

INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement (“Agreement”) is entered into by and between Partners for Justice (“PFJ”), having its principal address at 244 Fifth Avenue, Suite R277, New York, NY, 10001 and Albany County Public Defender (“Defender”), having its principal address at 112 State Street, 2nd Floor, Albany, NY, 12207, effective as of January 1, 2024 (the “Effective Date”). PFJ and the Defender are hereinafter individually referred to as a “Party” and jointly as the “Parties.”

WHEREAS, PFJ is an organization that provides collaborative defense services and technical assistance to public defender offices;

WHEREAS, the Defender is an agency that provides indigent defense services;

WHEREAS, the Defender seeks to augment the support it offers the clients it represents through the implementation of Client Advocate services.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

- 1. DUTIES.** PFJ agrees to exercise special skill to provide Client Advocate services as specified in Exhibit A, Scope of Work, for the Defender during the Term (defined below) of this Agreement. These services include recruitment, training, and supervision of Client Advocates employed by PFJ and staffed at the Defender, as well as technical assistance and program management for Defender.
- 2. TERM.** The term of this Agreement shall be: January 1, 2024 through June 30, 2026. Upon its expiry, this Agreement may be extended for an additional term with mutual Agreement by the Defender and PFJ. Sections 4 (Accrued Obligations), 7 (Indemnification), 9 (Intellectual Property), 10 (Confidential Information), and 13 (General Provisions) shall remain in full force and effect and survive termination or expiration of this Agreement.
- 3. EARLY TERMINATION.** This Agreement is voluntarily entered into and is at-will. That is, either Party is free to terminate the consulting Agreement at will, at any time, with or without cause, provided that thirty (30) days’ written notice is provided to the other Party. Nothing contained in any company documents shall in any way modify this at-will policy, and the at-will policy cannot be modified in any way by oral or written representation made by anyone employed by the Defender. Upon termination of this Agreement, PFJ must return all documentation, equipment or other materials provided by the Defender during the term of this Agreement.
- 4. ACCRUED OBLIGATIONS.** Expiration or termination of this Agreement for any reason shall not release either Party hereto from any obligation or liability which, at the time of such expiration or termination, has already accrued to the other Party or which is attributable to a period prior to such expiration or termination, including without limitation all payment obligations incurred prior

to the effective date of such termination or expiration, nor preclude either Party from pursuing all rights or remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement.

5. **AMENDMENTS TO THE SCOPE OF WORK.** The Parties contemplate that it may be desirable to make changes to the Scope of Work. Before performing any work associated with any such change, a written change order shall set forth the necessary revisions to the Scope of Work, and the Parties, shall agree in writing that such work constitutes a change from the original Scope of Work, as amended, and that they further agree to the change provisions set forth in the change order. Each change order shall be numbered serially and executed by PFJ and the Defender.
6. **COMPENSATION.** In consideration for PFJ delivering such services as specified in Exhibit A, Defender agrees to compensate PFJ as follows, beginning in fiscal year (“FY”) 2024 and with the first payment in July, 2024:

FY 2024: \$103,525

FY 2025: \$195,142

FY 2026: \$96,784

Total not to exceed \$395,451

PFJ shall submit all invoices electronically to the Director of Accounts or Keith Bulatao at Keith.Bulatao@albanycounty.ny.gov by the 15th calendar day of the month following the month of service. Payments will be processed within 30 days of receipt and approval of monthly invoices based upon the amount of progress achieved during the preceding month.

7. INDEMNIFICATION FOR DAMAGES, TAXES, AND CONTRIBUTIONS.

- a. Defender’s Obligation. Defender shall indemnify, and hold PFJ, its officers, employees (including its Advocates) and agents harmless from and against liability, loss, expense (including reasonable attorneys’ fees), or damages arising out of PFJ’s performance under this MOU, except that Defender’s obligation hereunder is only in proportion to and to the extent such liability, loss, expense, or damages are caused by the negligence or willful misconduct of Defender, its officers, employees or agents. Notwithstanding the foregoing, the Defender shall indemnify PFJ against any liability, loss, expense (including reasonable attorneys’ fees) or damages arising out of any employment-related matter that is specific to the employer-employee relationship of the Defender and any of its employees, with the exception of matters that arise or are alleged to arise from the conduct of an Advocate.
- b. PFJ’s Obligation. PFJ shall indemnify, and hold Defender, its officers, employees and agents harmless from and against liability, loss, expense (including reasonable attorneys’ fees), or damages arising out of the Defender’s performance under this MOU, except that PFJ’s obligation hereunder is only in proportion to and to the extent such liability, loss, expense, or damages are caused by the negligence or willful misconduct of PFJ, its officers, employees or agents. In addition, PFJ shall indemnify, and hold Defender, its

officers, employees and agents harmless from and against any liability, loss, expense (including reasonable attorneys' fees) or damages arising out of an Advocate's contention that they are an employee of the Defender notwithstanding contrary language in this MOU, including but not limited to Section 3, above.

8. EQUAL EMPLOYMENT OPPORTUNITY. During and in relation to the performance of this MOU, PFJ agrees as follows: PFJ shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, ancestry, physical or mental disability, medical condition (including cancer-related and genetic characteristics), marital status, sexual orientation, age (over 18), veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. PFJ agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

9. INTELLECTUAL PROPERTY.

- a. Intellectual Property Rights. Each Party retains and shall own all right, title and interest in any information, data records, reports, documents, booklets, guides, modules, training modules, resource and instructional guides, know-how and such other writings, recordings and all other elements provided by such Party, regardless of form (i.e., whether video, paper, electronic, or otherwise), and whether tangible or intangible, whether previously established by such Party or created or produced for the first time by such Party in the performance of its obligations pursuant to this MOU.
- b. Trademarks. Each Party hereby grants to the other a limited, non-exclusive, non-transferable license, with no right to sublicense, to display its trademarks, trade names, logos and other proprietary notices (its "Marks") on the other's website, in marketing materials and in Advocate training materials. Any display of Marks is subject to each responsive Party's trademark usage guidelines, as may be provided by in writing from time to time.

10. CONFIDENTIAL INFORMATION.

- a. Non-Disclosure of Confidential Information. Neither Party shall disclose to any third party any confidential or proprietary information, including, without limitation, Advocate data, financial data and mailing lists, strategies, technical data and research, know-how and donor and related information which the disclosing Party considers to be confidential ("Confidential Information"), for any purpose beyond the scope of this MOU, without first having obtained the prior written consent of the other Party. Both Parties shall take reasonable measures to protect the secrecy of and to avoid the unauthorized use and disclosure of the Confidential Information of the other Party. For clarity, Defender and

PFJ's name and general information about the services provided hereunder are not considered Confidential Information.

- b. Maintenance of Records. PFJ and the Defender shall prepare, maintain, and preserve all reports and records required by any funder or oversight body related to the work under this MOU as required by applicable law.
- c. Legal Privilege. It is understood that for the purposes of privilege and confidentiality on behalf of Defender clients, the Advocates and PFJ staff associated with this contract shall be construed as members of the defense team, with the legal privilege and confidentiality bestowed on and expected of such members.

11. INTEGRATION. This written Agreement, along with any attachments, is the full and complete integration of the Parties' Agreement forming the basis for this Agreement. The parties agree that this written Agreement supersedes any previous written or oral Agreements between the parties, and any modifications to this Agreement must be made in a written document signed by all parties. The unenforceability, invalidity, or illegality of any provision(s) of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.

12. COUNTERPARTS. This MOU may be executed in one or more counterparts each of which shall constitute an original, and all such counterparts shall constitute one and the same Agreement.

13. GENERAL PROVISIONS.

- a. The relationship of the Defender and PFJ is that of independent contractors. Personnel of both parties are neither agents nor employees of the other party for federal tax purposes or any other purpose whatsoever, and are not entitled to any employee benefits of the other party.
- b. No delay, failure or default in performance of any obligation by either party, excepting all obligations to make payments hereunder, shall constitute a breach of this Agreement to the extent caused by force majeure.
- c. Any assignment in violation of these terms is void.
- d. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be conclusively resolved through binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Each party shall bear its own costs and attorney fees, unless the arbitration award specifically provides otherwise.
- e. The validity of this Agreement and the rights, obligations and relations of the parties hereunder shall be construed and determined under and in accordance with the laws of

the state of New York; provided, however, that if any provision of the Agreement is determined by a court of competent jurisdiction to be in violation of any applicable law or otherwise invalid or unenforceable, such provision shall to such extent as it shall be determined to be illegal, invalid or unenforceable under such law be deemed null and void, but this Agreement shall otherwise remain in full force. After arbitration, as specified in Section 13.d, any suit to enforce any provision of this Agreement, or any right, remedy or other matter arising from the arbitration, will be brought exclusively in the state or federal courts located in New York. PFJ and the Defender agree and consent to the venue in and to the in-person jurisdiction of the aforementioned courts.

- f. Any modification or amendment of any provision of this Agreement must be in writing and bear the signature of the duly authorized representatives of both parties. The failure of any party to enforce any right it is granted herein, or to require the performance by the other party hereto of any provision of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent a subsequent exercise or enforcement of such provisions or be deemed a waiver of any subsequent breach of this Agreement. All provisions of this Agreement which by their own terms take effect upon the termination of this Agreement or by their nature survive termination shall survive such termination.

SIGNATURE PAGE

In witness whereof, the Parties have executed this Agreement, as of the Effective Date.

Albany County Public Defender's Office

By: _____

Printed Name:

Title:

Albany County

Date: _____

Partner for Justice, Inc.

By: _____

Rebecca Solow

Executive Director

Partners for Justice

Date: _____

EXHIBIT A: SCOPE OF WORK (“SOW”)

The Albany County Public Defender’s Office (“Defender”) is contracting with Partners for Justice, Inc. (“PFJ”) for Client Advocate Services to support Defender efforts to provide clients with comprehensive assistance through the embedding of Client Advocates (each, an “Advocate,” and collectively, the “Advocates”) within Defender to stabilize client’s lives during and following interaction with the criminal legal system. PFJ shall provide services as set forth in this Agreement and SOW. Specifically, over the course of this contract, PFJ will provide services to Defender in six key areas:

1. **RECRUITMENT.** PFJ will recruit a diverse, high-achieving group of two (2) early career professionals to serve as Advocates for Defender’s clients. Once PFJ recruits potential Advocates, recommendations will be submitted to the Defender. Defender will review resumes, discuss qualifications, and meet with candidates for final approval. All candidates will be advised of Defender professional standards, including our expectations for professional dress code, work habits, and public service standards.

If an Advocate becomes unable to complete their assignment, PFJ will recruit replacement Advocates and submit recommendations to Defender for final approval, as needed. PFJ will provide recommendations for replacement candidates in a timely manner, but not to exceed 60 days from the date of notification of the absence.

2. **TRAINING.** PFJ will provide an introductory training to Advocates on collaborative public defense principles, issue-spotting for possible enmeshed penalties or collateral consequences, skills for working with public defender clients, and social service navigation. This training will be delivered primarily via virtual training. Advocates will also attend a subsequent in-person skills development intensive focused on client interactions, oral advocacy, and persuasive written mitigation. Advocates will receive ongoing continuing education through monthly virtual sessions throughout their term of service, as well as a second in-person skills development intensive approximately one year after their start date. PFJ will deliver introductory training on collaborative defense, working with Advocates, enmeshed penalties, and social service issues to attorneys and other staff at Defender’s request.
3. **SERVICE DELIVERY.** Advocates will serve up to approximately 360 clients referred by Defender during the Term of this Agreement and provide them with wraparound support services and case navigation. Advocates will accept approximately two (2) referrals per Advocate per week, unless otherwise jointly agreed by PFJ and Defender. Advocates will receive referrals from Defender through protocols jointly developed by PFJ and Defender, either through the Advocates’ on-site supervisor or directly from attorneys. PFJ will make its best effort to work with Defender to ensure referrals reach the desired number, but Defender is ultimately responsible for referring suitable clients to PFJ.

Once reaching full capacity, Advocates will maintain a minimum caseload of thirty (30) clients and a maximum caseload of forty-five (45) clients total at any given time, unless otherwise jointly agreed by PFJ and Defender. Based on objectives defined at the outset of each client case,

Advocates will support clients with service goals, which may be in the areas of housing; employment; benefits; health; family, children & youth; criminal case support; and other less common areas of service. Objectives will be identified in attorney referrals and through client interviews. Examples include connecting clients with housing support agencies and/or eviction defense legal services to secure and maintain stable housing, supporting clients with job search and training resources to secure and maintain employment, and assistance with applications for government financial and medical benefits.

PFJ will also work with Advocates to map local service providers, community resources, and government agencies offering services that may be beneficial to clients. Identified resources will be documented in a cloud-based database developed by PFJ. PFJ will provide full database licenses for Advocates and up to two (2) Defender staff. PFJ will also provide read-only database licenses to other Defender staff upon request. If Defender requests additional licenses, Defender assumes responsibility for notifying PFJ of any staff whose licenses should be terminated.

4. **ADVOCATE SUPERVISION.** PFJ will provide supervision to Advocates for both technical and human resources matters. Supervision will be conducted through bi-weekly one-on-one meetings and monthly team meetings.
5. **CAPACITY BUILDING AND TECHNICAL ASSISTANCE.** PFJ will provide ongoing advisory assistance to Defender on the implementation of collaborative defense practices in their office. This may include (but is not limited to) defining Advocate roles and services, developing intake and referral systems, providing additional training for attorney or non-attorney staff, and creating office resources. Advocate supervisors will also be invited to join PFJ's national Advocate supervisor community.
6. **DATA COLLECTION AND REPORTING.** PFJ will provide Defender with quarterly dashboard reports containing key metrics related to Advocate services at their office and across PFJ partner offices. This report will be enabled by a cloud-based case management database that PFJ will create and implement for Defender. Data will be entered by Advocates. PFJ will provide edit licenses to this database for Advocates and up to two supervisory staff of Defender. Additional read-only licenses will also be made available upon request. If Defender requests additional licenses, Defender assumes responsibility for notifying PFJ of any staff whose licenses should be terminated. If Defender elects not to use the PFJ case management database, Defender will provide data required for quarterly reports to PFJ no later than the 15th day of the month following the end of each quarter.

The following provisions of the SOW will be implemented in order to support the successful delivery of the services described above.

1. **WORK LOCATION.** Advocates will report to Defender offices. Work will be in-person to accomplish on-site client interviews. Depending on the work location, parking will be provided by Defender. Candidates will be provided Defender identification badges.

2. **EQUIPMENT.** Defender will provide a workstation with appropriate equipment to conduct interviews and advocacy, including laptop computers and telephone access, comparable to the equipment provided to Defender staff in similar roles.
3. **SUPERVISION.** Defender will designate an on-site supervisor who will meet with Advocates at least bi-weekly and provide day-to-day supervision of Advocates' work. The on-site supervisor will meet with PFJ's designated project manager at least once per month.