

ATTACHMENT G-SAMPLE CONTRACT-Healthy Families Indiana

PROFESSIONAL SERVICES CONTRACT

EDS# _____

This Contract (the "Contract"), entered into by and between the Indiana Department of Child Services (hereinafter referred to as "State" or "DCS") and _____ (hereinafter referred to as "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor.

- A. Purpose: The purpose of this Contract is for the Contractor, which must be accredited by the national Healthy Families America, to provide certain home visitation and related services as part of the Healthy Families Indiana ("HFI") program (the "HFI Services"). HFI, which is modeled after the national Healthy Families America, is a voluntary multi-faceted home visitation program locally designed to promote healthy families and healthy children through services which include child development, access to health care, parent education, family incentives, staff training, and community coordination and education. The program model includes screenings, assessment, and home visiting activities that begin for eligible families either prenatally or at the time of birth. The goal of Healthy Families Indiana and of the HFI services herein described is to promote healthy families and children to help prevent child abuse through intensive early intervention services to families who have been identified at risk and who voluntarily participate in home visitation services with trained providers.
- B. HFI provides screening and assessment of families in targeted areas throughout the state of Indiana. Service entry points include WIC programs (WIC is the Special Supplemental Nutrition Program for Women, Infants, and Children), health clinics, and local hospitals. Parents are screened using a validated, standardized instrument, the Maternal Record Screen. Positive screens do not assess the risk of child abuse and neglect, but do indicate a need to conduct a more in-depth discussion with the family. Families with positive screens are then assessed using a standard validated instrument, the Kempe Family Stress Checklist. Family Assessment Workers also use a standardized rating scale to score the checklist. Families with a score of forty (40) or higher (with some exceptions) are offered the opportunity to participate in a voluntary home visiting program tailored to their individual needs.
- C. All Family Assessment Workers and Family Support Workers employed by local Healthy Families sites must complete forty (40) hours of Core Training within the first month of employment and a minimum of ninety (90) hours of wrap around training within the first six (6) months of employment.

D. In order to accomplish the above-referenced purpose, the Contractor will provide the HFI Services set out in more detail herein and in accordance with the following (all of which are hereby incorporated by reference):

- (1) The HFI Services must be provided by the Contractor in accordance with the Healthy Families Prevention Services Request for Proposal and all of its attachments (the "Healthy Families RFP"), which was issued by the State in March 2012; and
- (2) The HFI Services provided by the Contractor must be provided in a manner that is consistent with the most current Healthy Families America accreditation standards and must comply with the most current "Critical Elements" defined by Healthy Families America as a result of repeated evaluation of early intervention programs with children and families. The current "Critical Elements" are attached hereto as **Exhibit 1** and hereby incorporated by reference; and
- (3) The HFI Services provided by the Contractor must also comply with all applicable requirements set forth in the "Service Definitions" attached hereto as **Exhibit 2** and hereby incorporated by reference; and

[link to be provided]

- (4) The HFI Services provided by the Contractor must also comply with the most current version of the assurances ("Assurances") that the Contractor made in conjunction with the Healthy Families RFP, except to the extent that the terms of this Contract might specifically modify those Assurances. The Assurances may be modified/updated from time to time by DCS, but such Assurances are always available in their most current form at the following link (or any designated successor website):

[link to be provided]

- (5) The HFI Services provided by the Contractor must also comply with the Contractor's Response to the Healthy Families RFP (the "Contractor's RFP Response"), which was submitted by the Contractor in accordance with the specifications of the Healthy Families RFP; and
- (6) As set forth herein, in **Attachment A** (which is attached hereto and hereby incorporated by reference), and as described in the Healthy Families RFP and as approved by the State, the Contractor must provide the HFI Services for the county(ies) for which the Contractor has been chosen by the State to provide such HFI Services.

E. The Contractor must comply with any and all applicable federal funding and/or grant terms, conditions, restrictions on use of funds, timelines for use of funds,

and any and all other requirements of any and all applicable federal funding and/or grant terms in their most currently applicable form.

F. The Contractor hereby agrees to:

- (1) advise participating families of the Hoosier Healthwise program at the time of assessment and assist families with enrollment;
- (2) maintain its status as an accredited affiliate of Prevent Child Abuse America/Healthy Families America (“PCAA/HFA”); and
- (3) adhere to the PCAA/HFA model, including all HFA standards. The State may, in its sole discretion, allow waivers of PCAA and HFA credentialing standards if requested changes are based on research and/or experience that support the change as the best practice for Healthy Families Indiana clients.

G. The Contractor shall not use any of the funds it receives for the HFI Services it provides pursuant to this Contract for any of the following:

- (1) providing inpatient hospital services;
- (2) making cash payments to enrolled families;
- (3) purchasing or improving land; purchasing, constructing, or permanently improving any building or other facility; purchasing major medical equipment or vehicles;
- (4) paying for entertainment or membership dues; or
- (5) satisfying any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds.

H. The Contractor shall not assess fees for services to families participating in the program.

I. The Contractor shall provide HFI Services in a non-sectarian manner.

J. Data Collection and/or Data Entry Requirements: The Contractor shall comply with all data collection and/or data entry requirements specified and requested by DCS. As part of this compliance, the Contractor must enter/submit electronically all data requested by DCS, including, but not limited to, client data and service data, into DCS’ approved database (which is currently the Datatude, Inc. system, but all references herein shall apply to DCS’ system/provider current as of the time of required data entry) within the time period specified by DCS. The Contractor shall make all efforts to collect the appropriate data referenced above. If the Contractor demonstrates excessive use of the “unknown” answer choices in submitting any of the data requested by DCS, such excessive use shall be reported to DCS.

In the event that DCS’ database provider, which is currently Datatude, Inc. (or any DCS’ approved database provider) and/or DCS determines that any data

collected and/or entered into DCS' approved database fails to comply with the requirements of this Contract and/or is inadequate or insufficient in any respect, DCS shall notify the Contractor by certified mail of the deficiency and corrective action needed. The Contractor shall submit revised and corrected data within thirty (30) days of receipt of the deficiency notice.

- K. Reporting Requirements: The majority of the reports pertaining to data collected and/or entered by the Contractor into DCS' approved database will be generated and prepared by Datatude, Inc. or the current database provider. However, the Contractor also hereby agrees that it shall prepare, maintain, and timely provide to DCS, upon request, any case record documentation, statistical reports, program reports, service information reports, client data and service data reports, outcome monitoring reports, other reports, or other information requested by the State relating to the services provided by the Contractor pursuant to this Contract in the format requested by the State, including, but not limited to, reports/information incident to monitoring or evaluating performance by the Contractor of the HFI Services specified in this Contract, and/or any statistical and program reports as are required by any laws, regulations, or policies of the United States or the state of Indiana that are applicable to the use of funds paid to the Contractor pursuant to this Contract.

In order to comply with this paragraph K, the Contractor shall, if requested by DCS, be required to submit case record documentation and reports in accordance with whatever frequency is requested by DCS (monthly, quarterly, or more or less frequent), with respect to any services provided pursuant to this Contract. Such case record documentation and reports must contain all of the information requested by DCS and must conform to the format and content of the documentation and/or reporting procedure specified by DCS.

- L. Progress Reports: The Contractor shall also submit any written progress reports requested by the State until the completion of the HFI Services and/or project described herein. If requested by DCS, these reports must detail progress made toward the completion of the HFA "Critical Elements", which are attached hereto as **Exhibit 1**. Also, if requested by DCS, these reports shall include information related to outcome measures and such information may be posted on the Healthy Families Indiana website.

- M. The State shall monitor and review the Contractor's delivery of services during the term of this Contract. The procedure that the State uses for monitoring the Contractor may change during the term of this Contract, and the Contractor will be notified of any changes in procedure. The procedure that the State uses for monitoring the Contractor may include, but not be limited to, the following:

- (1) Conduct site visits and case file reviews as a means of ensuring quality service provision;

- (2) Review of invoices/claims submitted by the Contractor for payment, in relation to the service components and/or service rates specified in **Attachment A**, and in relation to any additional payment/financial information set forth in Section 2 and/or in **Attachment A**, including the specified total remuneration amount in Section 2(B);
 - (3) Peer review conducted by DCS' staff or DCS' contracted staff using a tool approved by DCS;
 - (4) Information received verbally or in writing from DCS concerning the Contractor's delivery of services requested or approved;
 - (5) Information received verbally or in writing from service recipients, directly or through a DCS' local office, regarding services provided by the Contractor;
 - (6) Review of the results of services provided in relation to the desired outcomes of those services; and
 - (7) Information contained in any reports and evaluations relating to the Contractor's delivery of services under this Contract.
- N. One type of monitoring review that may be conducted by the State shall track the PCAA/HFA model and may document the following:
- (1) Whether the services provided by the Contractor are consistent with the specifications set forth in this Contract (including its attachments);
 - (2) A complete, detailed analysis of actual state, local, and/or private funds expended to date on the services provided by the Contractor with the amounts for each budget line item (if applicable); and
 - (3) A detailed listing of all of the Contractor's services' costs by project budget line (if applicable) which are accrued yet unpaid (if applicable).
- O. The Contractor hereby agrees to participate in and comply with all evaluation activities specified and/or requested by DCS (whether or not such evaluation activities are subject to evaluation by DCS or some outside evaluator) relating to any of the services rendered by the Contractor pursuant to this Contract.
- P. For any of the above-described monitoring activities conducted by the State, the State may provide a written evaluation as to the Contractor's timely progress in project management, financial management and control systems, procurement systems and methods, and performance relative to timely submission of project reports.

- Q. If this Contract is terminated by either party prior to the expiration of the Contract, the State may promptly conduct an on-site monitoring of the project and complete a project monitoring report.
- R. If requested by DCS, the Contractor must account for all program income and other costs incurred and expenditures made pursuant to this Contract. The Contractor shall keep records and documentation to support all costs and expenditures made and to support each rate for each component description identified in **Attachment A**. The Contractor may require a higher level of fiscal accountability if the State suspects that the Contractor is financially unstable, has a history of poor accountability, or has a management system which does not meet State or federal standards.
- S. The Contractor acknowledges and agrees that federal funds it receives pursuant to this Contract shall not be used to supplant existing federal or non-federal funds used for activities similar to the activities authorized under this Contract.

2. Consideration.

- A. In accordance with and subject to the specifications set forth herein, in the exhibits attached hereto, in **Attachment A** (which is attached hereto and hereby incorporated by reference), and in Section 34 of this Contract, and solely for its provision of the HFI Services described herein, the State's payment to the Contractor for services will be based on the specified service components and service rates in **Attachment A**. The Contractor must expend any and all funds/payments it receives pursuant to this Contract in accordance with any and all currently applicable federal funding and/or grant terms, conditions, restrictions on use of funds, timelines for use of funds, and any and all other requirements of any and all currently applicable federal funding and/or grant terms.
- B. Total remuneration under this Contract shall not exceed \$_____, subject to Section 28.
- C. All expenses for travel (including transportation, mileage, per diem, and any other incidental expenses) of the Contractor or any of its employees, in relation to the provision or performance of any services described in this Contract, are included in the service rates specified in **Attachment A**. The State will not reimburse the Contractor separately for any travel expenses.
- D. Payment to the Contractor as provided in this Section will also be subject to the following conditions:
 - (1) Timely completion and submission of data into DCS' approved database as described above in Section 1(J);

- (2) Timely completion and submission to the State of any information required for any requisite reports and evaluations necessary to monitor services or programs and outcomes, as required above in numerous paragraphs of Section 1;
- (3) If requested by DCS, timely completion and submission to DCS of any requisite written reports relating to the Contractor's provision of services pursuant to this Contract, as required in Section 1;
- (4) Satisfactory completion and submission to the State of any applicable work product or other deliverable, as specified herein, in any attached exhibits, and/or in **Attachment A**, for services that are provided by the Contractor and/or its subcontractors pursuant to this Contract.
- (5) Timely resolution of any issues related to Department of Revenue ("DOR") or Department of Workforce Development ("DWD"). The Contractor acknowledges that this Contract cannot proceed while any DOR or DWD "holds" exist.

3. Term.

This Contract shall be effective for a period of two (2) years. It shall commence on September 1, 2012, and shall remain in effect through August 31, 2014.

4. Access to Records.

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

5. Assignment; Successors; and Subcontracting.

- A. The Contractor agrees to bind its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign the whole or any part of this Contract without the State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one (1) party.
- B. The Contractor shall monitor the performance of all subcontractors and shall remain responsible to the State for the performance of any subcontractor. The Contractor agrees

to enter into written agreements with all subcontractors and to provide copies of all subcontracting agreements to the State upon request. The Contractor further agrees to notify the State of a breach of these provisions by a subcontractor and to discontinue any agreement with the specified subcontractor in the event of such a breach.

6. Audits and Monitoring.

- A. The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1 *et seq.* and audit guidelines specified by the State.
- B. DCS considers the Contractor to be a “vendor,” for purposes of this Contract. However, if required pursuant to the applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Contract, the Contractor shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with the Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor's fiscal year. The Contractor agrees to provide the Indiana State Board of Accounts and the State an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or subsidiary corporation of the Contractor, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State. The audit shall include a statement from the Auditor that the Auditor has reviewed this Contract and that the Contractor is not out of compliance with the financial aspects of this Contract.

The Contractor shall permit all examinations and shall generate and maintain all documentation necessary to comply with all relevant audit requirements.

- C. In addition to an independent audit completed in accordance with paragraph A or B of this Section, the State may, in its discretion, conduct a separate audit(s) of funds provided pursuant to this Contract and/or any other necessary on-site monitoring reviews of the Contractor, for the purpose of: (i) outcome tracking (including, but not limited to, Sections 1(K), 1(L), 1(M), and 1(N) of this Contract); (ii) quality review of the services provided by the Contractor pursuant to this Contract; and/or (iii)

conducting any other requisite and/or desired program and/or service audits of the Contractor.

- (1) The Contractor shall, upon written demand by State, be required to repay to the State all sums paid by the State to the Contractor, for which adequate fiscal and/or service delivery documentation is not in existence for any time period audited. If an audit of the Contractor results in an audit exception, the State shall have the right to set off such amount against current or future allowable claims, demand cash repayment, or withhold payment of current claims in a like amount pending resolution between the parties of any disputed amount.
- (2) The Contractor agrees that the State has the right to make recommendations and findings in connection with any financial monitoring or audit of the Contractor's operations, and the Contractor agrees to comply with any corrective actions specified by the State, within the time limits established by the State.
- (3) The Contractor will provide to the State, upon request, a copy of any document or report prepared and maintained by the Contractor relative to costs incurred in providing the services described in this Contract and its attachments/exhibits.
- (4) The parties agree that any authorized employee or representative of the State, the state of Indiana or the United States (hereinafter referred to as "governmental agent") shall have the right to enter the premises of the Contractor or any subcontractor of the Contractor and inspect or audit any records or property agreements maintained by the Contractor or its subcontractors in connection with this Contract. The Contractor and its subcontractors shall make all books, records, and documents that relate to their activities under this Contract available for inspection, review, and audit when requested by a governmental agent. The Contractor shall ensure the cooperation of its employees, officers, board members, and subcontractors in any review, audit, or inspection conducted by a governmental agent.
- (5) Following any State monitoring visit to the Contractor, the State may provide a written report to the Contractor. If the State chooses to provide a written report following a State monitoring visit to the Contractor, the State shall provide such report within sixty (60) days of such monitoring visit. The State's report may contain observations, evaluations, suggestions and/or specific directions for corrective action by the Contractor. In the event that specific corrective action is required, the Contractor will have sixty (60) days from the receipt of the directions to comply, unless a different time period for correction is specified by State. A failure of the Contractor to comply with the State's specific directions will be treated as a breach of this Contract. In the case of a dispute, the State and the Contractor will meet at their earliest convenience to resolve the issue in question.

- D. As required, the Contractor shall timely file an “Entity Annual Report” (Form E-1) with the State and the Indiana State Board of Accounts.

7. Authority to Bind Contractor.

The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

8. Changes in Work.

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. With the exception of the modification procedures set forth in Section 28 of this Contract, this Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

9. Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, state and local laws, rules, regulations, and ordinances, including any disaster plan protocol (Title IV-E and Title IV-B), and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.
- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6 *et seq.*, IC § 4-2-7 *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General’s website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.
- C. Before this Contract may be moved through the State signature process, it must pass review by the Department of Workforce Development (“DWD”) and the Department of Revenue (“DOR”). The Contractor acknowledges that this Contract cannot proceed while any DOR or DWD “holds” exist. Thus, if the Contractor has unpaid

unemployment insurance or unpaid taxes to the State, this Contract will be held until these issues are resolved.

- D. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Contractor agrees that any payments currently due to the State may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.
- E. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract. In the event of DCS' receipt of a report (verbal or written) of criminal or potentially criminal activity by a member of the Contractor's staff (including any of the Contractor's subcontractors and their staff) that potentially threatens/endangers the life, health, or safety of any DCS' ward(s), DCS may immediately require a temporary suspension of such member of the Contractor's staff (including any of the Contractor's subcontractors and their staff) pending an investigation into the report.
- F. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this Section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.
- G. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- H. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- I. As required by IC 5-22-3-7:
 - (1) The Contractor and any principals of the Contractor certify that:
 - (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC 24-4.7 [Telephone Solicitation of Consumers];

- (ii) IC 24-5-12 [Telephone Solicitations]; or
 - (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines];
 - in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.
- (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor
 - (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

10. Condition of Payment.

All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations, as well as in accordance with any applicable accreditation and/or service standards and all specifications set forth above in Section 1 and in the other provisions of this Contract. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract (including, but not limited to, any applicable accreditation and/or service standards and all specifications set forth above in Section 1) or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

11. Confidentiality of State Information.

- A. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the State.
- B. The parties acknowledge that the services to be performed by the Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this Section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the Contractor, the Contractor agrees to pay the

cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

12. Continuity of Services.

- A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration and/or termination, a successor, either the State or another contractor, may continue them. The Contractor agrees to:
 - 1. Furnish phase-in training, and
 - 2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

- B. The Contractor shall, upon the State's written notice:
 - 1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires and/or is terminated, and
 - 2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

- C. The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

- D. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration and/or termination that result from phase-in, phase-out operations).

13. Debarment and Suspension.

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the state of Indiana. The term "principal" for purposes of this

Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

14. Default by State.

If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

15. Disputes.

- A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs.
- C. If a party to the Contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
 - (1) The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of IDOA. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for

action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one (1) of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.

- (2) The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one (1) or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

16. Drug-Free Workplace Certification.

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the state of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the state of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this Contract is in excess of \$25,000.00, the Contractor hereby further agrees that this Contract is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a

controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph A above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision C(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision C(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs A through E above.

17. Employment Eligibility Verification.

The Contractor affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

18. Employment Option.

- A. For purposes of this Section 18 of the Contract, the term “employee” is intended to include all staff working on the duties which are the subject of this Contract, including, but not limited to, the Contractor’s employees working on this Contract, any subcontractors working for the Contractor on this Contract, and any of these subcontractors’ employees or subcontractors.
- B. For purposes of this Section 18 of the Contract, the term “hire” or “hiring” means to hire, to directly contract with, to subcontract with, and/or to procure services through a State managed service provider, State quantity purchase agreement, or its equivalent (as determined by the State).
- C. If the State determines at any time during the term of this Contract (including any extensions thereof) that it would be in the State’s best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-compete agreements that may be in effect within thirty (30) days of receiving a request for such release from the State. This release will be at no cost to the State or the employee.
- D. In order to effectuate the purpose of this Section, the State may initiate conversations about a potential hiring with any employee of the Contractor at any time during the term of this Contract (including any extensions thereof).

19. Force Majeure.

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a “Force Majeure Event”), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

20. Funding Cancellation.

- A. It is understood and agreed by the parties that all obligations of the State are contingent upon the availability and continued appropriation of state and federal funds, and in no event shall the State be liable for any payments in excess of available appropriated funds.
- B. If DCS makes a written determination that federal and/or state of Indiana funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be immediately canceled upon the Contractor's receipt of a written notice from DCS specifying such determination. Such written notice shall be sent in accordance with the specifications set forth in Section 31. A determination by DCS that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- C. When the Director of the State Budget Agency ("SBA") makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of SBA that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

21. Governing Laws.

This Contract shall be construed in accordance with and governed by the laws of the state of Indiana and suit, if any, must be brought in the state of Indiana.

22. Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State shall **not** provide such indemnification to the Contractor.

23. Independent Contractor.

- A. Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

- B. The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.
- C. The Contractor certifies and agrees that the services the Contractor provides under this Contract will be performed in accordance with the following guidelines:
 - (1) **Behavioral control** - The Contractor will be responsible to direct and control its staff with respect to how to carry out its duties under this Contract including:
 - (a) monitoring or providing training on how to perform services and
 - (b) instructions on:
 - when and where to do the work;
 - what tools or equipment to use;
 - what workers to hire or to assist with the work;
 - where to purchase supplies and services;
 - what work must be performed by a specified individual; and
 - what order or sequence to follow.
 - (2) **Financial control** - In carrying out its duties hereunder, the Contractor will be responsible for:
 - (a) all business expenses incurred;
 - (b) any facilities or equipment it requires;
 - (c) managing its resources to meet obligations to the State and any other parties;
 - (d) all employment or contract issues with its staff; and
 - (e) managing any fluctuations in the cost of providing services.
 - (3) **Type of relationship** - The Contractor's relationship with the State:
 - (a) is controlled by this Contract;
 - (b) includes no benefits other than the consideration paid for services rendered;
 - (c) includes no promise of future agreements; and
 - (d) addresses only one aspect of the State's overall mission.

24. Information Technology Enterprise Architecture Requirements.

If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all Indiana Office of Technology ("IOT") standards, policies and guidelines, which are online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29

U.S.C. 794d) and IC 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

25. Insurance.

A. The Contractor shall secure and keep in force during the term of this Contract the following insurance coverage, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

- (1) Commercial general liability, including contractual coverage and errors and omissions coverage for professional conduct, and products or completed operations coverage (if applicable), with minimum liability limits of \$500,000 per person and \$1,000,000 per occurrence unless additional coverage is required by the State.
- (2) Automobile liability with minimum liability limits of \$500,000 per person and \$1,000,000 per occurrence.
- (3) The Contractor shall provide proof of such insurance coverage by tendering to the State representative listed directly below in this subparagraph a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the state of Indiana is required if any of the services provided under this Contract involve work outside of Indiana. The Contractor shall send the above-described proof of insurance coverage to: Andrea Preston, Program Director, Indiana Department of Child Services, 302 W. Washington Street, Room E306, MS 47, Indianapolis, IN 46204.

B. The Contractor's insurance coverage must meet the following additional requirements:

- (1) The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
- (2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
- (3) The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.

(4) The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.

C. The State may require the Contractor to provide a bond or insurance coverage for all persons who will be handling funds or property received or disbursed as a result of this Contract, or who may carry out the duties specified in this Contract, in an amount equal to one-half (1/2) of the total payments provided to the Contractor under this Contract or \$250,000, whichever is less, to be effective for the period of this Contract plus three (3) years for purposes of discovery. The Contractor's coverage must provide protection against losses resulting from criminal acts and wrongful performance of the duties specified herein and must specify the state of Indiana as an obligee or additional insured. The Contractor shall immediately notify the State if said bond or insurance is cancelled or modified in amount of coverage. In the event of cancellation, the State shall make no further payments until certification is provided by a bonding or insurance company that the provisions set forth in this Section have been satisfied. The State may at its discretion require the Contractor to furnish additional or different bond or insurance coverage.

D. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before commencement of this Contract. As described above in paragraph A(3) of this Section, the Contractor shall send the above-described proof of insurance coverage to: Andrea Preston, Program Director, Indiana Department of Child Services, 302 W. Washington Street, Room E306, MS 47, Indianapolis, IN 46204.

26. Key Person(s) - deleted

27. Licensing Standards.

The Contractor, its employees, and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

28. Merger & Modification.

- A. This Contract constitutes the entire agreement between the parties with respect to the subject matter herein. All prior agreements, representations, statements, negotiations, and undertakings are hereby superseded. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. Except as provided herein below, this Contract shall not be modified, supplemented, or amended in any manner.
- B. The parties agree that due to the uncertain availability of state and/or federal appropriated funds and/or the possibility of the need for a reduction in the services provided pursuant to this Contract, the total consideration payable by the State as specified in Section 2 of this Contract may be unilaterally decreased by the State, with a corresponding reduction in the Contractor's duties and responsibilities, immediately upon the Contractor's receipt of written notice (with any requisite revised **Attachment A** attached thereto) or on the date specified in such notice. Such written notice shall be delivered to the Contractor at the address specified in Section 31 of this Contract via both regular U.S. mail and e-mail. This paragraph does not affect any right of the Contractor to payment for services performed before receipt of such written notice.
- C. The State may conduct periodic reviews of the anticipated utilization of funds provided by the State pursuant to this Contract. After such a review, the State may decide to reduce, redistribute, or increase the funding available to the Contractor pursuant to this Contract. The State shall give written notice of its decision to reduce, redistribute, or increase the funding available to the Contractor, which notice shall include a statement of the reasons for such modification and include, if applicable, an updated **Attachment A** reflecting such change. Such written notice shall be effective immediately upon the Contractor's receipt of such written notice or on the date specified in such notice.
- D. Should the State (on its own or after it considers a request of the Contractor) determine that any billable unit, payment point, service code, service component, or any of the budgeted amounts for any service or cost component require(s) modification and such modification requires a revision to the information included in **Attachment A**, such changes shall not require the execution of a formal amendment to this Contract, but may be accomplished by written notice from the State to the Contractor with an accompanying updated **Attachment A**. Such written notice shall be effective immediately upon the Contractor's receipt of such written notice or on the date specified in such notice.
- E. Should the federal government notify the State of any changes to the federal funding and/or grant terms, conditions, restrictions on use of funds, timelines for use of funds, and any and all other changes to the requirements of the federal funding and/or grant terms that require a modification to the terms of this Contract, including, but not limited to, notification of an expansion of the purposes or uses for the federal and/or grant money, notification of an expansion or change of the entities able to use the federal and/or grant money, and/or

extension of a time period within which federal and/or grant funds must be expended, such modification(s) (even if such modification(s) require a revision to the information included in **Attachment A**) shall not require the execution of a formal amendment to this Contract, but may be accomplished by written notice from the State to the Contractor (with any requisite revised **Attachment A** attached thereto). Such written notice shall be effective immediately upon the Contractor's receipt of such written notice or on the date specified in such notice.

- F. Should the federal government approve of any changes requested by the State that affect the federal funding and/or grant terms, conditions, restrictions on use of funds, timelines for use of funds, and any and all other changes to the requirements of the federal funding and/or grant terms that require a modification to the terms of this Contract, including, but not limited to, an expansion of the purposes or uses for the federal and/or grant money, an expansion or change of the entities able to use the federal and/or grant money, and/or an extension of a time period within which such federal and/or grant funds must be expended, such modification(s) (even if such modification(s) require a revision to the information included in **Attachment A**) shall not require the execution of a formal amendment to this Contract, but may be accomplished by written notice from the State to the Contractor (with any requisite revised **Attachment A** attached thereto). Such written notice shall be effective immediately upon the Contractor's receipt of such written notice or on the date specified in such notice.
- G. The modifications described above in paragraphs B, C, D, E, and F of this Section, even if such modifications require creation of a revised **Attachment A**, may be accomplished by letter of notification from the State to the Contractor (with any requisite revised **Attachment A** attached thereto), without the necessity for a formal contract amendment.
- H. With the exception of the modification procedures permitted pursuant to paragraphs B, C, D, E, F, and G of this Section, this Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties. Nothing herein shall be construed as a commitment to execute future agreements with the Contractor or to extend this Contract in any way.

29. Minority and Women's Business Enterprises Compliance.

All contractors who submitted responses to the Healthy Families RFP indicated whether they were a MBE or a WBE listed on the Minority and Women's Business Enterprises Division Directory, which assists DCS in its effort to keep an agency-wide record of the percentage of its contractors that are MBEs or WBEs. This Contractor indicated the following:

_____ The Contractor is a MBE.

_____ The Contractor is a WBE.

_____ The Contractor is not a MBE or a WBE.

30. Nondiscrimination.

- A. This covenant is enacted pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.
- B. Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, and except as permitted by 28 CFR Part 38 "Equal Treatment for Faith-Based Organizations", the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, the Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.
- C. The Contractor further agrees to comply with all applicable provisions of Indiana Code 22-9; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d; Title II of the Americans with Disabilities Act, 42 U.S.C. 12134; and all other non-discrimination laws and regulations of the United States and the state of Indiana. In particular, the Contractor will ensure that no person shall, on the grounds of race, age, color, religion, sex, disability, national origin, ancestry, or status as a veteran, be excluded from participating in or be denied the benefit of the Contractor's services, or otherwise be subjected to discrimination under any program or activity for which the Contractor or its subcontractors receive, directly or indirectly, state or federal funds.
- D. The Contractor understands that the State is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors agree to comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.
- E. The parties agree that any publicity release or other public reference, including media releases, information pamphlets, etc., relative to the services provided under this Contract, will clearly state that all services are provided without regard to race, age, color, religion, sex, disability, national origin, ancestry, or status as a veteran.

31. Notice to Parties.

A. Whenever any notice, statement or other communication is required under this Contract, it shall be sent via regular U.S. mail and/or e-mailed to the following addresses, unless otherwise specifically advised.

(1) Notices to the State shall be sent and/or e-mailed to:

**Andrea Preston
Program Director
Indiana Department of Child Services
302 W. Washington Street, Room E306, MS 47
Indianapolis, IN 46204
E-mail: Andrea.Preston@dcs.IN.gov**

(2) Notices to the Contractor shall be sent and/or e-mailed to:

**Contact Name
Contact Title
Contact Agency/Organization/Business Name
Address Line 1
Address Line 2
Contact E-mail Address**

B. Notice of any change in the person or address to whom notices should be sent and/or e-mailed, as specified in paragraph A of this Section, shall be given to the other party in the manner provided in paragraph A of this Section.

C. As required by IC 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

32. Order of Precedence; Incorporation by Reference.

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract (including **Exhibit 1**, **Exhibit 2**, and **Exhibit 3** (which will be described below in Section 50 of this Contract)); (2) any written notices given by the State to the Contractor (including any attachments thereto) pursuant to Section 28 of this Contract; and (3) **Attachment A**. All of the foregoing are incorporated fully by reference. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

33. Ownership of Documents and Materials.

A. All documents, records, programs, data, film, tape, articles, memoranda, and other

materials developed under this Contract shall be considered “work for hire” and the Contractor transfers any ownership claim to the State and all such materials will be the property of the State. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. The Contractor specifically releases to the State any property right which the Contractor may have to copyright, license, patent, or otherwise dispose of data, findings, recommendations, or other work product of this Contract. The Contractor shall provide the State full, immediate, and unrestricted access to the work product during the term of this Contract and as necessary thereafter.

- B. The Contractor shall grant the State shared access to all documents, including child files, records, programs, data, film, tape, articles, memoranda, and other materials related to this Contract. The Contractor shall provide the State full, immediate, and unrestricted access to such documents and materials during the term of this Contract and as necessary thereafter.
- C. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to any of the above-referenced materials developed for or supplied by the State and/or used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor’s expense. The Contractor shall also be responsible for preserving and protecting the ownership and property rights of the State in all work in progress and other property to which the State is entitled hereunder, while the property is in the control or custody of the Contractor.

34. Payment and Fiscal Requirements.

- A. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC 4-13-2-20. If the Contractor prefers not to have any interest calculated on payments made by the State as permitted by Indiana law and referenced below in Section 35, the Contractor may send a letter indicating such preference to the Indiana Auditor of State with a copy to DCS.
- B. The Contractor shall submit invoices/claim forms and such invoice/claim documentation as may be required by DCS for payment pursuant to this Contract. DCS will notify the Contractor of any change in invoice/claim procedure, and the Contractor shall use whatever invoice/claim forms and documentation are required by DCS’ then current procedure and shall submit the appropriate invoices/claim forms and documentation to DCS, as directed. Invoices/claim forms may be submitted monthly for services performed during the calendar month(s) preceding the date of the invoice. Payment will be due not later than thirty-five (35) days after the date Contractor's invoice is received by DCS, together with a properly prepared invoice/claim voucher and any required documentation as approved by DCS.

However, the payment due date shall not apply to any invoice/claim that is disapproved or returned to the Contractor by DCS for revision or additional documentation, within thirty-five (35) days after the date it is received by DCS. The Contractor's invoice must be dated no earlier than the later of (a) the first date the Contractor is entitled to submit an invoice/claim for payment under the applicable provision of this Contract, or (b) one day before the date the invoice and accompanying claim documentation is delivered or mailed to DCS.

- C. An invoice will not be deemed to be properly prepared as required above in paragraph B if it is not received within ten (10) business days of the date included on the invoice (the "Invoice Date"). Any invoices submitted more than ten (10) business days after the Invoice Date will be deemed improperly prepared and will not be paid. DCS shall return such improperly prepared invoices to the Contractor for revision and such invoices must be resubmitted by the Contractor with a current Invoice Date in order to be processed for payment.
- D. A properly prepared invoice/claim must be submitted to DCS within sixty (60) calendar days after the date services are provided or costs incurred pursuant to this Contract. DCS may elect to deny payment of any invoices/claims that are not timely submitted as required in this paragraph. In the event the Contractor delays submitting a claim for which it expects third-party reimbursement, the Contractor may submit a written explanation to DCS as to why the claim was not timely submitted. If the claim was delayed because of billing Medicaid for reimbursement that was denied, the explanation must include the specific reason(s) for denial. If DCS deems that such written explanation described above is satisfactory, DCS shall pay otherwise valid claims. In the event that Medicaid has denied reimbursement because the Contractor failed to provide adequate documentation for an otherwise reimbursable claim, DCS will only be liable to pay the amount it would have paid had Medicaid approved the claim.
- E. Approval and payment of final invoices/claims will be conditioned upon receipt and approval of all State-required documentation. As State claiming or recordkeeping systems change, the Contractor may need to modify its systems to be compatible with State systems. The State will provide reasonable notice of any such changes.
- F. If the Contractor is being paid in advance for the maintenance of equipment and/or software, pursuant to IC 4-13-2-20(b)(14), the Contractor agrees that if it fails to perform the maintenance required under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

35. Penalties/Interest/Attorney's Fees.

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

36. Progress Reports.

As described in Section 1(L), the Contractor shall submit any written progress reports requested by the State until the completion of the project described in Section 1 and the attached exhibits. If requested by DCS, these reports must detail progress made toward the completion of the HFA "Critical Elements", which are attached hereto as **Exhibit 1**. Also, if requested by DCS, these reports shall include information related to outcome measures and such information may be posted on the Healthy Families Indiana website.

The Contractor shall also submit any oral progress reports to the State upon request. Any progress reports requested by the State, either oral or written, may serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

37. Renewal Option.

This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of IDOA and the State Budget Director in compliance with IC 5-22-17-4. The term of the renewed contract may not be longer than the term of the original contract.

38. Security and Privacy of Health Information.

- A. This Section applies only to the extent that the Contractor receives any protected health information ("PHI"), as referenced in paragraph B below, or any alcohol and drug abuse records (as defined in IC 16-18-2-12), health records (as defined in IC 16-18-2-168), or mental health records (as defined in IC 16-18-2-226), concerning any individual, in connection with performance of any services under this Contract. Any records included in the above definitions in IC 16-18-2 are referred to herein as "Health Records."
- B. HIPAA. The Contractor agrees to comply with all applicable requirements of the Health Insurance Portability and Accountability Act of 1996, Title II, Administrative Simplification ("HIPAA"), including amendments signed into law under the American Recovery and Reinvestment Act of 2009 ("ARRA"), in particular, applicable provisions of Title XIII known as the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Subtitle D, in all activities related to this Contract, to maintain compliance during the term of this Contract and after as may be required by federal law, to operate any systems used to fulfill the requirements of this Contract in full compliance

with all applicable provisions of HIPAA and to take no action which adversely affects the State's HIPAA compliance.

Terms used, but not otherwise defined, in this Contract shall have the same meaning as those found in the HIPAA Regulations under 45 CFR Parts 160, 162, and 164.

To the extent required by the provisions of HIPAA and regulations promulgated thereunder, the Contractor assures that it will appropriately safeguard all forms of Health Records and/or Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Contractor in the course of its work under this Contract. The Contractor agrees to comply with all applicable requirements of law relating to Health Records and/or PHI with respect to any task or other activity it performs for the State including, as required by the final Privacy and Security regulations:

- (1) Implementing the following HIPAA requirements for any forms of Health Records and/or PHI that the Contractor receives, maintains, or transmits on behalf of the State:
 - (a) Administrative safeguards under 45 CFR § 164.308
 - (b) Physical safeguards under 45 CFR § 164.310
 - (c) Technical safeguards under 45 CFR § 164.312
 - (d) Policies and procedures and documentation requirements under 45 CFR § 164.316;
- (2) Implementing a disaster recovery plan, as appropriate for work conducted for this Contract, which includes mechanisms to recover data and/or alternative data storage sites, as determined by the State to be necessary to uphold integral business functions in the event of an unforeseen disaster;
- (3) Not using or further disclosing Health Records and/or PHI other than as permitted or required by this Contract or by applicable law;
- (4) Immediately reporting to DCS' HIPAA Compliance Office any security and/or privacy breach directly relating to the work performed for this Contract of which the Contractor becomes aware;
- (5) Mitigating, to the extent practicable, any harmful effect that is known to the Contractor and immediately reporting to DCS' HIPAA Compliance Office any use or disclosure by the Contractor, its agent, employees, subcontractors or third parties, of Health Records and/or PHI obtained under this Contract in a manner not provided for by this Contract or by applicable law of which the Contractor becomes aware;

- (6) Ensuring that any subcontractors or agents to whom the Contractor provides Health Records and/or PHI received from, or created or received by the Contractor, subcontractors or agents on behalf of the State agree to the same restrictions, conditions and obligations applicable to such party regarding Health Records and/or PHI and agree to implement the required safeguards to protect it;
- (7) Making the Contractor's internal practices, books and records related to the use or disclosure of Health Records and/or PHI received from, or created or received by the Contractor on behalf of the State available to the State at its request or to the Secretary of the United States Department of Health and Human Services ("DHHS") for purposes of determining the State's compliance with applicable law. The Contractor shall immediately notify DCS' HIPAA Compliance Office upon receipt by the Contractor of any such request from the Secretary of DHHS or designee, and shall provide DCS' HIPAA Compliance Office with copies of any materials made available in response to such a request;
- (8) In accordance with procedures established by the State, making available the information required to provide an accounting of disclosures pursuant to applicable law, if the duties of the Contractor include disclosures that must be accounted for;
- (9) Making available Health Records and/or PHI for amendment and incorporating any amendments to Health Records and/or PHI in accordance with 45 CFR § 164.526, if the Contractor maintains Health Records and/or PHI subject to amendment;
- (10) Make Health Records and/or PHI available to individuals entitled to access and requesting access in compliance with 45 CFR § 164.524 and the duties of the Contractor;
- (11) At the discretion of the State, authorizing termination of the Contract if the Contractor has violated a material provision of this Section; and
- (12) At the termination of the Contract, the Contractor shall return or destroy all Health Records and/or PHI received or created under the Contract. If the State determines return or destruction is not feasible, the protections in this Contract shall continue to be extended to any Health Records and/or PHI maintained by the Contractor for as long as it is maintained.

C. Drug and Alcohol Patient Abuse Records. In the performance of the services listed in this Contract, the Contractor may have access to confidential information concerning the disclosure and use of alcohol and drug abuse patient records. The Contractor understands and agrees that data, materials and information disclosed to the Contractor may contain confidential and protected data, including confidential individual information concerning

alcohol and drug abuse patient records. Therefore, the Contractor promises and assures that any such confidential data, material, and information gathered or disclosed to the Contractor for the purposes of this Contract and specifically identified as Confidential Information will not be disclosed or discussed with others without the prior written consent of the State. The Contractor and the State shall comply with applicable requirements under 42 CFR Part 2 and any other applicable federal or state statutory or regulatory requirements. The Contractor shall immediately report any unauthorized disclosures of these records to DCS' HIPAA Compliance Office.

39. Severability.

The invalidity of any Section, subsection, clause or provision of this Contract shall not affect the validity of the remaining Sections, subsections, clauses or provisions of this Contract.

40. Substantial Performance.

This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

41. Taxes.

The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

42. Termination for Convenience.

This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to the Indiana Department of Administration and the State Budget Agency, whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a termination notice (the "Termination Notice") at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that the Indiana Department of Administration ("IDOA") shall be deemed to be a party to this Contract with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

43. Termination for Default and Termination or Suspension for Additional Reasons.

A. Termination for Default

- (1) With the provision of thirty (30) days notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to:
 - (a) Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;
 - (b) Deliver the supplies or perform the services within the time specified in this Contract or any extension;
 - (c) Make progress so as to endanger performance of this Contract; or
 - (d) Perform any of the other provisions of this Contract.
- (2) If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.
- (3) The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause of this Contract. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- (4) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

- B. Termination for Endangering Life, Health, or Safety of Any Person.** If the State determines that any breach of this Contract by the Contractor endangers the life, health, or safety of any person, the State may terminate this Contract by orally notifying the Contractor of the termination, followed by the mailing of written notification thereof within three (3) business days. Termination pursuant to this paragraph shall become effective at the time of the oral notification.

- C. Termination for Certain Business Changes, Assignments, and Bankruptcy. The Contractor agrees that the State may terminate this Contract immediately if the Contractor (1) ceases doing business; (2) assigns, transfers or delegates any of its duties and responsibilities for performance of this Contract to any other person or entity without prior written approval of the State; (3) changes or reorganizes its business in a manner which substantially impairs the ability of the Contractor to perform the services described in this Contract and its exhibits/attachments; (4) attempts to assign, transfer, convey or encumber this Contract in any way except as expressly authorized pursuant to the conditions of this Contract; and/or (5) if an order for relief is entered upon a voluntary or involuntary petition by or against the Contractor under any provision of Title 11, United States Code, and the trustee or debtor-in-possession does not timely assume all obligations of this Contract to be performed by the Contractor, as provided in 11 U.S.C. § 365, or in the event of appointment of a receiver for the Contractor or execution of an assignment for the benefit of creditors of the Contractor. Any notice of termination pursuant to this paragraph shall be provided in writing to the Contractor.
- D. Termination for Change in Legal Status. The Contractor shall provide written notice to the State of any change in the Contractor's legal name or legal status including, but not limited to, a sale or dissolution of the Contractor's business. The State reserves the right to terminate this Contract should the Contractor's legal status change in any way. Termination pursuant to this paragraph shall be effective from the date of the change in the Contractor's legal status.
- E. Termination for Additional Reasons Stated in this Contract. This Contract is also subject to termination or suspension as stated in any other Section of this Contract, including, but not limited to: Section 6 (Audits and Monitoring); Section 9 (Compliance with Laws); Section 14 (Default by State); Section 16 (Drug-Free Workplace Certification); Section 17 (Employment Eligibility Verification); Section 19 (Force Majeure); Section 20 (Funding Cancellation); Section 24 (Information Technology Enterprise Architecture Requirements); Section 25 (Insurance); Section 27 (Licensing Standards); Section 30 (Nondiscrimination); Section 38 (Security and Privacy of Health Information); Section 42 (Termination for Convenience); Section 47 (Reports and Records Concerning Services); Section 49 (Conflict of Interest); and Section 50 (Criminal and Background Checks).
- F. State Only Liable for Payment for Services Properly Provided Prior to Termination. If this Contract is terminated for any reason, the State shall only be liable for payment for services properly provided prior to the effective date of termination. The State shall not be liable for any costs incurred by the Contractor in reliance upon this Contract subsequent to the effective date of termination.

44. Travel.

As described in Section 2(C), all expenses for travel (including transportation, mileage, per diem, and any other incidental expenses) of the Contractor or any of its employees,

in relation to the provision or performance of any services described in this Contract, are included in the service rates specified in **Attachment A**. The State will not reimburse the Contractor separately for any travel expenses.

45. Waiver of Rights.

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract. No waiver by the State of any breach of any provision of this Contract shall constitute a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions hereof.

46. Work Standards.

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards applicable to the services it provides pursuant to this Contract. The Contractor is responsible for ensuring that its employees, agents, and any subcontractors conform to the professional and technical guidelines and standards applicable to all services and programs that the Contractor provides under this Contractor. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract and/or those individuals assigned to provide any of the services pursuant to this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

47. Reports and Records Concerning Services.

A. In addition to any reports and case record documentation required by any previous provisions of this Contract (including numerous paragraphs of Section 1), the Contractor shall prepare, maintain, and timely provide to the State, upon request, any statistical reports, program reports, other reports, or other information requested by the State relating to the services provided by the Contractor pursuant to this Contract in the format designed by the Contractor and approved by the State or in the format requested by the State, including, but not limited to, reports/information incident to monitoring or evaluating performance by the Contractor of the services specified in this Contract, and/or any statistical and program reports as are required by any laws, regulations, or polices of the United States or the state of Indiana that are applicable to the use of funds paid to the Contractor pursuant to this Contract.

In order to comply with this paragraph A, the Contractor shall, if requested by DCS, be required to submit reports in accordance with whatever frequency is requested by DCS (monthly, quarterly, or more or less frequent), with respect to services provided to a child or family referred to the Contractor for provision or delivery of services pursuant to this Contract or with respect to any other services performed or any other issues pertinent to this Contract. These reports must contain all of the information requested by the State and must conform to the format and content of the reporting procedure specified by the State.

- B. This Section 47 (including all of its subsections) applies to any services that the Contractor provides pursuant to this Contract, including, but not limited to, all services to a particular child or family pursuant to this Contract, including (if applicable) any services related to probation.
- C. The Contractor shall cooperate with the State in any utilization review and shall, if requested, conduct or submit to any audit(s) requested by the State in addition to the audit following expiration or termination of this Contract required under Section 6 of this Contract.
- D. Prompt compliance by the Contractor with a request by the State to submit program and financial documentation during the term of this Contract is critical to this Contract. A failure of the Contractor to comply with any such request could result in immediate suspension of payments hereunder or termination of this Contract by the State.
- E. In the event the contents of any report is considered deficient by the State, the State will so notify the Contractor in writing, not later than thirty (30) days after receipt of the report. The notice will specify the nature of the deficiency and the corrective action or information needed. The Contractor shall submit to the State any revised or supplemental report within thirty (30) days after the date of the deficiency notice.
- F. The Contractor shall maintain records as necessary or appropriate to document services provided pursuant to this Contract. Those records shall include, but not be limited to, documentation relating to, or the time and place of meeting with, persons served by the Contractor and the persons who attended those meetings and copies of any reports or other materials representing the work product of any services provided by the Contractor pursuant to this Contract.

48. Delivery of Documents, Files, Data, Studies or Reports to the State Upon Termination or Expiration of this Contract.

Upon expiration or termination of this Contract, all documents, files, data, studies or reports prepared by the Contractor or any subcontractor pursuant to this Contract, and any supplies purchased by the Contractor or any subcontractor with funds received through

this Contract, shall be delivered to the State. The State may require the transfer of records, documents, or supplies to its own offices or to a designated successor.

49. Conflict of Interest.

A. Paragraphs B through E of this Section apply if the Contractor is an individual, a corporation that issues stock to individuals representing ownership shares of the corporation, a partnership, a limited liability company, or any other form of business organization or association the members or owners of which could receive a personal financial benefit or increase in personal net worth attributable to income or profits received by the organization (exclusive of compensation in the form of salary or wages paid for services rendered to the organization). This Section, other than Paragraph F, does not apply if the Contractor is a nonprofit corporation, a school or university that is not organized or operated for the financial benefit or profit of individual owners, or an agency of a political subdivision or other governmental organization.

B. As used in this Section:

"Immediate family" means the spouse and the unemancipated children of an individual.

"Interested party" means:

- (1) The individual executing this Contract;
- (2) An individual who has an interest of three percent (3%) or more of the Contractor, if the Contractor is not an individual; or
- (3) Any member of the immediate family of an individual specified under subdivision 1 or 2.

"Department" means the Indiana Department of Administration.

"Commission" means the State Ethics Commission.

C. The Department may cancel this Contract without recourse by the Contractor if any interested party is an employee of the state of Indiana.

D. The Department will not exercise its right of cancellation under paragraph C above if the Contractor gives the Department an opinion by the Commission indicating that the existence of this Contract and the employment by the state of Indiana of the interested party does not violate any statute or rule relating to ethical conduct of state of Indiana employees. The Department may take action, including cancellation of this Contract, consistent with an opinion of the Commission obtained under this Section.

- E. The Contractor has an affirmative obligation under this Contract to disclose to the Department when an interested party is or becomes an employee of the state of Indiana. The obligation under this Section extends only to those facts which the Contractor knows or reasonably could know.
- F. The Contractor acknowledges and agrees that no employee, agent, representative, or subcontractor of the Contractor who may be in a position to participate in the decision-making process of the Contractor or its subcontractors may derive an inappropriate personal or financial interest or benefit from any activity funded through this Contract, either for himself or herself or for those with whom he or she has family or business ties.

50. Criminal and Background Checks.

- A. This Section applies to all directors/chief executive officers, facility managers, licensing applicants and other heads of agencies, by whatever title, and each employee or volunteer (which includes interns) who has or will have electronic or physical access to children's records or direct contact with children on a regular and continuing basis or any contact when a child(ren) is/are alone or only with the Provider's staff in connection with performance of any services or activities pursuant to this Contract ("Covered Personnel"). To the extent applicable, the Contractor (referred to in this Section as Provider) shall conduct all criminal history and background checks required by law, this Contract, and the applicable DCS' policies, including those implemented by Administrative Letter. All required checks must be completed *prior to* the Contractor submitting this Contract for State signature. The checks will be conducted in the same manner as required for licensed residential child caring institutions, with respect to IC 31-27-3-3, subsections (e)(1) and (f), and the Provider shall maintain records of information it gathers and receives on Covered Personnel checked pursuant to this Section. The applicable laws and DCS' policies are updated periodically, and the Provider shall comply with those current as of the time the Provider executes this Contract, adds Covered Personnel, renews this Contract, or reaches the anniversary date of commencement of a multi-year agreement. Upon request, DCS will furnish the Provider with information on updates and any changes in policy or procedure. The current procedure requires the Provider to conduct the following checks:
 - (1) For all directors/chief executive officers, facility managers and licensing applicants, regardless of their level of contact with children, and those with **direct contact** with children on a regular and continuing basis or any contact when a child(ren) is/are alone or only with the Provider's staff in connection with performance of any services or activities pursuant to this Contract:
 - (a) *Verify the identity* of all individuals subject to criminal and background checks by viewing a current government issued picture I.D;

- (b) *Conduct Child Protection Services (CPS) checks* for all states of residency in the past five (5) years (for Indiana, send DCS a Request for Child Protection Services History Check; for other states, see DCS' website on child welfare policies and contractor policies for web links to CPS records);
- (c) *Conduct Sex Offender Registry checks* for all states of residency in the past five (5) years (see DCS' website for web links for national and state sex offender registry checks);
- (d) *Conduct Local Law Enforcement checks with law enforcement agencies that would have responded to each residential address in the last five (5) years;*
- (e) *Register for Fingerprint-Based National and State Checks through the State approved fingerprint vendor* [To do so, Contractor must confirm that it is listed as a current DCS agency with the current state-approved fingerprint vendor. If not, the Contractor's name will need to be added as a DCS agency prior to registering for fingerprinting.], *and follow through with obtaining fingerprints;* and
- (f) *Review Results of Criminal and Background Checks and take appropriate action.*

(2) For those with **only** electronic or physical **access to children's records:**

- (a) *Verify the identity* of all individuals subject to criminal and background checks by viewing a current government issued picture I.D;
- (b) *Conduct Child Protection Services (CPS) checks* for all states of residency in the past five (5) years (for Indiana, send DCS a Request for Child Protection Services History Check; for other states, see DCS' website on child welfare policies and contractor policies for web links to CPS records);
- (c) *Conduct Sex Offender Registry checks* for all states of residency in the past five (5) years (see DCS' website for web links for national and state sex offender registry checks); and
- (d) *Review Results of Criminal and Background Checks and take appropriate action.*

(3) For all Covered Personnel and Subcontractors:

The Provider shall require Covered Personnel and subcontractors for this Contract to immediately notify the Provider of any information about them that would have been revealed by the checks above including substantiation for child abuse or neglect or other similar complaints or charges and of any convictions or arrests. The Provider shall immediately relay such notice to DCS. The Contractor shall further collect from each Covered Personnel an annual attestation regarding whether that individual has any history of such substantiation, arrest or conviction and shall include any previously unreported information to DCS in its annual

Certification (such Certification is included in **Exhibit 3**, which is attached hereto and hereby incorporated by reference).

Except for A(3) above, the required checks must be performed every four (4) years based on the anniversary of the individual Covered Personnel's initial checks.

- B. The Provider shall be responsible for assessing job responsibilities and categorizing Covered Personnel as subject to A(1), A(2), or as not-covered and for performing the appropriate checks. Any Covered Personnel who might serve as a substitute for a covered position, even in emergency circumstances, should undergo the checks required for that covered position.
- C. The Provider shall maintain a record of the results of each check conducted pursuant to this Section. The Provider shall, if requested by the State, provide a copy of that record to DCS or make the record available for inspection by an authorized representative of DCS.
- D. With respect to any current Covered Personnel, the Provider shall submit the form attached hereto as **Exhibit 3** (or a similar form as updated by DCS) at the time it submits this Contract to the State for signature or within thirty (30) days after the effective date of this Contract, whichever is earlier, and annually upon the anniversary of the effective date of the Contract. **Exhibit 3** will certify that the requirements under paragraph A of this Section have been completed. The Provider shall furnish any other documentation related to background checks as DCS requests. The Provider has an ongoing obligation to assess job responsibilities and to conduct appropriate checks for employees or volunteers who join the Provider after this Contract begins. Such staff may **not** provide any services that involve contact with children before the requisite checks have been completed.
- E. In order to allow DCS to evaluate the results and to make determinations regarding qualifications, national fingerprint-based criminal history checks relating to Covered Personnel are required to be conducted through DCS' approved fingerprint vendor in accordance with the terms and conditions stated in IC 10-13-3-38.5, 39. The results of the national fingerprint-based criminal history checks will be returned to DCS as an authorized entity to receive the results. DCS will inform the Provider whether the report it receives concerning the subject of a check shows any record that would be grounds for denial of his/her ability to provide services and/or perform activities pursuant to this Contract. If any Covered Personnel receive a response of conditionally disqualified or disqualified, further follow up is required. If the result is disqualified, then the individual may be eligible for a waiver. The Provider should contact the DCS' background check unit to determine if the individual is eligible and to apply for the waiver. DCS will not release to the Provider any criminal history record information ("CHRI") contained in any report that it receives from the Federal Bureau of Investigation ("FBI") through the Indiana

State Police ("ISP"). If the Provider requests a waiver of criminal history, DCS will inform the Provider of the decision on the waiver request.

- F. In the event a criminal history or background check required herein produces any record concerning the subject of a check that would be a ground for denial of his/her ability to provide services and/or perform activities pursuant to this Contract and the Provider chooses to retain such employee or volunteer, that decision may be considered a material breach of this Contract.
- G. The Provider will be responsible for payment of all fees required to be paid for conducting any check required under this Section, whether the check is conducted by the Provider or by DCS. Any fees paid by DCS on behalf of the Provider may be offset against any claim for payment submitted by the Provider under this Contract.
- H. Upon request, DCS will assist the Provider in clarifying the requirements of this Section.

51. Purchase and Disposal of Property.

- A. As used in this Contract, "equipment" means tangible, non-expendable, personal property having a useful life of more than one (1) year and having a unit acquisition cost of \$5,000.00 or more. The Contractor will not expend any funds provided by the State pursuant to this Contract for the purchase or maintenance of equipment.
- B. As used in this Contract, "supplies" includes all tangible personal property other than equipment that is purchased or acquired by the Contractor through expenditure of funds provided to the Contractor by the State pursuant to this Contract. If the Contractor has in its possession, upon expiration or termination of this Contract, unused supplies having a total aggregate fair market value exceeding \$5,000.00, the Contractor may retain those supplies for use in any continuation of the program or activities funded pursuant to this Contract that is supported by a federal funding source, or any other program or activity that is supported by a grant or contract from the State that is funded in whole or in part by a federal agency.
- C. If all or any portion of supplies having a total aggregate fair market value at expiration or termination of this Contract exceeding \$5,000.00 are not needed or used for a purpose described in paragraph B above, the Contractor may retain those supplies for other uses or sell them. In either case, the Contractor shall reimburse the State for its proportionate share of the value or sale proceeds of the supplies, in the amount determined in accordance with 45 CFR 74.34(g).
- D. If the total aggregate fair market value of supplies in the Contractor's possession upon expiration or termination of this Contract is \$5,000.00 or less, the Contractor may retain or dispose of those supplies for its own use, without further obligation to account to the State for their disposition or proceeds thereof.

- E. The Contractor shall retain all records relating to the purchase and disposal of supplies during the term of this Contract and for a period of four (4) years from the date the Contractor submits any final financial status or final program report to the State, or one (1) year from the resolution of any outstanding administrative, program, or fiscal audit question, or legal action, whichever is later.

52. Eligibility and Appeals.

- A. The parties agree that the eligibility of any individuals who may be provided services pursuant to this Contract shall be determined in accordance with any applicable accreditation and/or service standards, including any applicable State service standards, DCS' policy, and federal eligibility criteria and operating procedures.
- B. The State and the Contractor agree to maintain procedures and records in accordance with state and federal policies and regulations and to promptly address complaints and appeals between the parties and those of applicants for and recipients of services. Both parties agree to cooperate with the processing of any complaint or appeal.

53. Fees.

The Contractor and its subcontractors shall impose no fees upon the recipients of any services provided through this Contract except as explicitly authorized by the State.

54. Environmental Tobacco Smoke.

The Contractor agrees to comply with all provisions of 20 U.S.C. § 6081 *et seq.*, and any regulations promulgated thereunder. In particular, the Contractor agrees that it will require that smoking be prohibited in any portion of an indoor facility, other than a private residence, regularly used for the provision of services to children under the age of eighteen (18), and that it will comply with all applicable requirements of the statute and regulations. The Contractor further agrees that it will require the language of this condition to be included in any subcontracts which contain provisions for services to children.

55. Lobbying Activities.

- A. Pursuant to 31 U.S.C. § 1352, and any regulations promulgated thereunder, the Contractor hereby assures and certifies, to the best of its knowledge and belief, that no federally appropriated funds have been paid, or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Contract, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying". If the Contractor is required to submit Standard Form-LLL, the form and instructions for preparation of the form may be obtained from the State.
- C. The Contractor shall require that the language of this certification be included in any subcontracts and that all subcontractors shall certify and disclose accordingly.
- D. The foregoing certification is a material representation of fact upon which reliance was or will be placed when entering into this Contract and any transactions with the State. Submission of this certification is a prerequisite for making or entering into any transaction as imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

56. Religious or Political Activities.

- A. The State and the Contractor agree that services provided pursuant to this Contract shall be non-sectarian in nature and that religious activities shall not be included in any activities to be conducted hereunder. The Contractor agrees that, if it otherwise conducts religious activities as part of its organization, any inherently religious activities must be offered separately, in time or location, from the programs or services funded with direct federal financial assistance and participation must be voluntary for beneficiaries of the programs or services funded with such assistance.
- B. The Contractor certifies that any funding provided by the State pursuant to this Contract shall not be used to further any type of political or voter activity.

57. Buy American.

The State and the Contractor agree that, to the greatest extent applicable, all equipment and products purchased with funds provided by the State pursuant to this Contract shall be American-made.

58. State Boilerplate Affirmation Clause.

I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's Boilerplate contract clauses (as contained in the 2011 OAG/IDOA *Professional Services Contract Manual*) in any way except for the following clauses which are named below:

- 5. Assignment; Successors; and Subcontracting - modified;**

6. **Audits and Monitoring – modified;**
8. **Changes in Work - modified;**
9. **Compliance with Laws - modified;**
10. **Condition of Payment – modified;**
12. **Continuity of Services – modified;**
18. **Employment Option – modified;**
20. **Funding Cancellation – modified;**
23. **Independent Contractor – modified;**
25. **Insurance - modified;**
26. **Key Person(s) – deleted;**
28. **Merger & Modification – modified;**
29. **Minority and Women’s Business Enterprises Compliance – modified;**
30. **Nondiscrimination - modified;**
31. **Notice to Parties - modified;**
32. **Order of Precedence; Incorporation by Reference - modified;**
33. **Ownership of Documents and Materials – modified;**
34. **Payment and Fiscal Requirements - modified;**
36. **Progress Reports – modified;**
38. **Security and Privacy of Health Information – modified;**
43. **Termination for Default and Termination or Suspension for Additional Reasons – modified;**
44. **Travel – modified;**
45. **Waiver of Rights – modified;**
46. **Work Standards – modified;**
47. **Reports and Records Concerning Services – added;**
48. **Delivery of Documents, Files, Data, Studies or Reports to the State Upon Termination or Expiration of this Contract - added;**
49. **Conflict of Interest - added;**
50. **Criminal and Background Checks – added;**
51. **Purchase and Disposal of Property – added;**
52. **Eligibility and Appeals – added;**
53. **Fees – added;**
54. **Environmental Tobacco Smoke – added;**
55. **Lobbying Activities – added;**
56. **Religious or Political Activities – added; and**
57. **Buy American – added.**

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

SIGNATURE PAGE

EDS# _____

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, the Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

Contractor: _____ (Where Applicable)

By: _____ Attested By: _____
Printed Name: _____
Title: _____
Date: _____

Indiana Department of Child Services

By: _____
James W. Payne, Director
Date: _____

Indiana Department of Administration

By: _____ (for)
Robert D. Wynkoop, Commissioner
Date: _____

State Budget Agency

By: _____ (for)
Adam M. Horst, Director
Date: _____

**APPROVED as to Form and Legality:
Office of the Attorney General**

By: _____ (for)
Gregory F. Zoeller, Attorney General
Date: _____

EXHIBIT 1

Topic: HFA Goals/Critical Elements

Policy: All sites will follow the HFA Goals and 12 Critical Elements.

Rationale: Affiliation, Credentialing, HFI Strategic Plan 2007

HFI Policy Essentials:

- HFA Goals:
 1. Systematically assess for family strengths and needs and refer as needed.
 2. Enhance family functioning by:
 - Building trusting relationships**
 - Teaching problem solving skills
 - Improving the family's support system**
 3. Promote healthy childhood growth and development
 4. Promote positive parent-child interaction and relationships

- The Self-Assessment tools are organized around functional areas of the program.

- HFA CRITICAL ELEMENTS:
 1. Initiate services prenatally or at birth.
 2. Use a standardized (i.e., in a consistent way for all families) assessment tool to systematically identify families who are most in need of services. This tool should assess the presence of various factors associated with increased risk for negative childhood outcomes (i.e., social isolation, substance abuse, and parental history of abuse in childhood).
 3. State clearly that families' participation is voluntary and use positive, persistent outreach efforts to build family trust.
 4. Offer services intensely (i.e., at least once a week) with well-defined criteria for increasing or decreasing intensity of service over the long term (i.e., three to five years).
 5. Services should be culturally competent in order that staff understands, acknowledges, and respects cultural differences among participants. Materials used should reflect the cultural, linguistic, geographic, racial and ethnic diversity of the population served.
 6. Services should focus on supporting the parent as well as supporting parent-child interaction and child development.
 7. At a minimum, all families should be linked to a medical provider to assure timely immunizations and well-child care. Depending on a family's needs, it may also be linked to additional services such as financial, food and housing assistance programs, school readiness programs, child care, job training programs, family support centers, substance abuse treatment programs, and domestic violence shelters.
 8. Services should be provided by staff with limited caseloads to assure that home visitors have an adequate amount of time to spend with each family to meet their varying needs and to plan for future activities (i.e., for most communities, no more than 15 families per home visitor on the most

intensive service level. For some communities, the number may need to be significantly lower (e.g., less than 10)).

9. Service providers should be selected because of their personal characteristics (i.e., non-judgmental, compassionate, ability to establish a trusting relationship, etc.), their willingness to work in or their experience working with culturally diverse communities, and their skills to do the job.
10. Service providers should have a framework, based on education or experience for handling the variety of experiences they may encounter when working with at-risk families. All service providers should receive basic training in areas such as: cultural competency, substance abuse, reporting child abuse, domestic violence, drug-exposed infants, and existing services in their community.
11. Service providers should receive intensive training specific to their role to understand the essential components of family assessment and home visitation. These should include, but are not limited to, identifying at-risk assessment, offering services and making referrals, utilizing creative outreach efforts, establishing and maintaining trust with families, building upon family strengths, developing a family support plan, observing parent-child interactions, determining the safety of the home, teaching parent-child interaction, managing crisis situations, etc.
12. Service providers should receive ongoing, effective supervision so that they are able to develop realistic and effective plans to empower families to meet their objectives, to understand why a family may not be making progress and how to work with the family more effectively; and to express their concerns and frustrations so that they can see that they are making a difference in order to avoid stress-related burnout.

Recommended Operating Procedures:

- See Strategic Plan

Rationale: Affiliation, Credentialing, HFI Strategic Plan 2007

Resources: Governance: F. Waiver
H. Affiliation

Management: M. Credentialing

EXHIBIT 2
HEALTHY FAMILIES INDIANA
SERVICE DEFINITIONS

1. SERVICE DEFINITION:

Healthy Families Indiana (HFI) is a voluntary multi-faceted home visitation program locally designed to promote healthy families and healthy children through services that include child development, access to health care, parent education, family incentives, staff training, and community coordination and education. The program model includes screening, assessment and home visiting activities that begin for eligible families either prenatally or at the time of birth.

2. METHOD OF PURCHASE:

Healthy Families Indiana services are purchased by a unit rate reimbursement method. A specific cost per unit based on actual cost is established before the contract is written and the monthly reimbursement for services is based on the number of units of service provided.

3. CATEGORIES OF SERVICES:

Service is provided to families in three (3) categories: assessment, short term and long term home visitation.

a. Eligibility Documentation:

- Screening/accessing the birthing population
- Assessment through a family interview; prenatally or prior to ninety (90) days after the birth of the target child. (Sites that choose to enroll families beyond two (2) weeks after the birth of the target child will be out of adherence on HFA standard 1.1C and 1.1D.)
- Documentation of family eligibility through documents to verify income, a social security number, screening, and an assessment
- Referral to home visiting – long term or short term (up to 90 days)
- Documentation of family activities in Home Visiting Tracking Information System (HFI Database)

The Indiana Department of Child Services purchases units of service that are provided to families identified in their target population that comply with eligibility guidelines and the Healthy Families America Standards of the program's 12 Critical Elements.

UNIT RATE:

Unit rates are based on the programs actual cost budget submitted to the State for each funding year. Costs to provide assessment and home visiting are separate service components and identified by three (3) separate rates that are determined by the program model: **(1) Assessment** (family contact and interview); **(2) Long Term** (weekly home visiting on-going prenatally until the target child is age three (3) years; and **(3) Short Term** (home visiting prenatally, on-going up to 90 days).

Eligibility Documentation

- Screening and or assessing families
- **Assessment** - a one time assessment of families to determine eligibility through a family interview; prenatally or within two (2) weeks (or up to ninety (90) days recognizing that the site will be out of adherence on HFA standard 1.1C and 1.1D) from the birth of the target child. All activities to complete the assessment are documented.
- **Long Term – Ongoing Services** - Services to one (1) family per month until the target child is age three (3) years. Families who screen/assess positive prenatally and/or within two (2) weeks of birth (or up to ninety (90) days recognizing that the site will be out of adherence on HFA Standard 1.1C and 1.1D) and who meet other HFA guidelines can be offered long term Healthy Families ongoing services.
- **Short Term** - Services to one (1) family per month up to ninety (90) days. Families who screen/assess positive prenatally and/or within 90 days after birth can be offered participation in Short Term services. Based on the birth date of the baby, the family will be eligible to receive 90-days of service, but cannot be transferred to Long Term services if outside of the two (2) week window.

Definition of Family Household for Eligibility:

- Mother of baby, baby, and other children of the mother
- Mother of the baby, father of baby in the home (legal or acknowledged biological), baby, and other children of the mother if in the home. Also include children of the father of the baby if the children are in the home.
- Prenatal mother and unborn baby and father of the baby and other children of the mother and father of the baby.
- Father and baby and other children of the father (if the mother is not in the home or if the mother does not have a social security number)

Eligibility Guidelines for Funds Service –

- Families verify income documentation when entering the program.
- Family income cannot exceed 250% of poverty guidelines
- Head of house or target child must have a social security number
- The family must screen positive for services and an assessment must be completed
- Family information is entered into the HFI Database

Exhibit 3
CERTIFICATION OF COMPLETION OF REQUIRED CRIMINAL AND
BACKGROUND CHECKS

The Provider, _____, hereby certifies that it has performed all of the checks as required pursuant to the criminal and background checks procedure set forth in Section 50 [Criminal and Background Checks] of its professional services contract with the Indiana Department of Child Services (DCS) (EDS# _____) (the "Contract"), including collection of attestations regarding child abuse and neglect or criminal activity. **A list of the Provider's current Covered Personnel that have received the requisite criminal and background checks referenced herein is attached hereto. The list is divided into two parts, separately showing those who require full background checks, which include Fingerprint-Based national and state checks, from all the rest of the Covered Personnel.** The Provider shall submit this form **with an updated list** annually upon the anniversary date of the Contract. **Reminder:** Covered Personnel who join the Provider after the Contract begins may **not** provide any services for the Provider pursuant to the Contract before the requisite criminal and background checks have been completed unless they are accompanied by other staff who have completed acceptable checks.

The Provider hereby certifies that it has, per Contract requirements:

- _____ *Verified the identity* of all individuals subject to criminal and background checks;
- _____ *Conducted Child Protection Services (CPS) checks* (for Indiana, send DCS an Indiana Request for Child Protection Services History Check form; for other states, *see* DCS' website on child welfare policies and contractor policies for web links);
- _____ *Conducted Sex Offender Registry checks* (*see* DCS' website on child welfare policies for web links for national and state sex offender registry checks);
- _____ *Conducted Local Law Enforcement checks* using the completed and signed Application for Criminal History Background check form;
- _____ *Registered and completed fingerprinting* through the DCS approved fingerprinting vendor and *assured that a fingerprint-based status letter is received* via e-mail for each Covered Personnel; and
- _____ *Reviewed the results* of criminal and civil Background Checks and taken appropriate action per DCS child welfare policy.

Signature of Provider: _____ Date _____
Name printed: _____ E-mail: _____

Send to: DCS, Deputy Director of Services and Outcomes
Rm. E 306, MS 47
302 W. Washington St.
Indianapolis, IN 46204-2739