminate on the basis of religious belief. Furthermore, the Contractor agrees that all Program Services are and will be available to all eligible individuals regardless of religious belief or affiliation.

17. Cooperation on Claims:

The Contractor agrees to render diligently to the County any and all cooperation, without additional compensation, that may be required to defend the County against any claims, demand, or action that pertain to this Contractor that may be brought against the County in connection with this Agreement.

18. Assignment/Subcontracting:

- a. The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement, or any of its right, title or interest therein, or its power to execute this Agreement, or assign all or any portion of the monies that may be due or become due thereunder, other than as collateral for working capital loans incurred for the operation of the Agreement, to any other person or corporation, without the prior consent in writing of the County, and any attempt to do any of the foregoing without such consent shall be of no effect; provided, however, that such consent shall not be required for subcontracts with any subcontractor whose identity, home and business street

addresses, licensure and professional qualifications shall have been submitted to and accepted by the County; and provided further that any such subcontract shall be subject to the terms of this Agreement and that no such subcontract shall reduce or affect the obligations and liabilities of the Contractor under this Agreement.

- b. If the Contractor enters into any subcontracts for the performance of work pursuant to this Agreement, the Contractor agrees that it shall assume sole and complete responsibility for fulfilling all obligations set forth herein and must guarantee the work of any subcontractor or consultant as if it were its own. The Contractor is responsible for the acts and omissions of any subcontractor and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by it. In addition, the Contractor understands it shall not in any way be relieved of any responsibility under this Agreement by any subcontract.
- c. No subcontract, nor any amendment thereto, between the Contractor and any other entity for the performance of any Contract Services shall be effective for the purposes of this Agreement unless it contains provisions specifying:
 - i. the incorporation by reference of this Agreement and any Appendices thereto;
 - ii. that the work performed by the subcontractor must be in accordance with the terms of this Agreement;
 - iii. that nothing contained in such subcontract shall impair the rights of the County or the Eligible and/or Referred Child;
 - iv. that nothing contained therein, or under this Agreement, shall create any contractual relation between the subcontractor and the County;
 - v. that the subcontractor specifically agrees to be bound by the confidentiality provision set forth in this Agreement;
 - vi. that all records, case files, and any and all other documentation of Contract Services by the subcontractors will be stored and available as specified in this Agreement.

19. Investigations:

The parties to this Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by the County or State of New York governmental agency or authority that is empowered directly or by designation to compel attendance of witnesses and to examine witnesses under oath, or conducted by a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is subject of the investigation, audit or inquiry.

20. No Implied Waiver:

No waiver shall be inferred from any failure or forbearance of the County to enforce any provision of this Agreement in any particular instance or instances, but the same shall otherwise remain in full force and effect notwithstanding any such failure or forbearance.

21. Merger; No Oral Changes:

It is expressly agreed that this Agreement represents the entire agreement of the parties, that all previous understandings are merged in this Agreement, and that no modification of this Agreement shall be valid unless written and executed by both parties.

22. Provider Publications:

All brochures, advertisements or other informational material developed and/or designed by the Contractor to inform the public about the contract services under this Agreement newly created or revised after the effective date of this Agreement shall be submitted to the County for review and approval. All informational material must contain the following statements:

- a. The Early Intervention Program is a statewide program administered by the New York State Department of Health and, in _____ (insert county) County, by the _____(insert local lead agency).
- b. All children under age three years of age who may need Early Intervention services must be referred to the Early Intervention Official in the county in which the child resides. All material must also contain appropriate county contact information, including procedures to refer the child to the EIO.
- c. All children referred to the EIO have the right to a multidisciplinary Evaluation, at no cost to the parent, to determine if they are eligible for services.
- d. Early intervention services are provided at no cost to the Parent.

23. Notices and Contact Persons:

- a. Any communication, notice, bill for payment, report or other submission necessary or required to be made by the parties regarding this Agreement shall be deemed to have been duly made upon receipt by the County or the Contractor or their designated representative at the following address or at such other address that may be specified in writing by the parties:

For the County (as appropriate):

Notices and Other Submissions:
(insert county contact)

Bills for Payment:
(insert county contact) and;

For the Contractor: At the address set forth on page four of this Agreement, to the attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

- b. Each party shall give prompt written notice to the other party of the appointment of successor(s) to the designated contact person(s) or his or her designated successor(s).
- c. Any communication or notice regarding indemnification, termination or litigation shall be deemed to have been duly made upon receipt by the parties at the following addresses, or at such addresses that may have been specified in writing by the parties:

For the County:
(insert county contact)

For the Contractor: At the address set forth on page four of this Agreement, to the attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

24. Severability:

It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and every other term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

Financial Terms and Conditions

1. Payment for Services Upon Submission of Bills:

The Contractor is prohibited from billing directly the Medical Assistance Program, and/or private insurance plans or other Third Party Payment sources for Services rendered to Referred and/or Eligible Children pursuant to this Agreement, with the exception of durable medical equipment that may be billed directly to the Medical Assistance Program. In accordance with the procedures set forth by the County and any other directives issued by the County, Contractors shall bill the County for all Authorized Early Intervention Services rendered by the Contractor to Referred and/or Eligible Children no less than thirty (30) but in no instance more than one hundred eighty (180) days from the date of the provision of such Services.

Unless otherwise specifically provided for in this Agreement, all reimbursements under this Agreement for individual Referred and/or Eligible Children as set forth in the Act and Regulations, shall be at the applicable rates established or approved by the NYSDOH.

The County agrees to pay the Contractor no less than quarterly for Services provided pursuant to this Agreement, upon receipt of bills in such form as prescribed by the County and after approval by the County. Bills shall be documented by sufficient, competent and evidential matter. Payment under this Agreement shall not duplicate payment from any other source(s) for Contractor Services pursuant to this Agreement. Payment by the County shall be made within (insert time frame) days after approval by the Comptroller of the County of _____ (insert name of county).

2. Solicitations Prohibited:

The Contractor shall not solicit or accept payment for any Services rendered pursuant to this Agreement from any person or entity except the County. Furthermore, the Contractor shall not render Services on a private basis to children receiving Services from the Contractor under this Agreement.

3. Requirements Prior to Payment:

- a. No bills shall be payable until the Contractor complies with all requirements in this Agreement.

- b. To the extent applicable, the Contractor shall submit to the County copies of the following on an annual basis:
- i. Certificate of Incorporation;
 - ii. Day Care permit, if required;
 - iii. By-laws;
 - iv. Operating Certificate or License;
 - v. NYSDOH approval and amendment letters;
 - vi. Signature samples of document signers;
 - vii. Insurance Certificates and Fidelity Bonds (See “Insurance” of Exhibit A); and,
 - viii. Names, addresses and professional titles of the Board of Directors, if applicable.

4. Payment Subject to Maintenance of License:

The Contractor shall not be entitled to compensation for any portion of the term of this Agreement during which it fails to maintain any required License and NYSDOH approval. The Contractor shall reimburse the County for any compensation received for such portion of the term.

5. Taxes:

The charges payable to the Contractor under this Agreement are exclusive of federal, state and local taxes, the County being a municipality exempt from payment of such taxes.

6. Payment Contingent Upon Receipt of Aid:

If any state or federal government department or agency should fail to approve aid in reimbursement to the County for payments made hereunder by the County to the Contractor for expenditures made during the term of this Agreement because of any act, omission or negligence on the part of the Contractor, then the County may deduct and withhold from any payment due to the Contractor an amount equal to the reimbursement denied, and the County's obligation shall be reduced by any such amounts. In such an event, if there should be a balance due to the County after it has made a final payment to the Contractor, the Contractor agrees promptly to reimburse the County the amount of the balance due the County by check to the order of the _____

County Treasurer. The provisions of this subparagraph shall survive the expiration or termination of the Agreement.

7. Fiscal Records Retention:

- a. The Contractor agrees to retain all records, including case files, relevant to this Agreement for six (6) years from the date that care, services, or supplies were provided to the child and family, except that any records subject to a longer retention period, pursuant to a New York State records retention schedule and/or as license or certification requires, shall be retained for such longer period. Federal, State and/or County auditors and any persons duly authorized by the County and/or NYSDOH and their respective designee shall have full access and the right to examine any of said materials during said period.
- b. All books, records, and case files of the Contractor, including those with respect to the delivery of Contract Services, shall be kept separate or identifiable from those relating to other activities of the Contractor, and shall be made available to the County, NYSDOH, or their respective designee.

8. Financial Audits and Programmatic Monitoring:

- a. All payments made under this Agreement are subject to audit by the County, the NYSDOH or their respective designee, and the State. If the Contractor fails to cooperate with an audit by the County or NYSDOH or their respective designee, the County shall have the right to suspend or partially withhold payments under this Agreement or under any other agreement between the parties or take whatever other action is available to it, including, but not limited to, removing children receiving services or suspending new child placements until such cooperation is forthcoming. If such an audit discloses overpayments by the County to the Contractor, within thirty (30) days after the issuance of an official audit report by the NYSDOH or the County or duly designated representatives, the Contractor shall repay the amount of such overpayment by check to the order of the _____ County Treasurer or shall submit a proposed plan of repayment to the Comptroller, or the County or NYSDOH may recoup overpayments from any amounts due or becoming due to the Contractor from the County under this Agreement or otherwise. The provisions of this subparagraph shall survive the expiration or termination of the Agreement.
- b. The Contractor further agrees that personnel duly authorized by the NYSDOH and its respective designees, the County Comptroller, or the State shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transactions or other records relating

to Services under this Agreement. Such access is granted notwithstanding any exemption from disclosure that may be claimed for those records which are subject to nondisclosure agreements, trade secrets and commercial information or financial information that is privileged or confidential.

- c. The Contractor shall be subject to programmatic and quality improvement monitoring by the County and NYSDOH or its respective designee. If the Contractor fails to cooperate with programmatic and quality improvement monitoring by the County or NYSDOH or their respective designee, the County shall have the right to suspend or partially withhold payments under this Agreement or under any other agreement between the parties or take any other action available to it until such cooperation is forthcoming. In carrying out programmatic and quality assurance monitoring of the Contractor, the County shall act to terminate this Agreement in whole or in part or otherwise cite the Contractor for non-compliance, or to levy a fine of up to \$2,000 due to the Contractor's failure to comply with standards in this Agreement, Public Health Law and the Regulations. In the event that the County is unable to issue a report on a quality assurance monitoring visit of the Contractor within ninety (90) days after an exit interview with the Contractor, or the date that the Contractor provides documents requested by the County pursuant to quality assurance monitoring visit, whichever is later, the County will inform the Contractor in writing of the anticipated date of the issuance of said report.
- d. Contractors receiving in excess of \$100,000 in reimbursement pursuant to this Agreement shall be periodically audited by an independent certified public accountant, which is demonstrably independent of the administration of the Contractor services of not less than one audit period per year. The Contractor shall retain the independent certified public accountant and shall be responsible for the full payment for the audit services, including the cost of all reports furnished. The audit report shall be submitted to the NYSDOH on an annual basis.

Exhibit C
Variable Terms Specific to the County

None; unless signed below by the Contractor and the County Attorney's Office, with the variable terms set forth below or attached hereto. If attached such Variable Terms consist of _____ pages.

Contractor: _____

County: _____

By: _____ Date: _____

By: _____ Date: _____

County Attorney

Exhibit D
Description of Services

1. Representations:

The Contractor represents and warrants that it has fully and accurately completed Exhibit E entitled "Agency Provider Information Form," or Exhibit F, entitled "Individual Provider Information Form," as appropriate, and if applicable, Exhibit G, entitled "Site Information Form." A separate Exhibit G shall be included for each facility or site owned or leased by the Contractor for the purposes of providing Early Intervention Services. The Contractor shall notify the County and State approving agency within five (5) days of any change in the information provided in Exhibit E, Exhibit F or any Exhibit G.

2. Early Intervention Provider Approval:

- a. The Contractor shall be approved to provide Early Intervention Services by either the NYSDOH or NYSED.
- b. The Contractor shall contact the _____ (insert name of County agency) immediately upon becoming aware that the New York State certification and/or License, Drug Enforcement Agency (DEA) registration, Medicare or Medicaid certification of any staff member, employed or contracted, is restricted, suspended or temporarily and/or permanently revoked by any regulatory authority. The County shall then immediately notify the NYSDOH.
- c. The Contractor shall require verification that any agent otherwise required by law, employee, or subcontractor have documentation of completion of a child abuse course.
- d. The Contractor shall maintain on file current copies of New York State certification and/or License and documentation of continuing education programs as required by the NYSDOH for any agent, employee or subcontractor and produce such documentation upon request of the County and/or NYSDOH or their respective designee.
- e. Use of the New York State Child Abuse Register shall be required, with respect to all Individual providers as well as Agency staff employed or contracted, when required by law, and, in the case of Agency Contractors, when an authorization code is issued to the Contractor by the appropriate New York State agency.

3. Immunizations:

The Contractor shall require the following of all personnel as a condition of employment or affiliation:

- a. Immunization for rubella, consistent with good medical practice, except that women of child-bearing age shall have a screening test approved by the NYSDOH, to be followed by immunization as appropriate; and
- b. Documentation of immunity to measles for all personnel born on or after January 1, 1957 as described below:
 - i. Diagnosis by a physician as having had measles;
 - ii. Demonstration of serologic evidence of measles antibodies; or
 - iii. Two doses of live virus measles vaccine with the first dose administered on or after the age of twelve months and the second dose administered more than 30 days after the first dose but after 15 months of age.
- c. If any licensed physician or health care practitioner practicing under the supervision of a licensed physician certifies that immunization with measles or rubella vaccine may be detrimental to the employee's health, the requirements of this section relating to immunization shall be inapplicable until such immunization is found no longer to be detrimental to such employee's health. The nature and duration of the medical exemption must be stated in the employee's employment medical Record; and
- d. PPD (Mantoux) skin test for tuberculosis prior to employment or affiliation and thereafter at intervals not to exceed two years in the case of negative findings. Positive findings shall require appropriate clinical follow-up but no repeat skin tests.
- e. Documentation of an annual physical for an Individual Contractor or any Provider of Services, employed, or contracted, for any Agency Contractor is recommended, upon execution of this Agreement and by _____ (insert time frame) of each year thereafter, during the term of this Agreement.

4. Provision of Services:

- a. All Services shall be conducted by appropriately licensed or qualified professionals in accordance with the Act and the Regulations, including the provisions for confidentiality and parental consent, in

accordance with generally accepted standards of professional quality, and in accordance with County directives, NYSDOH Early Intervention Program Memoranda documents, Clinical Practice Guidelines, procedures manuals and quality assurance documents, including County Early Intervention Program procedure manuals in effect at commencement of the term of this Agreement and any subsequent amendments thereto.

- b. The Contractor shall provide such professional Services as may be necessary to accomplish the work required to be performed under and in accordance with this Agreement and in accordance with the IFSP for each Child.
- c. The Contractor shall forward to the County annually, on or before January 1 of each year during the term of this Agreement, a complete list of its employees, agents and subcontractors providing Services, including names and areas of certification. The Contractor shall notify the County of any additions or deletions to such list as they occur.
- d. The Contractor shall have the capability to deliver Services on a twelve-month basis and provide flexibility in hours of service delivery.

5. New York State Department of Health and State Education Department Approval Letters:

The Contractor shall provide only Services for which it has been approved by the NYSDOH or State Education Department (SED) for the entire catchment area for which it has been approved to the extent allowed by his/her/its capacity. The Contractor shall provide the County with the approval letter issued by the NYSDOH or SED. If approval is amended by NYSDOH or SED, amended approval letters shall be forwarded to the County. No newly approved Services shall be provided until receipt of the amended approval letter is acknowledged by the County. Such approval, or as applicable, amended approval letter shall be attached to this Agreement (Exhibit J).

6. Quality Assurance:

The Contractor agrees to cooperate and participate in the implementation of Quality Assurance Reviews conducted by the County and/or the NYSDOH or SED.

7. Attendance at Mediations and Impartial Hearings:

As provided by law, where a Parent has requested a mediation or impartial hearing concerning either an act or failure to act on the part of the Contractor, upon request of the County and without additional

compensation, the Contractor shall consult with appropriate representatives of the County, and, after such consultation, provide a witness or witnesses with either direct knowledge of the Child or sufficient knowledge of the Child such that the witness or witnesses will effectively participate in the mediation or impartial hearing process. In the event that proceedings initiated pursuant to this subdivision continue beyond the impartial hearing level, the Contractor shall continue to cooperate with the County representatives on the same terms as stated in this subdivision until the final resolution of the matter.

8. Attendance at Training Sessions:

The Contractor shall attend, without additional compensation, a minimum of three continuing education/training opportunities related to the type of Services provided by the Contractor for children under three years of age, per calendar year as may be required by the County. The Contractor shall maintain continuing education hours as required by the NYSDOH. For Agency Providers, this requirement applies to each staff person providing Services pursuant to this Agreement. Service Coordinators are required to attend the Introductory Service Coordination training session in accordance with Regulations.

9. Records:

Early Intervention Contractors must maintain records that document the performance of activities required to be completed by Providers on behalf of referred or eligible children and their families. Such records may contain the following documents:

- i. Written correspondence with or regarding the child/family.
- ii. Notes recording any relevant discussions with Parents or other providers regarding the child and family.
- iii. Notes recording any relevant discussions with the municipality regarding the child and family.
- iv. Documentation of written notice(s) (if any) sent to the Parent by the Provider, including type of notice and date when it was sent.
- v. Any signed and dated parental consents for the provision of evaluations and early intervention services and/or for the disclosure of information.
- vi. A copy of the IFSP and related documents, including IFSP amendments.

- vii. Service authorizations.
- viii. Reports, session notes, progress notes, and other documentation relating to evaluations or the delivery of services.
- ix. Group attendance lists.
- x. Child/family reports, including evaluations (with relevant medical reports) and ongoing assessments related to the services provided.
- xi. Physicians' orders and/or prescriptions for Services provided.
- xii. Closure documentation and/or forms to demonstrate how and when the Child transitioned from the EIP or completed or ended Early Intervention Services for other reasons.

Information about the specific details of service delivery must be recorded and maintained by the Contractor in order to establish the nature and extent of services provided and to substantiate early intervention claims to the municipality for reimbursement.

Contractors must submit the following documentation to municipalities at the time payment is sought for Services delivered to children under the Early Intervention Program:

- i. Recipient identification (name, sex, age, date of birth).
- ii. Unit of service (e.g., home and community-based, facility-based, etc.) and specific type of Service provided.
- iii. Date(s) service was rendered.
- iv. ICD-9 diagnostic code for the conditions or reasons for which care is provided.
- v. CPT code for delivered services.
- vi. If an approved Individual provider under direct contract with the municipality delivered the service, the name, address, and license number of the Individual provider delivering the service.
- vii. If an employee or subcontractor of an approved agency under contract with the municipality delivered the Service, the name and identifying information of the early intervention provider billing the municipality for services and the name and license

number of the employee or subcontractor who directly delivered the service.

Session notes documenting the delivery of certain diagnostic and/or treatment services to a child and/or caregiver on a particular date must be completed by all qualified personnel delivering Early Intervention services authorized in the family's IFSP for each service delivered. Such session notes shall, for each date where reimbursement for services is sought by the Contractor, include the following:

- i. Name of the recipient of the service (child/parent/caregiver).
- ii. Date of service.
- iii. Type of service provided.
- iv. Duration (length) of the session.
- v. Brief 2-3 sentence description of the recipient's progress made by receiving the service during the session as related to the outcome contained in the IFSP.
- vi. Name, title, and signature of the person delivering the service and the date the session note was created.

In cases where services are provided through a subcontractual arrangement, the direct provider of service shall retain the complete and original records related to the Early Intervention Services they deliver to an Eligible Child and family.

Records shall be available to afford the Parent the right to inspect and review his/her child's record and obtain copies upon request. A reasonable fee may be charged to copy Early Intervention records upon parent request, not to exceed 10 cents per page for the first copy and 25 cents per page for additional copies.

A Parent must also be afforded the opportunity to:

- i. Request that their child's records be amended if a record contains misleading or inaccurate information about the child or family or violates the privacy or any other rights of the child;
- ii. Obtain a hearing if the Contractor refuses to amend a record;
- iii. Include a statement to be kept and disclosed with the record if the record is not amended as a result of the hearing.

Records shall be available for review by the Eligible Child's Service Coordinator, representatives of the County and/or NYSDOH or their respective designee during working hours at the Contractor's place of business or other location as agreed to by the Contractor and the County and/or NYSDOH.

The Contractor shall keep its clinical and all other EI Program records available at all reasonable times for inspection, review, evaluation and audit by properly authorized personnel of the County, the State and federal government, subject to any limitations or restrictions imposed by any statutes, rules or Regulations governing confidentiality of child records, for a period of not less than that required by applicable law, regulations, or record retention schedules of the County, State or federal government.

10. Progress Reports on Individual Eligible and Referred Children:

The Contractor shall complete a progress report for each Child receiving Services and shall submit a copy to the Child's Service Coordinator and Parent. The periodic progress report must summarize the effectiveness of the Service and the Child's progress made toward major outcomes/ rehabilitation goals. Progress reports shall be prepared for six-month reviews and annual evaluations of the IFSP at a minimum and preferably every 90 days.

If the IFSP team agrees that, due to the Child's age, condition, intensity of services being received, or other factors, more frequent progress notes are necessary, the Contractor must adhere to the specific time frames for progress notes specified in the IFSP.

11. Cooperation with Service Coordinators:

As necessary and reasonable and without additional compensation, Service Providers and Evaluators shall confer by telephone or in person with the Initial and Ongoing Service Coordinator, the Parent and the EIO regarding all aspects of Services, consistent with the Service Coordinator's need to monitor the delivery of Services to such Child.

12. Facilities:

When services are provided in a location or site that is under the control of the Contractor, the Contractor shall ensure that the physical plant is appropriately equipped and supplied to meet the needs of the Child, with current Certificate of Occupancy and in compliance with applicable state and local physical plant requirements.

13. Medical Assistance (Medicaid) and Private Insurance:

The Contractor shall cooperate with the Service Coordinator in ascertaining whether a Referred or Eligible Child is eligible for or enrolled in the Medical Assistance Program, Child Health Plus, and/or has private insurance or any other third party payment source. The Service Coordinator shall assist the Parent of a Child eligible for the Medical Assistance Program or Child Health Plus to have the Child enrolled therein. The Contractor shall forward to the County together with its bills for payment, all documentation and information necessary to support the County's billing of third party payers, including the Medical Assistance Program and private insurance, in such form as prescribed by the County. The Contractor shall further notify the Service Coordinator and the County or its designee if the Contractor knows that a Referred or Eligible Child has such payment sources.

Payment of bills by the County to the Contractor for services rendered to children who are covered under a private insurance plan may be withheld until and unless appropriate, fully executed third party forms and/or child record information as required by third party payors or the County are submitted by the Contractor to the County.

14. Provider Agreement Between New York State Department of Health and Service Providers and Statement of Reassignment:

The Contractor represents and warrants that it has fully and accurately completed Exhibit H, entitled "Provider Agreement Between the New York State Department of Health and Service Providers in the New York State Early Intervention Program" and Exhibit I, entitled "Statement of Reassignment." The failure to comply with any of the provisions of this section or to enter into or perform in accordance with such "Provider Agreement" and "Statement of Reassignment" shall be deemed a failure to perform in accordance with this Agreement, for which the County may withhold payment, terminate this Agreement or exercise such other remedies as may be appropriate in the circumstances.

15. Participation in the IFSP Process:

As requested by the County and without additional compensation, unless permitted by law or regulations, the Contractor shall attend meetings for the purpose of participating in the development and/or review of the IFSP of a Child. Exceptions to such attendance shall be in accordance with the Regulations.

16. Screenings and Evaluations:

- a. The Evaluator shall complete Screenings and initial multidisciplinary Evaluations and prepare an evaluation report and written summary to the Parent, EIO and Service Coordinator as soon as practicable subsequent to the evaluation and within a sufficient time frame to enable convening of the IFSP meeting within forty-five (45) days of the date that the EIO received the referral. If the Evaluator cannot comply within a sufficient time frame (due to workload or scheduling issues), the Evaluator shall notify both the Parent, the Initial Service Coordinator and EIO, prior to initiation of the Evaluation, in order for the Parent to have the opportunity to select another Evaluator. This is not meant to circumvent the Parent's right to choose to wait for the Evaluator to conduct the Evaluation rather than choosing an alternative Evaluator.
- b. The Evaluator shall promptly notify the Service Coordinator and the County of the results of any Screening, and whether or not the Parent has determined to have an Evaluation done.
- c. Any screenings and/or evaluations performed by an Evaluator and evaluation reports must be in compliance with the Act, Regulations and NYSDOH Early Intervention Program Memoranda.
- d. Upon receipt and review of an Evaluation report by appropriate County staff, said staff may request modification of such Evaluation report only on the grounds of its failure to comply with Regulations, which may include a request for additional information where the Evaluation report indicates a Child is an Eligible child and fails to substantiate such determination.
- e. Under said Regulations, in the event that a telephone conference call is to be done in lieu of an in-person IFSP meeting, arrangements for such shall be made before the IFSP meeting with appropriate County employees. Where a knowledgeable authorized representative not a member of the team is to attend the IFSP meeting, said representative shall be a qualified personnel under the Regulations and shall have reviewed the findings of the Evaluation and have discussed it with members of the Evaluation team.

17. Service Coordination:

- a. In order to maximize continuity of Services, to the extent possible, a Contractor providing Service Coordination shall assign a single Service Coordinator selected by the parent to work with the Child and the Child's Parents. In the case of an Agency Provider, the Contractor shall immediately (within two business days) notify the EIO of any change in the Service Coordinator assigned to a Child, ensuring the Parent's rights regarding a choice of Ongoing Service Coordination Services as afforded under Regulations. The EIO will then be responsible to ensure a Parent's choice of another Ongoing Service Coordinator.
- b. The Service Coordinator shall be available on a twelve (12) month per year basis to perform service coordination services, including attendance at the Evaluation, IFSP meetings, and other meetings and appointments necessary to complete timely Evaluations as required by the Act and Regulations.
- c. The Service Coordinator shall be accessible to Parents during regular business hours, on a reasonable basis, 52 weeks per year. The Service Coordinator shall be accessible by telephone, at the Parent's home, or at a mutually agreed upon place, and shall be responsible for informing Parents as to the times and places of his/her accessibility. The Service Coordinator shall further be reasonably accessible to the Evaluator and Provider of Services of the Eligible or Referred Child and to the County.
- d. The Service Coordinator shall ascertain whether the Child is enrolled in the Medical Assistance Program, Child Health Plus, and/or has private insurance or any other third party payment source and obtain all information necessary to process claims for Early Intervention services. Such information shall be periodically updated in the child's record and made available at IFSP reviews and annual Evaluations.
- e. The Service Coordinator shall assist the Parent in identifying and applying for benefit programs for which the family may be eligible, including: the Medical Assistance Program (Child Health Plus A); Supplemental Social Security Income Program; Physically Handicapped Children's Program; Child Health Plus B; and Social Security Disability Income.
- f. The Service Coordinator shall provide the full spectrum of Service Coordination activities enumerated in the Act and the Regulations, as specified in the Child's IFSP, including the provision of information to Parents on their rights and obligations under the Act, and the periodic

monitoring of the delivery of Early Intervention services to determine if such services are being provided in conformance with the Child's IFSP. If services are not being provided in accordance with the IFSP or if there is a significant delay in initiating Services authorized in the IFSP, the Service Coordinator shall determine the reason(s) and notify the County immediately.

- g. The Service Coordinator shall provide Service Coordination for a child up to the limit of units of Service coordination prescribed in the IFSP and indicated on the Authorization Letter from the County. Additional units of Service may be provided only with the prior approval of the County and will require a fully executed amendment to the IFSP, including signatures of the Parent (s) and Early Intervention Official/designee.
- h. Service Coordinators shall prepare and submit reports and/or data regarding Service Coordination activities as requested by the County.
- i. Agencies employing or subcontracting with Individual Service Coordinators must ensure that these individuals meet all requirements of the NYSDOH, the Act and Regulations.

18. Early Intervention Provider Services:

- a. The Provider shall designate a person who shall be available to the County and Service Coordinator during regular business hours for consultation as to whether or not an Eligible Child can be appropriately served by the Provider and whether or not the Provider has the current capacity to serve the Child. Said person shall have sufficient authority to agree by telephone to provide Early Intervention Provider of Services at the place, and for the duration and frequency as agreed to in the IFSP. Notwithstanding the foregoing, a Provider who is an individual without employees may make other arrangements satisfactory to the County for communications with the County and Service Coordinators.
- b. The Provider shall furnish Early Intervention Provider Services to the Child in conformity with the IFSP. It is the Provider's responsibility to verify that any Service authorizations issued by the County are in conformity with the IFSP and to notify the County immediately regarding any discrepancy.
- c. The Provider shall keep an accurate record of attendance of each Child for whom Early Intervention Provider Services are being provided under this Agreement, as specified by the County. Such record shall be kept in the Child's case file and may be requested at any time by the County.

- d. The Provider shall notify the Child's Service Coordinator and the County by telephone and facsimile transmission within twenty-four (24) hours of the Child's absence from more than three (3) scheduled sessions for the delivery of Early Intervention Provider Services and shall indicate the reason for said absence, if known. The Provider shall inform the County in writing within three (3) days of the absences. The Service Coordinator shall attempt to contact the Child's Parent(s) to ascertain the reason for the absences and immediately notify the EIO and Service Coordinator regarding the absences and reason for such absences.
- e. The Contractor is authorized to provide make-up sessions that are based on an individual child's needs and at the request of the Parent. Make-up sessions must be documented in the Eligible Child's IFSP, must be documented in the child's record, must occur within a two week period from the missed service unless a make-up session beyond this specified two week period is deemed more appropriate by the Parent and EIO, and must be in accordance with the NYSDOH Early Intervention service taxonomy and billing guidelines.
- f. If at any point during the duration of the IFSP of a Child, the Provider is unable to provide the Child with the Early Intervention Provider Services specified in the IFSP, the Provider shall immediately notify the Parent and the Service Coordinator of such fact not less than ten (10) days prior to cessation of the Services. Nothing in this paragraph shall be in derogation of Parental rights conferred by applicable laws and Regulations.
- g. When an Eligible Child is voluntarily withdrawn from Early Intervention Provider Services with a Provider, for any reason, the Service Provider shall notify the Service Coordinator and the County within two (2) business days.

19. Transition Services:

The Contractor shall participate in the development and implementation of a transition plan for every child transitioning from the Early Intervention Program to programs under Section 4410 of the Education Law, and/or to other early childhood services in accordance with Regulations, NYSDOH Early Intervention Program Memoranda and other policies and guidance.

20. Transportation Information:

The Contractor shall transmit to the County or its designated transportation manager any information received from a Parent with regard to emergency/contingency transportation for a Child and shall provide emergency access to such information to the County or its designated transportation manager for a minimum of one (1) hour after the end of the last Service session of the day.

21. Respite Services:

If the Contractor is authorized to furnish respite services in accordance with Regulations and NYSDOH Early Intervention Program Memoranda, such Services shall be provided to Eligible Children and their families and paid in accordance with this paragraph 21, or any superseding provisions or rates established or approved by the Commissioner of the New York State Department of Health. Respite is temporary relief from care giving responsibility and is intended to provide support to Parents or other caregivers who may otherwise be overwhelmed by the intensity and constancy of caregiving responsibilities that may be necessary for a Child with special needs. Respite services must be included in the Eligible Child's IFSP, which must specify the type(s) of respite to be provided as defined by the County.

A NYSDOH Contractor Approval Letter evidencing approval of respite services shall not be required as a condition of the Contractor providing such services under this Agreement.

**Exhibit E:
Agency Provider Information Form**

EARLY INTERVENTION PROGRAM

The Contractor shall provide written notification within 5 (five) working days to the County and State approving agency of any changes to any information contained in this exhibit.

A) Legal/Corporate Agency Name:

Early Intervention Provider Agency Name:

Executive Director:

B) Principal Business Address:

Telephone:

Fax:

E-mail:

Indicate the number of EI service delivery sites maintained by the provider. Include the principal business address if it is also a service delivery site: _____

Exhibit G must be completed for each service delivery site where services are provided.

C) Legal/Corporate Agency Tax Identification Number Information, as applicable:

Sole Proprietorship (Tax Identification Number)

_____ - _____

Partnership, Joint Venture or Other Unincorporated Organization

_____ - _____

Corporation

_____ - _____

D) Indicate Agency's Licensure, if applicable: (Check all applicable boxes)

- | | |
|--|--|
| 1. () Article 25 PHL Early Intervention Provider | 6. () Comprehensive Medicaid Case Management Provider |
| 2. () Article 28 PHL Diagnostic and Treatment Center | 7. () Section 4410 Education Law |
| 3. () Article 28 PHL Hospital Based Outpatient Clinic | 8. () Day Care |
| 4. () Article 16 MHL | 9. () Other: _____ |
| 5. () Article 31 MHL | |

Indicate State Agency that approved the program as an Early Intervention Provider if applicable:

1. () SDOH 2. () SED Date of *initial* approval:
Date of *most recent* amendment:

Indicate State-approved Early Intervention Services:

- 1. Evaluation Core Supplemental
- 2. Service Coordination
- 3. Service Provider: Home/Community Facility-based
 - Parent-Child Group
 - Family/Caregiver Support Group
 - Group Developmental Intervention

List State-approved counties/boroughs of Early Intervention Service delivery:

E) Is the Early Intervention Services Provider licensed, able and willing to provide services in the natural environment, as appropriate? YES NO

F) ADMINISTRATIVE CONTACT – Name, title, address, telephone, and fax numbers of the individual responsible for notices pursuant to the Agreement:

Name/Title:

Address:

Telephone:

Fax:

G) FISCAL CONTACT – Name, title, address, telephone and fax numbers of the individual responsible for billing and payment information under the agreement:

Name/Title:

Address:

Telephone:

Fax:

H) PROGRAM CONTACT – Name, title, address, telephone and fax numbers of the individual responsible for establishing the availability of the E.I. Services Provider to provide services as delineated in an IFSP:

Name/Title:

Address:

Telephone:

Fax:

I) COMPLIANCE CONTACT – Name, title, address, telephone and fax numbers of the individual responsible for quality assurance under the Agreement:

Name/Title:

Address:

Telephone:

Fax:

J) List all managed care plans in which you participate as a provider of services:

Exhibit F
Individual Provider Information Form

The Contractor shall provide written notification within 5 (five) working days to the County and State approving agency of any changes to any information contained in this exhibit.

- A. 1. Name:
2. Professional Title:
3. Principal Contact (if applicable):
4. Phone No:
5. Fax No:

- B. Mailing Address:
Name:
Address:

- C. Individual responsible for billing and payment information under the Agreement (if different from A.1.)
Name:
Address:
Phone No:

- D. Contractor will provide New York State DOH approved services, as defined in this Agreement, as follows (check all applicable boxes):
- Evaluator
 - Service Coordinator
 - Early Intervention Provider Services other than Respite
 - Respite

- E. Social Security Number:

- F. NYS License and Registration or Certificate Number:

- G. Specialty areas served, if any (e.g., vision impaired, autistic, emotionally disturbed children, etc.):

- H. List all managed care plans in which you are a participating provider:

Exhibit G
Site Information Form

This form is to be completed only by contractors/providers approved by the New York State Early Intervention Program to provide early intervention services at one or more sites under the provider's control (e.g., own and/or operate).

The Contractor/provider must complete a separate Exhibit G for each site approved by NYS where services may be provided. Additional copies of Exhibit G may be reproduced as necessary. The Contractor shall provide written notification within 5 working days to the County and State approving agency of any changes to any information contained in this exhibit.

A. Name of Facility:

Address:

Phone No:

Fax No:

B. Address (if different from above) where books and records are maintained:

1. Fiscal Records:

2. Clinical Program Records:

C. Person responsible for establishing the availability of services delineated in an IFSP:

Name:

Address:

Phone No:

Fax No:

D. Contractor Licensure (check all applicable boxes)

- Article 28 PHL Diagnostic and Treatment Center
- Article 28 PHL Hospital Based Outpatient Clinic
- Article 16 MHL
- Article 31 MHL
- Comprehensive Medicaid Case Management Provider
- Section 4406 or 4410 of Education Law
- Day Care License
- Other (please specify): _____

Exhibit H

Provider Agreement Between the New York State Department of Health and Service Providers in the New York State Early Intervention Program

Contingent upon approval by the New York State Department of Health to participate in the New York State Early Intervention Program, and the satisfactory completion of a Medicaid provider agreement and statement of reassignment for the purpose of establishing eligibility to participate in the New York State Medicaid Program under title XIX of the Social Security Act,

hereinafter, called the Provider, agrees as follows to:

- A. (1) Keep any records necessary to disclose the extent of services the Provider furnishes to recipients receiving assistance under the New York State Plan for Medical Assistance.
- (2) On request, furnish the New York State Department of Social Services, or its designee, and the Secretary of the United States Department of Health and Human Services, and the New York State Medicaid Fraud Control Unit any information maintained under paragraph (A) (1), and any information regarding any Medicaid claims reassigned by the provider to the local early intervention agency.
- (3) Comply with disclosure requirements specified in 42 CFR Part 455, Subpart B.
- B. Comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Federal Rehabilitation Act of 1973, and all other State and Federal statutory and constitutional nondiscrimination provisions which prohibit discrimination on the basis of race, color, national origin, handicap, age, sex, religion and marital status.
- C. Abide by all applicable Federal and State laws and regulations, including the Social Security Act, the New York State Social Services Law, Part 42 of the Code of Federal Regulations and Title 18 of the Codes Rules and Regulations of the State of New York.
- D. Provide services in accordance with Title II-A of Article 25 of the Public Health Law and Subpart 69-4 of Title 10 of the Codes Rules and Regulations of the State of New York (New York State Early Intervention Program).

Authorized Signature: _____ Date: _____

Address:

City:

State:

Zip:

Telephone No:

Type of Early Intervention Provider (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Evaluation Services | <input type="checkbox"/> Early Intervention Services |
| <input type="checkbox"/> Service Coordination | <input type="checkbox"/> Municipal Early Intervention Agency |

Exhibit I
Statement of Reassignment

Name of Early Intervention Provider/ Practitioner

By this reassignment, the above-named program or practitioner of early intervention services agrees:

1. To reassign all Medicaid reimbursement for early intervention services to the municipal early intervention agency that you contract with to provide early intervention services.
2. To accept as payment in full from the municipal early intervention agency the State Department of Health promulgated payment levels for covered early intervention services.
3. To not bill Medicaid for eligible early intervention services which are specified in a child's Individualized Family Services Plan (IFSP). These services will be directly billed to and reimbursed by the municipal early intervention agency.
4. To comply with all the rules and policies as described in your contract with the municipal early intervention agency.

Authorized Signature

Note: Nothing in this statement of reassignment would prohibit a Medicaid provider from billing reimbursement for Medicaid eligible services rendered outside the scope of the early intervention program.

Exhibit J
New York State Approval Letter and/or Amended Approval Letters