

**AGREEMENT FOR
EISEP and/or Title XX AND
EISEP CONSUMER DIRECTED PERSONAL ASSISTANCE PROGRAM
BY AND BETWEEN
ALBANY COUNTY DEPARTMENT OF SOCIAL SERVICES
AND
ACCU CARE HOME HEALTH SERVICES, INC.**

PURSUANT TO RESOLUTION NO. 22, ADOPTED 2/14/2022

This is an Agreement, made by and between the County of Albany (hereinafter referred to as the “County”), a municipal corporation, acting by and through the Albany County Department of Social Services (hereinafter referred to as the “Department”), having its principal office at Albany County Office Building, 112 State Street, Albany, New York 12207 and Accu Care Home Health Services, Inc. located at 87 Washington Street, Rensselaer, New York 12144 (hereinafter referred to as the “Provider”).

WITNESSETH:

WHEREAS, the County is authorized to provide Expanded In-Home Services for the Elderly (EISEP) for eligible adults, sixty years of age and over, in accordance with Parts 6651 and 6654 of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York (9 NYCRR Parts 6651 and 6654); and

WHEREAS, the County is authorized to administer such care, treatment and services, including homemaker services as described in Title XX of the United States Social Security Act, which are deemed necessary to restore persons unable to maintain themselves to a condition of self-support, pursuant to Title 7 of Article 5 (Sections 250-259) of the New York State Social Services Law and state regulations at 18 NYCRR Part 460; and

WHEREAS, the Provider is appropriately certified and is able to provide the aforementioned services under the EISEP and Title XX homemaker services and/or EISEP Consumer Direct Program; and

WHEREAS, the County has accepted the offer of the Provider to provide services in accordance with 9 NYCRR Part 6654 of the EISEP regulations to enable EISEP recipients (hereinafter referred to as the “Consumer”) to utilize EISEP services.

NOW THEREFORE, the parties hereto do mutually covenant and agree as follows:

ARTICLE I. SCOPE OF SERVICES

At the County’s request, the Provider shall provide EISEP services to individuals with the aim of maintaining said persons’ health and safety in his or her home according to a plan of care developed by the County based upon an assessment of the consumer’s needs and the appropriateness and cost effectiveness of services.

The Provider has been designated to provide: (only one checked)

- Exhibit 1- only- EISEP and Title XX services
- Exhibit 2 –only EISEP Consumer Direct Program
- Both Exhibit 1 and 2, EISEP, Title XX and the Consumer Direct Program

If approved as an EISEP Consumer Directed Provider, the Provider will act as fiscal intermediary and paymaster of record for home aides delivering in-home personal care services to eligible recipients electing to utilize the consumer directed program. Consumer Directed Services are to be provided as more particularly defined in Exhibit 2 of this agreement, attached hereto and made a part hereof.

The Provider shall be responsible for the Scope of Services specific to each program contained herein as Exhibit 1 and/or 2.

ARTICLE II. GENERAL PROVISIONS

1. Providers as Independent Contractors - The Social Services District and the Provider agree that the Provider is an independent Contractor and is not in any way to be deemed an employee of the Social Services District. The Provider agrees that it will, at all times, indemnify and hold the Social Services District, the New York State Office for the Aging (NYSOFA), and The State of New York and their officers or employees harmless and free and clear of any and all liability arising from any act of omission or commission by the Provider, its officers or employees with respect to this Agreement and any of the terms thereof. It is further understood and agreed that no agent, servant, or employee of the Provider shall, at any time, or under any circumstances, be deemed to be an agent, servant, or employee of the Social Services District, or the New York State Office for the Aging, or the State of New York. Notwithstanding the foregoing, the Provider shall be required to defend, indemnify, and hold harmless the Social Services District, the New York State Office for the Aging, or the State of New York for any losses resulting solely from the provider's negligence.

2. Authorization and Request for Personal Care Services. The County shall be responsible for establishing the standards, policies and procedures for determining the eligibility of persons for whom the above services will be provided. The Provider shall furnish such services in accordance with applicable requirements of law and shall cooperate with the County as may be required, so that the County and the New York State Office for the Aging (NYSOFA) will be able to fulfill their functions and responsibilities.

3. Provision of Personal Care Services. The Provider will comply with all applicable laws, statutes, rules and regulations governing the terms and conditions of the Agreement including, but not limited to, 9 NYCRR Part 6654 of the EISEP regulations and Title XX regulations. The Provider shall complete the service in a timely manner and protect the interests and rights of the County to the fullest extent reasonably possible.

The Provider will be fully responsible for the provision of all equipment and services for Provider's staff necessary for the performance of the requirements of this Agreement.

As part of this Agreement, the Provider agrees to comply in all respects with the provisions of this Agreement and any schedules and exhibits attached hereto and made a part hereof.

4. Local Law No.1 for 2002 - As part of this Agreement, prior to contracting with Albany County, the Provider will comply with those provisions of Local Law No. 1 for 2002, as well as the Procedures created as a result thereof, which require the background screening of those home care services provided by a home care services agency; this provision involving home care services is not superseded by 10 NYCRR 400.23, 763.13, 766.11 and 18 NYCRR 505.14, which excludes those employees licensed pursuant to Title 8 of the Education Law. A copy of said Law and Procedures are a part of this Agreement and attached hereto as Exhibit 4.

- Under consumer directed in-home services, the consumer or the consumer representative must be informed by the case manager or fiscal intermediary as designated by the area agency of the option(s) to require a prospective in-home services worker to complete a criminal history check (screen in-home workers and job applicants for previous history of client abuse or criminal conviction for a felony relevant to their duties).

- Any breach of this Local Law or implementing procedures by the Provider, its agents or representatives, may be cause for immediate termination of this Agreement. The County agrees to notify the Provider immediately upon knowledge of said breach and to provide pertinent information regarding the non-complying occurrence. The County will suspend payments and seek reimbursement of any prior payments, which were based on the services provided by the non-complying agent or representative of the Provider. The County agrees to give the Provider a period of up to five (5) days, upon receipt of the above information, to remedy the breach to the County's satisfaction.

5. **Performance Standards** - The Provider shall provide services which assure the health and safety of the client and assist the client to live as independently as possible. To assure the quality of the service, the following shall apply:

- a. The Provider shall commence services as expeditiously as possible upon receipt of an oral or written authorization from the Social Services District. If notice to commence services is received on a Friday, Saturday, Sunday, or Official State Holiday, the said hour period shall begin to run on the next business day following such Friday, Saturday, Sunday or State Holiday.
- b. The Provider shall establish and maintain procedures in order to ensure uninterrupted service in accordance with service authorizations, including the following:
 1. The Provider shall establish and maintain a 24 hour per day, seven day per week system for emergency replacement of personal care aides.
 2. The Provider shall establish and submit to the Social Services District for review and approval a holiday coverage plan for the provision of services.
 3. Providers who are certified in accordance with Part 760 of 10 NYCRR or licensed in accordance with Part 765 of 10 NYCRR shall share with the Social Services District their plan for emergency and disaster preparedness prepared in accordance with Section 763.8 of 10 NYCRR and Section 766.5 of 10 NYCRR. Those agencies which are not required to be certified or licensed and are providing services exclusively under 18 NYCRR shall establish and submit to the Social Services District for its prior approval a plan for maintaining services in the event of an emergency, including snowstorms and power failures.
 4. The Provider shall promptly notify the client and the Social Services District when the Provider is unable to provide continuing services in accordance with service authorization. The Provider shall make such emergency arrangements as shall be necessary to ensure that the safety of the client is not endangered by the inability of the Provider to provide the authorized services.

- c. The Provider shall notify the Social Services District when personal care services appear to be no longer appropriate. The Provider shall, in no event terminate services to a client without the prior approval of the Social Services District.
- d. The Provider shall notify in writing all their employees that the personal care aides cannot cash checks, do banking or pay bills for the client without special written permission from the Social Services District. If such permission is granted, all such transactions shall be documented in writing.
- e. The personal care aide shall not directly or indirectly solicit any gift or accept any gift, whether in the form of money, services, loans, time off, telephone usage, travel or any other form.

6. Administrative Supervision - The Provider agrees to perform administrative supervision activities to assure that personal care services are provided as authorized by the case management agency. To assure that services are provided according to the level, amount, frequency and duration authorized, the provider agrees to:

- a. Notify the case management agency within 24 hours of the initial referral whether the agency accepts or rejects an assigned case. If the provider accepts the client, the provider agency must notify the case management agency of the arrangements made to provide personal care services. If the provider rejects the client, the provider agrees to notify the case management agency of the reason for rejecting the referral.
- b. Assign a personal care aide(s) to the client which can meet his/her needs. In making such a determination, the Provider agrees to take the following into consideration:
 - 1. the skills needed by the patient;
 - 2. the patient's cultural background, primary language, personal characteristics and geographic location; and
 - 3. the ability of the personal care aide to communicate with the patient or on the patient's behalf;
 - 4. Promptly provide a replacement when the assigned personal care aide:
 - 5. is unavailable;
 - 6. does not work effectively with the patient or care givers or provides personal care services inappropriately or unsafely; or
 - 7. is not performing to the satisfaction of the client.
- d. Promptly notify the case management agency when the provider is unable to maintain coverage including cases requiring service at night, weekends and holidays, or when there are questions regarding the adequacy of the authorized personal care services.
- e. Participate in, or arrange for, the orientation of persons providing personal care services to the employment policies and procedures of the agency;
- f. Evaluate, at a minimum annually, the overall job performance of persons providing personal care services;
- g. Check time cards for required documentation and maintain scheduling records and any other records necessary to fulfill required administrative activities.

ARTICLE III. CONFIDENTIALITY REQUIREMENTS

The Provider shall observe all applicable Federal and State requirements relating to confidentiality of records and information, and shall not allow the examination of records or disclose information, except as may be necessary by the County to assure that the purpose of the Agreement will be effectuated, and also to otherwise comply with the County's requirements and obligations under law. Further, to the extent it may be applicable, the Provider herein agrees to abide by the terms and conditions of Appendix "A" attached hereto and made a part hereof regarding the Healthcare Insurance Portability and Accountability Act of 1996.

ARTICLE IV. INFORMATION ACCESS

The Provider agrees to provide the County and authorized State and/or Federal personnel access to any and all books, documents, records, charts, software or any other information relevant to performance under this Agreement, upon request. The Provider agrees to retain all of the above information for six (6) years after final payment or the termination of this Agreement, and shall make such information available to the County, State, and/or Federal personnel, and/or to any person(s) duly authorized by any of them during such period.

The County and the State reserve the right to conduct on-site evaluations of the services provided under this Agreement, and shall be afforded full access by the Provider to the grounds, buildings, books, papers, employees and recipients relating to such service provision, and may require from the officers and persons in charge thereof any information deemed necessary to such an evaluation.

All technical or other data relative to the work pertaining to this Agreement in the possession of the County or in the possession of the Provider shall be made available to the other party to this Agreement without expense to the other party.

ARTICLE V. COOPERATION

The Provider shall cooperate with representatives, agents and employees of the County and the County shall cooperate with the Provider, its representatives, agents and employees to facilitate the economic and expeditious provision of services under this Agreement.

ARTICLE VI. FAIR HEARINGS

The Provider will establish a system through which recipients may present grievances about the operation of the service program. The Provider will advise recipients of this right and will also advise applicants and recipients of their right to appeal.

The County shall notify applicants for services and recipients of care and services of their right to a fair hearing to appeal the denial, reduction or termination of a service, or failure to act upon a request for services with reasonable promptness.

The Provider, upon the request of the County, shall participate in appeals and fair hearings as witnesses when necessary for a determination of the issues.

ARTICLE VII. SCHEDULE

The Provider shall complete all work in a timely manner to protect the interests and rights of the County to the fullest extent reasonably possible. The Provider agrees to notify the Department in writing, within three (3) days of occurrence, of any problem(s) which may threaten

performance of the provisions of this Agreement, and shall submit therewith recommendations for solution(s).

ARTICLE VIII. ACCOUNTING RECORDS

Proper and full accounting records shall be maintained by the Provider, which records shall clearly identify the costs of the work performed under this Agreement. Such records shall be subject to periodic and final audit by the County and the State for a period of six (6) years following the date of final payment by the County to the Provider for the performance of the work contemplated herein.

ARTICLE IX. INDEPENDENT AUDIT

If the Provider is subject to an audit by an agency of the United States government, then a copy of such annual audit, including exit conference results, if any, shall be provided to the Albany County Department of Social Services and the Comptroller of the County of Albany within ten (10) days after receipt by Provider of the final audit and the exit conference results, if any.

If Provider is not subject to an annual audit by an agency of the United States government, but receives from Albany County Department of Social Services funds in excess of \$50,000 in its fiscal year, then Provider shall engage an independent auditor acceptable to the Albany County Department of Social Services to: 1) review the records and accounts of the Provider; 2) render an opinion as to the accuracy and sufficiency of Provider's records and accounting methods; 3) render an opinion of Provider's financial position for the fiscal year being audited and any change therein including, but not limited to, its net income or net loss. The audit report by the independent auditor shall be submitted to the Albany County Department of Social Services and the Comptroller of the County of Albany within ten (10) days of its receipt by the Provider.

ARTICLE X. FEES

In consideration of the terms and obligations of this Agreement, unless otherwise negotiated between the Department and the Provider, the County agrees to pay and the Provider agrees to accept the hourly EISEP rate set by Albany County as full compensation for the Services described under this Agreement. The Provider agrees to accept for EISEP personal care services, the County negotiated hourly rate of \$24 per hour for Level 1 service and \$25 per hour for level 2 service as full compensation for the services described under this Agreement. The EISEP Consumer Directed Rate will continue to be reimbursed at the New York State established Medicaid rate.

In the event that personal care Level 1 and Level 2 rates set by New York State increases above the County negotiated rate, the County will review the New York State rates per request of the Provider to determine whether the hourly EISEP personal care Level 1 and Level 2 rates can be renegotiated to align with the Maximum allowable rate for Personal Care rates set by New York State. The Provider will need to submit to the Albany County Department of Social Services Accounting Division, the notification of the final State Approved rate, in order for the County to re-evaluate the current EISEP personal care Level 1 and Level 2 negotiated rate. The Provider will continue to receive the Albany County EISEP personal care Level 1 and level 2 negotiated rate for reimbursement for any services rendered, and for EISEP Consumer Directed Services, the Provider will continue to receive the New York State established rate, until such time a contract amendment reflecting any new negotiated rate is in place. Reimbursement will reflect allowable payments for the current grant period described in the current Article XX program plan. In the event, a new County negotiated or State approved rate decreases during the current grant period,

the provider will need to revise its claims for reimbursement from the County accordingly and any amounts overpaid by the County shall be repaid to the County.

The Social Services District shall reimburse the Provider at the personal care Level 1 and Level 2 rate(s) set forth and approved by Albany County. The Social Services District shall reimburse the Provider at the New York State established rate for Consumer Directed Services. Unless otherwise stated, the rate of payment set forth shall be the total gross amount of payment; no additional reimbursement to the Provider will be made for any subsidiary or other services supplementary or in addition to the terms herein set forth.

EISEP payment will be processed through the Department's Accounting Department, upon receipt of the completed Albany County Claim Form. Payment shall not exceed the number of authorized weekly hours.

Claims for EISEP and Title XX recipients must be submitted to the County within thirty (30) days after the last date of service within a given month or within thirty (30) days after notification of a change in rate. Claims submitted after that time period will be considered late and reimbursement will be subject to the discretion of the County. All EISEP vouchers must be accompanied by an EISEP voucher cover letter (see Exhibit 3 attached hereto and made a part hereof).

ARTICLE XI. NON-APPROPRIATIONS

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by either the County or the State, or are otherwise unavailable to the County for payment. The County will immediately notify the Provider of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were made without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

ARTICLE XII. INDEMNIFICATION

The Provider shall defend, indemnify and save harmless the County, its employees and agents, from and against all claims, damages, losses and expenses (including, without limitation, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the Provider, its employees or agents, to the extent of its or their responsibility for such claims, damages, losses and expenses.

ARTICLE XIII. INSURANCE

The Provider agrees to procure and maintain without additional expense to the County, insurance of the kinds and in the amounts provided under Schedule A attached hereto and made a part hereof. Before commencing services under this Agreement, the Provider shall furnish to the County, a certificate(s) showing that the requirements of this Article are met and the certificate(s) shall provide that the policy shall not be changed or canceled until thirty (30) days prior written notice has been given to the County, and the County of Albany is named as an additional insured.

The Provider shall provide to the County documentation and proof that automobile insurance coverage has been obtained and will continue to exist during the term of this Agreement that will hold the County harmless from any and all liability incurred for the use of a motor vehicle

to transport individuals in conjunction with or for the purpose of providing the services described in this agreement or shall instead fill out, sign and execute the Automobile Insurance Waiver in Schedule B attached hereto and made a part hereof.

ARTICLE XIV. ASSIGNMENTS

The Provider specifically agrees as required by Section 109 of the New York General Municipal Law that the Provider is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement, or of the Provider's right, title or interest therein, without the previous written consent of the County.

The Provider or its employees will provide all activities required to be performed by it under this Agreement. The Provider shall not subcontract for any portion of the services required under this Agreement without the prior written approval of the County and subject to such conditions and provisions as the County may deem necessary.

ARTICLE XV. CONFLICT OF INTEREST

The Provider hereby warrants that it has no conflict of interest with respect to the activities to be performed hereunder. If any conflict or potential conflict of interest arises in the future, the Provider shall promptly notify the County.

ARTICLE XVI. NON-DISCRIMINATION

In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Provider agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any person who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Agreement.

ARTICLE XVII. SUSPENSION AND DEBARMENT

The Provider certifies that its company/entity and any person associated therewith in the capacity of independent contractor, not-for-profit provider, for profit provider, owner, director, officer, or major stockholder (5% or more ownership):

- a. is not currently under suspension, debarment, voluntary exclusion, or determined ineligible by any federal agency;
- b. has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years;
- c. does not have a proposed debarment pending; and
- d. has not been indicted, convicted, nor had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

ARTICLE XVIII. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of New York and any legal actions or proceedings pertaining to this Agreement must be commenced within the courts in the County of Albany in the State of New York.

ARTICLE XIX. TERM OF AGREEMENT

The term of this Agreement shall commence on April 1, 2022 and continue in effect through March 31, 2023. It is agreed by the Provider that performance not within the scope of this executed Agreement will not be paid for by the County.

ARTICLE XX. TERMINATION OF AGREEMENT

This Agreement may be terminated at any time by either party upon written to the other party not less than thirty (30) days prior to the date upon which termination shall become effective. Such notice is to be made via registered or certified mail, return receipt requested, or hand delivered to the last known address of either party. The date of such notice shall be deemed to be the date the notice is received by either party, if delivered by registered or certified mail, or by an affidavit of the person delivering the notice to either party, if the notice is delivered by hand.

Upon the County's knowledge of a breach of this Agreement by the Provider, the County may terminate the Agreement if it determines that such a breach violated a material term of this Agreement. Notwithstanding that, the County may provide an opportunity for the Provider to cure the breach within a time set by the County and, if cure is not possible or does not occur within the time limit, immediately terminate the Agreement without penalty.

This Agreement shall be deemed terminated immediately upon the filing of a petition of bankruptcy or insolvency, by or against the Provider. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Provider.

This Agreement shall be deemed terminated immediately should Federal and/or State funds for this Agreement become unavailable.

In the event of termination for any reason, the Provider shall not incur new obligations for the terminated portion and the Provider shall cancel as many outstanding obligations as possible.

Any violation by the Provider of any of the terms of this Agreement may result in the County's decision, in its sole discretion, to immediately terminate this Agreement.

ARTICLE XXI. REMEDY FOR BREACH

In the event of a breach by Provider, Provider shall pay to the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute contractor to satisfactorily complete the contract work, together with the County's own costs incurred in procuring a substitute contractor.

ARTICLE XXII. FEDERAL LOBBYING

The Federal Lobbying Act states that no Federal appropriated funds may be spent by the recipient of a Federal grant, or a sub tier contractor or sub grantee, to pay any person for influencing or attempting to influence an officer or employee of any Federal agency or a Member of Congress in connection with any of the following covered Federal actions: the awarding of a Federal contract,

or 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. If any funds or other Federal appropriated funds have been or will be expended by the Provider to pay any person for influencing any Federal officer, employee or Member of Congress described above in connection with such Federal grant, the Provider agrees to make a written disclosure on the appropriate specified disclosure form.

The parties hereunto represent that they have not committed or authorized, nor will they commit or authorize, the commission of any act in violation of the Federal Lobbying Act.

ARTICLE XXIII. MACBRIDE PRINCIPLES

Provider hereby represents that said Provider is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. [3] for 1993, in that said Provider either (a) has no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under section 4 of Local Law No. [3] in 1993, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the Provider in default and/or seeking debarment or suspension of the Provider.

ARTICLE XXIV. IRANIAN ENERGY SECTOR DIVESTMENT

Provider hereby represents that Provider is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Provider has not:

- (a) Provided goods or services of \$20 Million or more in the energy sector of Iran including, but not limited to, the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or
- (b) Acted as a financial institution and extended \$20 Million or more in credit to another person for forty-five (45) days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

ARTICLE XXV. LICENSES

The provider shall at all times obtain and maintain all licenses required by New York State, or other relevant regulating body, to perform the services required under this Agreement.

ARTICLE XXVI. CHANGE IN LEGAL STATUS OR DISSOLUTION

During the term of this Agreement, the Provider agrees that, in the event of its reorganization or dissolution as a business entity or change in business, the Provider shall give the County thirty (30) days written notice in advance of such event.

ARTICLE XXVII. INVALID PROVISIONS

It is further expressly understood and agreed by and between the parties hereto that in the event any covenant, condition or provision herein contained is held to be invalid by any court or competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect

any other covenant, condition or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either County or Provider in their respective rights and obligations contained in the valid covenants, conditions or provisions in this Agreement.

ARTICLE XXVIII. MODIFICATION

This Agreement may only be modified by a formal written amendment executed by the parties.

ARTICLE XXIX. ADDITIONAL ASSURANCES

The Provider agrees that no part of any submitted claim will have previously been paid by the County, State and/or other funding sources.

The Provider agrees that funds received from other sources for specific services already paid for by the County shall be reimbursed to the County.

The Provider agrees to comply with all applicable State and Federal statutes and regulations.

The Provider agrees to comply with the requirements of the Federal Lobbying Act and the Drug-Free Workplace Act of 1988 and has signed the certifications contained in Schedules C and D, which are attached hereto and made a part thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year indicated below.

COUNTY OF ALBANY

DATE: _____

BY: _____

Daniel P. McCoy
Albany County Executive
or
Daniel C. Lynch
Deputy County Executive

ACCU CARE HEALTH SERVICES

DATE: _____

BY: _____

Signature

Title

STATE OF NEW YORK)
COUNTY OF ALBANY) SS:

On the ____ day of _____, 2022, before me, the undersigned, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of _____, 2022, before me, the undersigned, personally appeared Daniel C. Lynch, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF _____) SS.:

On the ____ day of _____, 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A

INSURANCE COVERAGE

The kinds and amounts of insurance to be provided are as follows:

1. **Workers' Compensation and Employers Liability Insurance:** A policy or policies providing protection for employees in the event of job related injuries.
2. **Automobile Liability Insurance:** A policy or policies with the limits of not less than \$500,000 for each accident because of bodily injury, sickness or disease, including death at any time, resulting there from, sustained by any person caused by accident, and arising out of the ownership, maintenance or use of any automobiles; and with the limits of \$500,000 for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.
3. **General Liability Insurance:** A policy or policies including comprehensive form, personal injury, contractual, products/completed operations, premises operations and broad form property insurance shall be furnished with limits of not less than:

<u>Liability for:</u>	<u>Combined Single Limit:</u>
Bodily Injury	\$1,000,000
Property Damage	\$1,000,000
Personal Injury	\$1,000,000

4. **Professional Liability Insurance:** A policy or policies of insurance with limits of not less than \$1,000,000. (NOTE: This type of coverage is not applicable for EISEP/Consumer Direct Program)

SCHEDULE B

AUTOMOBILE INSURANCE WAIVER STATEMENT

I, _____, do hereby affirm that during the term of Albany County's contract with _____, for the provision of _____, a motor vehicle will not be used to transport individuals in conjunction with or for the purpose of providing the agreed to services.

Date: _____ By: _____
Signature

Title

SCHEDULE C

CERTIFICATION REGARDING DRUG FREE WORKPLACE REQUIREMENTS GRANTEES OTHER THAN INDIVIDUALS

This certification is required by regulations implementing Sections 5151-5160 of the Drug-free Workplace Act of 1988 (Pub. L.100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) 7 CFR Part 3017, Subpart F, Section 3017.600 and 45 CFR Part 76, Subpart F. The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (Page 21681-21691).

The grantee certifies that it will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a), that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to the employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily 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;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraph (a), (b), (c), (d), (e) and (f).

Organization

Authorized Signature

Title

Date

EXHIBIT 1

EISEP and Title XX HOME CARE SERVICES

Title XX homemaker and EISEP services shall be provided according to a plan of care devised by the County based upon an assessment of the consumer's needs and the appropriateness and cost effectiveness of services. Title XX homemaker shall be provided by the Provider under the supervision of a registered professional nurse.

The County shall be responsible for establishing the standards, policies and procedures for determining the eligibility of persons to receive services and the nature of the services to be rendered.

According to 18 NYCRR 505.14(a)(1), "Personal care services means some or total assistance with personal hygiene, dressing and feeding; and nutritional and environmental support functions."

Personal care services shall include both Level I and Level II services, including Shared Aide Level I and Level II

Level I services shall be limited to the performance of nutritional and environmental support functions, such as meal preparation, cleaning, laundry, assisting with paying bills and essential errands.

Level II services shall include all of Level I services and personal care functions, such as bathing, dressing, feeding, etc.

Shared Aide "means a method of providing personal care services under which a social services district authorizes one or more nutritional and environmental support functions or personal care functions for each personal care services recipient who resides with other personal care services recipients in a designated geographic area, such as in the same apartment building, and a personal care services provider completes the authorized functions by making short visits to each such recipient".

All services shall be rendered in a manner consistent with the requirements of the County and state regulations at 18 NYCRR Part 460, as well as any subsequent regulation and applicable Federal and State Law.

EXHIBIT 2

EISEP- CONSUMER DIRECTED PROGRAM

1. Although the Consumer is not a party to this agreement, the Consumer will be required to execute a separate agreement confirming his/her responsibilities as detailed below in #4.
2. Albany County Department of Social Services is responsible for the following:
 - a. Determine that the Consumer is a resident of the authorizing county and eligible for Consumer Directed EISEP services.
 - b. Determine, pursuant to an assessment of the person's appropriateness for the Consumer Directed EISEP program conducted by a Caseworker and/or Nurse that the Consumer is in need of home care services.
 - c. Determine that the Consumer is able and willing, independently or with the assistance of a legal guardian, a designated relative or other adult to make informed choices, understand the impact of those choices and be able to assume responsibility for the results of the choice as to the type and quality of services, including but not limited to, personal care, Home delivered meals, day care, transportation, and respite services.
 - d. The Local Social Services Department will authorize the amount of services required and will authorize the reimbursement for Consumer Directed Personal Assistance Program (CDPAP) services to the Provider as prescribed by New York State through the initial assessment and periodic reassessments.
 - e. Transfer the Consumer to other programs with more traditional agency control should the Consumer be deemed inappropriate to continue participation in Consumer Directed EISEP services.
 - f. An annual audit of the Provider to ensure required paperwork for the attendants has been completed (i.e. annual health assessment, pertinent tax forms, etc.) and is current. Staff will also review time sheets and accounting procedures. Time sheets will include date, time in and out and be signed by the consumer and the attendant.
3. The responsibilities of contracted providers under Consumer Directed EISEP program will include the following:
 - a. The Provider shall provide Consumer Directed In-Home services in accordance with Section 9 NYCRR 6654.15 of the EISEP regulations and other directives as may be issued by NYSOFA.
 - b. The Provider will assume the role of fiscal intermediary and act as the paymaster of record for the Consumer's In-Home Services Worker (hereafter called the "CDPA") and will provide or arrange for local assistance, quality assurance and facilitate peer support, including the establishment of an advisory committee for the purpose of program review and support. The provider will work closely with the County in all phases of the delivery of EISEP services under the Community Living Program (CLP) grant to be provided under this agreement. On behalf of employing consumers, the Provider will provide administrative infrastructure and support services to allow a consumer to independently recruit, hire, employ, supervise and discharge attendants at their decision. This includes:
 - i. processing the Consumer's Personal Assistant payroll including Federal, State and local income tax and other payroll withholding requirements including FICA,

- unemployment and other benefits. Ensuring compliance with statutory benefits such as unemployment, disability and workers' compensation,
 - ii. monitoring compliance of the completion of all required employment documents
 - iii. monitoring compliance of the completion of the required Consumer Directed In Home Service Worker's annual health assessment
 - iv. maintaining personnel records for each consumer directed personal assistant, including time sheets and other documentation needed for payroll and benefit processing and a copy of the medical documentation required pursuant to 9 NYCRR 6654.15 EISEP regulations and (d) or any successor regulation. Spouses and legally responsible individuals, such as Power of Attorney are not eligible to be an attendant for the EISEP consumer.
 - v. Maintaining records for each consumer including copies of the social services district's authorization or reauthorization and other documentation of the contractor's ongoing efforts to monitor the consumer's ability to fulfill those responsibilities.
 - vi. monitoring the consumers or if applicable, the consumers designated representative's continuing ability to fulfill the consumer's responsibilities under the program as outlined in the written consumer agreement and promptly notifying the Department of any circumstance that may affect the consumers, or if applicable, consumers designated representative ability to fulfill those responsibilities.
 - vii Coordinating access to health facilities capable of providing the required annual worker health assessment and other health related program requirements.
 - viii. Sending appropriate notification to the Department to terminate the consumer from the fiduciary intermediary agency.
 - xix. Monitoring and collection of the client's monthly cost share amount and inform the County when consumers approach the monthly maximum cost share to ensure that the clients are not billed in excess of the capped amount.
- c. The Provider and the consumer shall sign a contractual agreement to fulfill the Consumer Directed EISEP program responsibilities.
 - d. The Provider shall be responsible for appropriate notification to the patient of intent to transfer or terminate the patient from the fiduciary intermediary agency.
 - e. The Provider will establish an ongoing advisory committee for the purpose of program review and support.
 - f. The Provider will work closely with the Albany County Department of Social Services in all phases of the delivery of Consumer Directed EISEP program to be provided under this agreement.
 - g. The Provider shall coordinate employee leave, health care insurance, and other benefit programs.
 - h. The Provider may provide recruitment and service coverage assistance and information assistance with training, supervision, advocacy and care management.
 - i. The Provider shall maintain policies and procedures which address:
 - i. develop and implement an effective budget/accounting system.
 - ii. maintain a Quality Assurance Program meeting the approval of the County
 - iii. grievance and complaint procedures
 - iv. data collection and submission of statistical reports as required by the Department and NYSOFA.

- v. use forms provided by the County, if applicable. If no County form has been issued, the Provider may develop such. However; the County reserves the right to approve any such forms and manuals, prior to public distribution
 - vi. Any indication of fraud by the consumer or personal assistant should be brought to the attention of the County for follow up
 - vii. facilitate EISEP Consumer Directed billing for County authorized hours based on the time sheets received from employing consumers.
 - viii. facilitate the provisions of peer support to Consumers.
4. The Consumer and/or the Consumer's designated representative shall undertake the following:
- a. Recruit, interview, hire, train, supervise, schedule and terminate the Consumer Directed In Home Services Worker.
 - b. Provide equal employment opportunities as specified in the Consumer's agreement with the Provider and the Employment/Wage Agreement which is signed by both the Consumer and the Consumer Direct In Home Services Worker.
 - c. Inform the Provider of any changes in status including, but not limited to, address, telephone number, Consumer Direct In-Home Service Workers' names, addresses, hours worked and consumer's hospitalization or other institutional admission. Inform the Albany County Department of Social Services of any change in status, including address, telephone number changes and consumer's hospitalization or other institutional admission.
 - d. Submit the required paperwork to the Provider including time sheets, annual worker health assessments, and required employment documents. Each week the time sheets need to be reviewed for accuracy by the consumer and/or the Consumer's surrogate. Time slips must include time in and out of each shift and date. By submitting the time slips, the Consumer and/or Consumer surrogate attest the Consumer Direct In-Home Services Worker has worked those hours and will be held responsible, if it has been determined fraud had been committed due to the submission of fraudulent time slips.
 - e. Arrange and schedule back up Consumer Directed In-Home Services Worker coverage for vacations, holidays, and in case of illness.
 - f. Distribute paychecks to each Consumer Direct In-Home Services Worker.
 - g. Insure that each Consumer Direct In-Home Services Worker works the hours indicated on the time sheet in accordance with the plan of care.
 - h. Meet caseworker annually for the required reassessment and/or if the situation warrants all parties meeting more frequently, as determined by Albany County DSS caseworker.
 - i. Enter into a written agreement with the Provider, which acknowledges these responsibilities.
 - j. The Consumer must ensure that persons providing services within this program are at least 18 years of age or otherwise age appropriate and allowed for under New York State Department of Labor standards have a Social Security number and be capable of performing the functions required by the patient. Payment for services shall not be made to a patient's spouse. The attendant cannot be the designated representative and cannot have been convicted of elder abuse or Medicaid Fraud.
 - k. The attendant is not permitted to submit payment for any time period in which the consumer was hospitalized or institutionalized.
 - l. If requested, a fingerprint and background check on any attendant the consumer hires, should be done through the Albany County Sherriff's Department and the results will be sent directly to the consumer. The Consumer is responsible for the cost of the fingerprinting and background checks.

EXHIBIT 3

County of Albany

EISEP VOUCHER COVER

Claimant: _____
(Agency Name)

Date: _____

	Hours	Dollars	Month of service
Level One	_____	_____	_____

Level Two	_____	_____
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	Hours	Dollars	Month of service
Level One	_____	_____	_____

Level Two	_____	_____
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Submitted by: _____
(signature)

EXHIBIT 4

LOCAL LAW NO. 1 FOR 2002

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK AMENDING AND UPDATING LOCAL LAW NO. 4 FOR 1997 REQUIRING THE BACKGROUND SCREENING OF POTENTIAL HOME CARE WORKERS PRIOR TO CONTRACTING WITH ALBANY COUNTY AND TO AUTHORIZE THE VOLUNTARY BACKGROUND SCREENING OF PRIVATE HOME CARE PROVIDERS

Introduced: 3/11/02

By Messrs. Domalewicz, McCoy, Messercola, Monjeau, Riddick, Ward, Mss. Willingham, Connolly, Messrs. Infante, Aylward, Beston, Collins, Commisso, Ms. Denison, Messrs. Ethier, Gordon, Houghtaling, Joyce, Ms. Maffia-Tobler, Messrs. Maikels, Reilly, Richardson, Stackrow, Steck, Clouse and Ms. Wiley:

BE IT ENACTED by the Legislature of the County of Albany as follows:

SECTION 1. Legislative intent and purpose.

- A. This Legislature finds and determines that to protect the health, safety, and welfare of persons receiving home care services, that employees of any person, corporation, or other entity seeking to contract with the County of Albany on or after the effective date of this Local Law to provide home care services must require all employees and prospective employees who will be assigned to clients under the supervision of Albany County to be background checked by being fingerprinted and having their criminal history record reviewed.
- B. This Legislature further finds and determines that it is in the best interests of Albany County citizens receiving home care services to have the opportunity to have private providers of home care services be background checked on a voluntary basis by being fingerprinted and having their criminal history record reviewed.
- C. This Legislature further finds and determines that the Division of Criminal Justice Services (DCJS) requires that local laws must contain certain elements to grant them authority to conduct fingerprinting and criminal history record checks.
- D. Accordingly, a purpose of this Local Law is to provide authority for the mandatory fingerprinting and criminal history record checks of home care service provider employees and prospective employees who will be assigned to clients under the supervision of Albany County prior to Albany County entering into a contractual relationship with said service providers by requiring all such providers and provider personnel to be background checked by Albany County.
- E. The further purpose of this Local Law is to provide authority for the voluntary fingerprinting and criminal history record checks of private home care service providers.

SECTION 2. Definitions

As used in this Local Law, the following terms shall have the meanings indicated:

COUNTY PROVIDER - Any person, corporation or other entity seeking to contract with the County of Albany to provide home care services on or after the effective date of this Local Law.

PRIVATE PROVIDER - Any person, corporation or other entity seeking to provide home care services within the County of Albany on or after the effective date of this Local Law.

HOME CARE SERVICES - One (1) or more of the following services provided to persons at home:

- A. Those services provided by a home care services agency.
- B. Home health aide services.
- C. Personal care services.
- D. Homemaker services.
- E. Housekeeper or chore services.

The terms herein shall have the meanings as defined in Section 3602 of the Public Health Law and as further defined in Title 18 of the New York Codes, Rules and Regulations.

COUNTY PROVIDER PERSONNEL - Any home care service employees and prospective employees who will be assigned to clients under the supervision of Albany County. "Employees" shall include management, corporate officers, agents, volunteers, interns, public assistance recipients assigned to work projects, and auxiliary workers who come into regular, constant, routine, patterned contact with persons receiving home care services.

PRIVATE PROVIDER PERSONNEL - Any home care service provider assigned to clients who are Albany County residents, excluding those clients under the supervision of Albany County as defined above. Private Provider Personnel includes independent contractors, employees, management, corporate officers, agents, volunteers, interns, public assistance recipients assigned to work projects, and auxiliary workers who come into regular, constant, routine, patterned contact with persons receiving home care services.

SECTION 3. Fingerprinting and criminal history review as a condition of contracting with Albany County.

A condition of a County Provider's eligibility to contract with Albany County on or after the effective date of this Local Law, all County Provider Personnel as defined herein shall be required to be fingerprinted by the Albany County Sheriff's Department for identification processing and criminal history review through the New York State Division of Criminal Justice Services (DCJS) in accordance with the procedures and requirements as established by the Albany County Sheriff as a condition of eligibility to contract with Albany County, and/or continued eligibility.

In order for a Private Provider Personnel to apply for review, the Private Provider Personnel as defined herein shall be required to make an application and be fingerprinted by the Albany County Sheriff's Department for identification processing and criminal history review through the New York State Division of Criminal Justice Services (DCJS) in accordance with the procedures and requirements as established by the Albany County Sheriff as a condition of eligibility, and/or continued eligibility.

SECTION 4. Review of fingerprint cards; fees.

Fingerprint cards for all County Provider Personnel shall be prepared by each County Provider and forwarded to the Albany County Sheriff's Department for identification processing, together with any applicable processing fee to be paid by the County Provider. Fingerprint cards and the applicable fee will be forwarded to DCJS for processing. Such fingerprinting procedure shall be established by the Albany County Sheriff.

Fingerprint cards for Private Provider Personnel shall be prepared by each applicant and forwarded to the Albany County Sheriff's Department for identification processing, together with

any applicable processing fee. Fingerprint cards and the applicable fee will be forwarded to DCJS for processing. Such fingerprinting procedure shall be established by the Albany County Sheriff.

SECTION 5. Processing and forwarding of criminal history records.

The criminal history records processed by DCJS concerning County Provider Personnel shall be submitted to the Albany County Sheriff or his/her departmental designee, for review and consideration of the contents of those records, and the determination on eligibility as set forth below. If the information received indicates that there is a pending criminal offense that would require a disqualification, the County Provider shall require the County Provider Personnel to forward documentation to the Sheriff evidencing the disposition of such offense in accordance with the procedure established by the Sheriff. Upon a determination of disqualification, the Sheriff shall notify the County Provider and the County of said determination. Said notice to the County Provider shall include information regarding the right to appeal and contest any claimed grounds for disqualification in accordance with the procedures established by the Sheriff. Any challenge to information contained in criminal records provided by DCJS shall be conducted in accordance with the applicable DCJS rules and regulations.

The criminal history records processed by DCJS concerning Private Provider Personnel shall be submitted to the Albany County Sheriff or his/her departmental designee, for review and consideration of the contents of those records in relation to the prohibitions of a County Provider Personnel's eligibility as set forth below. If the information received indicates that there is a pending criminal offense that would require a disqualification of a County Provider Personnel, the applicant shall be required to forward documentation to the Sheriff evidencing the disposition of such offense in accordance with the procedure established by the Sheriff.

Upon a determination of what would be a disqualification for a County Provider Personnel, the Sheriff shall notify the Private Provider applicant of said determination. Said notice to the applicant shall include information regarding the right to appeal and contest any claimed grounds for disqualification in accordance with the procedures established by the Sheriff. Any challenge to information contained in criminal records provided by DCJS shall be conducted in accordance with the applicable DCJS rules and regulations.

SECTION 6. Duties of the Sheriff's Department.

The Albany County Sheriff's Department shall establish procedures and forms for the orderly administration of this Local Law. Procedures shall be established which are necessary for the implementation of the process for appeal pursuant to Section 5 of this Local Law. The Sheriff's Department shall establish procedures for the periodic review of County Provider records to ensure compliance with this Local Law throughout the contract period with Albany County. The Sheriff's Department shall establish procedures pertaining to all notifications for both County Provider Personnel and Private Provider Personnel. Such notification procedures shall include, but not be limited to, the notification of disqualifying offenses reported to the Sheriff's Department pertaining to either County Provider Personnel or Private Provider Personnel after the completion of the initial background screening and the notification requirements pertaining to County Provider Personnel's responsibilities to report any convictions of offenses that would disqualify him/her from being assigned to clients under the supervision of Albany County.

SECTION 7. Disqualification from contracting with Albany County and eligibility criteria for Private Provider Personnel.

Any County Provider Personnel who has been convicted of the crimes including, but not limited to, those set forth herein, or convicted of any other crimes which in the judgment of the Albany County Sheriff endangers the health, safety, and physical and/or mental well-being of a

recipient of home care services, shall result in the disqualification of a County Provider from consideration for contracting with Albany County until such time said disqualification is rectified. The following shall be the criteria used to determine the qualification of a Private Provider Personnel applicant for eligibility:

A. A County Provider Personnel shall be permanently disqualified from being assigned to clients under the supervision of Albany County if that person has been convicted or forfeited bond or collateral, which forfeiture order has not been vacated or the subject of an order of remission upon a violation of Sec. 100.13, 105.15, 105.17, 115.08, 120.01, 120.30, 120.35, 125.10, 125.12, 125.15, 125.20, 125.25, 125.27, 130.30, 130.25, 130.35, 130.40, 130.45, 130.50, 130.60, 130.65, 130.66, 130.67, 130.70, 130.85, 135.20, 135.25, 135.55, 150.20, 155.30, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43, 220.46, 260.00, 260.10, 260.25, 260.30, 260.32, 260.34, 263.05, 263.10, 263.15, or 265.04 of the New York Penal Law or any offense committed outside New York State which would constitute a violation of the aforesaid sections of the Penal Law had they been committed in New York State or an attempt to commit any of the aforesaid offenses under Sec. 110.00 of the Penal Law, or an offense committed under a former section of the Penal Law which would constitute a violation of the aforesaid sections of the Penal Law. However, such disqualification with regard to convictions upon a violation of Sec. 125.12, 125.20, 125.25, 125.27, 130.25, 130.30, 130.35, 130.45, 130.50, 130.60, 130.65, 130.70, 135.25, or 150.20 of the Penal Law or any offense committed outside New York State which would constitute a violation of the aforesaid sections of the Penal Law had they been committed in New York State or an attempt to commit any of these offenses under Sec. 110.00 of the Penal Law may be waived, provided that ten (10) years have expired since the proposed County Provider Personnel was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this subsection and that the applicant shall have been granted a certificate of relief from disabilities as provided for in Sec. 701 of the New York Correction Law. Such certificate shall only be issued by the court having jurisdiction over such conviction and shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on that person's prospective employment as a home care services employee, prior to granting such a certificate. Furthermore, such disqualification with regard to convictions upon a violation of Sec. 100.13, 105.15, 105.17, 115.08, 125.10, 125.15, 130.25, 130.40, 130.60, 130.65, 135.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43, 260.00, 263.05, 263.10, 263.15 or 265.04 of the Penal Law, or an attempt to commit any of the aforesaid offenses under Sec. 110.00 of the Penal Law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the Penal Law, shall be waived, provided that ten (10) years have expired since the applicant was incarcerated pursuant to a sentence of imprisonment imposed on conviction of an offense that requires disqualification under this subsection and that the applicant shall have been granted a certificate of relief from disabilities as provided for in Sec. 701 of the Corrections Law. Such certificate shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's prospective employment as a home care services employee, prior to granting such a certificate.

B. A County Provider Personnel shall be disqualified for a period of ten (10) years from the date of last conviction specified herein from being assigned to clients under the supervision of Albany County if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation of Sec. 100.10, 105.13, 115.05, 120.00, 120.03, 120.04, 120.05, 120.10, 120.11, 120.12, 120.25, 125.13, 125.40, 125.45, 130.20, 130.25, 130.55, 130.75, 130.80, 135.10, 135.55, 140.17, 140.20, 140.25, 140.30, 145.12, 150.10, 150.15, 155.25, 155.30, 155.35, 155.40, 155.42, 160.05, 160.10, 220.05, 220.06,

220.09, 220.16, 220.31, 220.34, 220.44, 220.60, 221.30, 221.50, 221.55, 230.00, 230.05, 230.06, 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10 and Subdivision 2 of Sec. 260.20 and Secs. 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12 and 265.35 of the Penal Law or an attempt to commit any of the aforesaid offenses under Sec. 110.00 of the Penal Law, or any similar offenses committed under a former section of the Penal Law which would constitute violations of the aforesaid sections of the Penal Law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the Penal Law. However, such disqualification shall be waived provided that the applicant has been granted a certificate of relief from disabilities as provided for in Sec. 701 of the Corrections Law. Such certificate shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the job applicant was convicted will have on the applicant's prospective employment as a home care services employee, prior to granting such certificate.

SECTION 8. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 9. Effective date.

This law shall take effect immediately upon filing with the Secretary of State.

Referred to Public Safety Committee. 3/11/02

Favorable Recommendation - Public Safety Committee. 3/26/02

On roll call vote the following voted in favor: Mr. Aylward, Mss. Barlette, Benedict, Messrs. Beston, Clouse, Collins, Commisso, Ms. Connolly, Mr. Dawson, Ms. Denison, Messrs. Domalewicz, Ethier, Gordon, Graziano, Houghtaling, Infante, Joyce, Ms. Maffia-Tobler, Messrs. Maikels, McCoy, Melchionni, Messercola, Monjeau, Nowicki, Mss. Prentiss, Reed, Messrs. Reilly, Riccitelli, Richardson, Riddick, Stackrow, Steck, Ms. Tatro, Mr. Ward, Mss. Wiley, Willingham and Mr. Young - 37

Those opposed: - 0.

Ms. McKnight abstained.

Local Law was adopted. 4/8/02

ALBANY COUNTY SHERIFF'S DEPARTMENT PROCEDURE FOR SCREENING OF HOME CARE EMPLOYEES

Pursuant to Local Law No. 1 for 2002

I. SCREENING

Pursuant to Local Law No. 1 for 2002, Section 3, the Albany County Sheriff's Department shall be responsible for the screening of all current and prospective home care employees as a condition of eligibility to contract with Albany County for the provision of such services. Screening shall include, but not be limited to, the following:

- Fingerprinting
- Review of criminal convictions and pending criminal actions as identified by the New York State Division of Criminal Justice Services (DCJS).

II. PROCEDURE

A. Home Care Provider's Responsibilities/Actions

1. Providers must furnish the Albany County Sheriff's Department with a list of all current and prospective employees who will be providing home care services to clients who are under the supervision of Albany County to arrange for screening. No current or prospective employees who have not completed the screening process will be allowed to be assigned and to provide home care services to clients under the supervision of Albany County.
2. It will be the Provider's responsibility to notify the Albany County Sheriff's Department of any new prospective employees for screening, who will be providing home care services to clients under the supervision of Albany County, within three (3) working days of hiring, via mail, fax or e-mail and to coordinate with the Sheriff's representative in scheduling interviews for screening.
3. It will be the Provider's responsibility to instruct each current or prospective employee in writing of the procedures required to comply with the Local Law.
4. Monthly, by the sixth (6th) of every month, Providers must supply the Albany County Sheriff's Department, and the Albany County Department of Social Services with a Certified (signed assurance by the Provider official with such knowledge) and updated list of current (as well as new) employees, who currently provide or may be providing services to clients under the supervision of Albany County. This list must also contain the screening completion date of each employee.
5. Providers must supply the fee of fifty dollars (\$50) per applicant prior to the fingerprinting to the Albany County Sheriff's Department. This fee must be paid in the form of a money order or check from the provider agency (no personal checks), made payable to the NYS Division of Criminal Justice Services. A separate check of \$50 must be submitted for each applicant - any checks in excess of that amount will be returned.
6. Providers are responsible for informing the Albany County Sheriff's Department of any employee that has been terminated or resigned from the Agency.
7. It is the Provider's responsibility, upon notification by the Sheriff's Department of disqualification, to immediately remove disqualified personnel from consideration involving assignment to Albany County cases and to subsequently verify to the Sheriff's Department and DSS, via a certified written assurance, the date of removal. DSS will monitor compliance.

B. Albany County Sheriff's Department Responsibilities

1. Sheriff's Department representative will schedule interviews for all employees of home care providers for fingerprinting by coordinating with the Provider representative. This appointment can be scheduled by calling 487-5365; fingerprinting is completed on Tuesday, Wednesday and Thursday between the

hours of 9:30 am and 3:30 pm. If an employee is more than an hour late for the scheduled appointment, a new appointment will be made for the applicant.

2. Sheriff's representative will provide the appropriate authorization form to be completed by the employee.
3. Sheriff's representative will verify each employee's identity by reviewing appropriate identification documents which must include two forms of ID (one photo ID) such as:
 - a. Driver's license
 - b. Birth Certificate
 - c. Passport
 - d. Baptismal Certificate
 - e. Immigration and Naturalization Card
 - f. DD Form 214 (Military Discharge)
 - g. Social Security Card
 - h. NYS Benefit Card
4. Sheriff's representative will batch the fingerprints and the applicable processing fee, then forward to NYS Division of Criminal Justice Services (DCJS).
5. Upon receipt from the NYSDCJS, the Sheriff's representative will review for clarity and completeness, obtain additional information if required, flag persons with criminal records, and complete the appropriate Notification to Home Care Provider form.
6. The Sheriff's Department will provide Notification of Disqualification or Notification of Completion/Passing of the screening process to the Provider and DSS.
7. The Sheriff's Department will maintain a computerized record of all applicants including the processing dates.

C. Albany County Department of Social Services Responsibilities

1. Department of Social Services will submit to the Sheriff on an annual basis a current list of all existing Provider agencies.
2. Department of Social Services will do a random audit of Provider agencies under the auspices of the New York State Department of Health, to make sure that all personnel assigned to Department of Social Services cases have been referred for screening. Department of Social Services will notify the Sheriff of any non-referred personnel and will provide the Provider, in writing, the names of those employees not in compliance.

III. DISQUALIFICATION FROM CONTRACTING

Failure to comply may result in termination of the contract and removal of all DSS clientele from the care of the Provider Agency under the terms and conditions of the contract. Failure to comply will be deemed to occur when a Provider Agency has assigned disqualified staff to DSS clients or when a Provider Agency has failed to submit staff for screening pursuant to these guidelines.

IV. APPEAL PROCESS

1. The decision of the Sheriff may be appealed in writing by the applicant to the Office of the Albany County Sheriff within thirty (30) days upon notification of disqualification. The applicant must state in detail the basis for appeal and include any documentation in support of appeal.
2. A review committee will be established which will include, but not be limited to, one representative from the Albany County Sheriff's Department and one representative from DSS.
3. The committee will evaluate all documentation submitted by the applicant, any findings of criminal convictions or pending criminal charges to determine if the applicant is suitable for employment.
4. The committee's determination, based on their evaluation, will be documented and signed by the Chairperson. The reasons for the determination will be forwarded to the Albany County Sheriff for final determination.

STRICT CONFIDENTIALITY MUST BE OBSERVED REGARDING ALL THE ABOVE INFORMATION – COPIES OF ALL COMPLETED FORMS, RESPONSES AND LETTERS MUST BE KEPT IN AN INDIVIDUAL PERSONNEL FILE LABELED “CONFIDENTIAL”.

APPENDIX A

OBLIGATIONS AND ACTIVITIES OF THE CONSULTANT AS A BUSINESS ASSOCIATE PURSUANT TO 45 CFR SECTION 164.504

The parties to the Agreement hereby agree to comply with the following provisions to ensure their compliance with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.

Pursuant to the terms of the Agreement, and in accordance with the requirements of 45 CFR Sections 160 and 164, the Provider herein shall be considered a “Business Associate.” The following terms are hereby incorporated in this AGREEMENT and shall be binding upon the parties hereto:

A. DEFINITIONS

1. “Business Associate” – under the terms of this Agreement, the term “Business Associate” shall mean Accu Care Home Health Services, Inc.
2. “Covered Entity” – for purposes of this Agreement, the term “Covered Entity” shall mean the County and/or the Department.
3. “Individual” – under the terms of this Agreement, the term “Individual” shall have the same meaning as the term “individual” in 45 CFR Section 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).
4. “Privacy Rule” – shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
5. “Protected Health Information” - shall have the same meaning as the term “protected health information” in 45 CFR Section 160.103, limited to the information created, received, maintained or transmitted by the Business Associate from or on behalf of the Covered Entity.
6. “Required by Law” – shall have the same meaning as the term “required by law” in 45 CFR Section 164.103.
7. “Secretary” – shall mean the Secretary of the Department of Health and Human Services or his/her Designee.
8. “Subcontractor” – shall have the same meaning as the term “subcontractor” in 45 CFR Section 160.103.

B. OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

1. Pursuant to the terms of the Agreement, the Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement, or as required by law.
2. The Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of electronic Protected Health Information other than as provided for by this Agreement in accordance with the requirements of 45 CFR Section 164.314(a)(2)(i).
3. Pursuant to the terms of the Agreement and as more particularly described in the INDEMNIFICATION provisions of the Agreement, the Business Associate hereby agrees, and shall be required to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of

- Protected Health Information by the Business Associate which is in violation of the requirements of the Agreement.
4. The Business Associate shall immediately report to the Covered Entity any use or disclosure of unsecured Protected Health Information not provided for by the Agreement, of which it shall become aware in accordance with the provisions of 45 CFR Section 164.410.
 5. The Business Associate agrees to ensure that any agent, including a subcontractor, that creates, receives, maintains or transmits Protected Health Information on behalf of the Business Associate agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information pursuant to 45 CFR Section 164.502(e)(1)(ii) by entering into a contract or other arrangement in accordance with the requirements of 45 CFR Section 164.314.
 6. Business Associate agrees to provide access, at the request of the Covered Entity, to Protected Health Information in a Designated Record Set, to the Covered Entity or as directed by the Covered Entity, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.
 7. Business Associate agrees to make any necessary amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees pursuant to 45 CFR Section 164.526, at the request of Covered Entity or an Individual, in a timely manner.
 8. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity, available to the Secretary for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.
 9. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with the requirements of 45 CFR Section 164.528.
 10. Business Associate agrees to provide to the Covered Entity or an Individual, upon request, information which may be collected by the Business Associate during the term of this Agreement, for purposes of permitting the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information, in accordance with the provisions of 45 CFR Section 164.528.
 11. To the extent that the Business Associate is to carry out an obligation of the Covered Entity as a term of this Agreement, Business Associate agrees to comply with the requirements of the Privacy Rule under 45 CFR Section 164.504 that apply to the Covered Entity in the performance of such obligation.

C. PERMITTED USES AND DISCLOSURE

1. General Uses and Disclosure - Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform the functions, activities, or services as defined in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if said disclosure were done by the Covered Entity, or the minimum necessary policies and procedures of the Covered Entity, as well as the applicable provisions of the New York State Social Service and/or Mental Hygiene Law.

2. Specific Uses and Disclosure – Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper management and administration of the services to be provided by the Business Associate in this Agreement, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law, or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.
3. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to provide information required to the Covered Entity as permitted by 45 CFR Section 164.504 (e)(2)(i)(B).
4. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to carry out the legal responsibilities of the Business Associate.
5. The Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR Section 164.502 (j)(1).
6. Nothing within this section shall be construed as to inhibit the disclosure of information as may be required by the New York State Social Service and/or Mental Hygiene Law, Sections 33.13 or 33.16, or other provisions, as may be Required by Law.

D. OBLIGATIONS OF COVERED ENTITY WITH REGARD TO PRIVACY PRACTICE AND RESTRICTIONS

1. The Covered Entity shall notify the Business Associate of any limitations in its notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect the Business Associate’s use or disclosure of Protected Health Information.
2. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate’s use or disclosure of Protected Health Information.
3. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Business Associate’s use or disclosure of Protected Health Information.

E. PERMISSIBLE REQUESTS BY COVERED ENTITY

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

F. COVERED ENTITY’S RESPONSIBILITIES UPON TERMINATION

1. The term of this Agreement shall be April 1, 2022 – March 31, 2023. Upon termination of this Agreement, the Covered Entity shall take such necessary precautions to ensure the

confidentiality of the Protected Health Information, in accordance with the provisions of 45 CFR Section 164.

2. Termination for Cause – In the event that the Covered Entity becomes aware of a material breach by the Business Associate of the terms of this Appendix, the Covered Entity shall have the right, at its sole discretion, to proceed as follows:
 - (a) Provide an opportunity to the Business Associate to cure the breach, and end the violation within ten (10) business days. If the Business Associate does not cure the breach and end the violation within ten (10) business days, the Covered Entity shall have the right to immediately terminate the agreement; or,
 - (b) Immediately terminate the agreement if the Business Associate has breached a material term of this Appendix, and cure is not possible; or
 - (c) If neither termination of the agreement nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

G. EFFECT OF TERMINATION

1. Upon termination of the Agreement, the Business Associate shall take all necessary precautions and extend the protections of this Agreement to all Protected Health Information, as if the Agreement were still in force and effect.
2. At the end of all audit and other relevant periods, as more particularly described in the RECORDS provisions of the Agreement, the Business Associate shall, if feasible, return or destroy all Protected Health Information received from or created or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form.

H. MISCELLANEOUS

1. **Regulatory References** – A reference in this Agreement to a section in the Privacy Rule or in the Social Service and/or Mental Hygiene Law means the section as in effect or as amended.
2. **Amendment** – The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.
3. **Survival** – The respective rights and obligations of the Business Associate with regard to this Appendix shall survive the termination of this Agreement.
4. **Interpretation** – Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule.
5. **Incorporation in the Agreement** – The terms of this Appendix “A” are hereby incorporated into the Agreement between the parties hereto.