

**AGREEMENT  
BY AND BETWEEN  
THE COUNTY OF ALBANY  
AND  
EQUINOX, INC.**

**FEB 13 2023**

**PURSUANT TO RESOLUTION NO. 414, ADOPTED 11/14/2022**

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 Equinox, Inc. (hereinafter referred to as the "Provider"), a non-profit organization having its principal office at 500 Central Avenue, Albany, New York 12206.

**WITNESSETH:**

**WHEREAS**, the Commissioner of Social Services of the County of Albany, hereinafter called the Commissioner, is an authorized social services official charged with the responsibility, insofar as funds are available for that purpose, to administer such care, treatment and services that may be necessary to restore persons unable to maintain themselves to a condition of self-support or self-care, pursuant to 18 NYCRR Part 408 of the Social Services Law of the State of New York, and

**WHEREAS**, 18 NYCRR Part 408 requires local social service districts to provide residential services to victims of domestic violence and to reimburse operators of approved residential programs, on a per diem basis, for the provision of emergency shelter to eligible domestic violence victims, and

**WHEREAS**, the Provider, a qualified non-profit organization, is willing and able to deliver the service required by the County and to ensure that the aforementioned requirements are met efficiently and effectively, and

**WHEREAS**, the County has accepted the Provider's offer to deliver the necessary domestic violence residential services to meet the needs of the County and to meet the needs of the aforementioned domestic violence victims residing in Albany County.

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

**ARTICLE I. SERVICES TO BE PERFORMED BY PROVIDER**

The Provider shall provide residential domestic violence services at the Equinox Domestic Violence Shelter, as herein set forth and as more particularly described in Exhibit 1 of this Agreement.

**ARTICLE II. SCOPE OF SERVICES**

Emergency shelter services under this Agreement shall be defined as the provision to provide domestic violence victims residential services, including temporary room, board,

supervision and services, as defined under 18 NYCRR Parts 452 and 453 of NYS regulations and as detailed under Exhibit 1 attached hereto and made a part hereof.

The Provider will provide the agreed upon residential domestic violence services only at such site(s) as are approved by NYS.

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**ARTICLE III. GENERAL PROVISIONS**

The Provider agrees to comply in all respects with the provisions of this Agreement and the attachments thereto. The Provider specifically agrees to perform services as outlined in Exhibits 1 and 2 attached hereto and made a part hereof. Any requests by either party to the Agreement for modifications to the provision of these Exhibits must be mutually agreed to by both parties in writing before the additional or modified provisions shall commence.

The Provider shall complete the Service 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).

The Department will designate a staff person who shall have authority for overseeing the Provider's performance of those services designated herein. Reports and issues of interpretation or direction relating to this Agreement shall be directed to the designated staff member.

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

**ARTICLE IV. 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.

**ARTICLE V. 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 VI. 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 to any person(s) duly authorized by any of them during such period. FEB 13 2023

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 VII. 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 VIII. 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 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 IX. 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 X. 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.

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

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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 XI. FEES**

In consideration of the terms and obligations of this Agreement, the County agrees to pay and the Provider agrees to accept an amount not to exceed **ONE HUNDRED-TEN DOLLARS AND 03/100 (\$110.03)** per day, per eligible person, as full compensation for the Service described under this Agreement. The above-specified per diem rate has been established by New York State. Any change in the rate, as established by NYS, will immediately, upon its effective date, take precedence over the rate specified above.

The Department agrees to reimburse the Provider for care and services provided, when such claims are submitted to the Department in accordance with the specifications included under Exhibit 2.

**ARTICLE XII. RELATIONSHIP**

The Provider is, and will function as, an independent contractor under the terms of this Agreement and shall not be considered an agent or employee of the County of Albany or the State of New York for any purpose, and the employees and representatives of the Provider shall not in any manner be, or be held to be, agents or employees of the County or the State.

**ARTICLE XIII. 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 XIV. 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, 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 XV. 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.

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#### **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 Subscriber 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. 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 XVIII. GOVERNING LAWS**

This Agreement shall be governed by and construed according to the Laws of the State of New York and any or all legal proceedings or actions shall be brought in a county, state, federal or local Court or other tribunal in the County of Albany.

#### **ARTICLE XIX. TERMINATION OF AGREEMENT**

This Agreement may be terminated at any time upon mutual written agreement of the contracting parties.

This Agreement may be terminated if the Department deems that termination would be in the best interests of the County, provided that the Department shall give written notice to the Provider 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 the Provider. The date of such notice shall be deemed to be the date the notice is received by the Provider established by the receipt returned, if delivered by registered or certified mail, or by an affidavit of the person delivering the notice to the Provider, 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.

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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 at its sole discretion, to immediately terminate this Agreement.

#### **ARTICLE XX. TIME FOR PERFORMANCE**

The term of this Agreement shall commence on January 1, 2023 and will continue in effect through December 31, 2023. It is agreed by the Provider that performance without this Agreement will not be paid for by the Department.

#### **ARTICLE XXI. 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 XXII. 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 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.

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**ARTICLE XXIII. 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 XXIV. 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 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. 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 XXVII. NOTICE**

All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed properly given if, and only if, delivered personally, sent by registered or certified United States mail, postage prepaid, or, with the prior consent of the receiving party, dispatched via facsimile transmission, at the addresses for and the representatives of the parties shown below:

Name: David Bradley  
Department: Temporary Assistance  
162 Washington Ave.  
Albany, New York 12210

**ARTICLE XXVIII. IRANIAN ENERGY SECTOR DIVESTMENT**

Contractor hereby represents that Contractor is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Contractor 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.

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**ARTICLE XXIX. PRIVACY OF PERSONAL HEALTH INFORMATION**

In order to comply with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Provider (deemed a BUSINESS ASSOCIATE as defined at 45 CFR § 164.501), its employees, administrators and agents shall not use or disclose Protected Health Information (PHI) (as defined in 45 CFR § 164.501) other than as permitted or required by this Agreement with the County (deemed a Hybrid Entity as defined at 45 CFR § 164.504) or as Required By Law (as defined in 45 CFR § 164.501). The Provider shall maintain compliance with all U.S. Department of Health and Human Services, Office for Civil Rights, policies, procedures, rules and regulations applicable in the context of this Agreement, as more particularly set forth on Appendix A attached hereto and made a part hereof.

**ARTICLE XXX. 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.

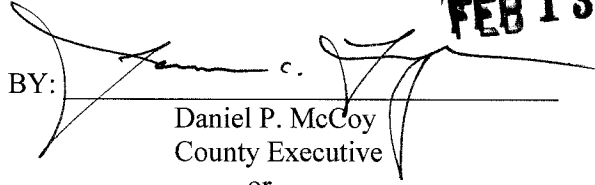


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

COUNTY OF ALBANY

FEB 13 2023

DATE: 3/29/2023

BY: 

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

EQUINOX, INC.

DATE: 12/22/22

BY:   
Signature

Chief Executive Officer  
Title

STATE OF NEW YORK )  
COUNTY OF ALBANY ) SS:

FEB 18 2023

On the \_\_\_\_\_ day of \_\_\_\_\_, 202\_, 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 29th day of March, 2023 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.

EUGENIA K. CONDON  
Notary Public, State of New York  
Registration No: 02CO4969817  
Qualified in Albany County  
Commission Expires July 23, 2026

[Signature]  
\_\_\_\_\_  
Notary Public

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

On the 22 day of December, 2022 before me, the undersigned, personally appeared Kathryn Fletcher, 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.

DIANE E DICAPRIO  
01D16150413  
Notary Public, State of New York  
Qualified In Montgomery County  
My commission expires JULY 24th, 2026

[Signature]  
\_\_\_\_\_  
Notary Public

**SCHEDULE A**  
**INSURANCE COVERAGE**

**FEB 13 2013**

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:** A policy or policies of insurance providing for professional liability insurance coverage covering all operations of the program and the Provider's performance in the amount of \$1 Million.

**SCHEDULE B**

**AUTOMOBILE INSURANCE WAIVER STATEMENT**

**FEB 13 2023**

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

FEB 13 2023

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).

Equinox Inc.  
 Organization

Kathryn Fletcher  
 Authorized Signature

Chief Executive Officer  
 Title

\_\_\_\_\_  
 Date

FEB 13 2023

SCHEDULE D

Certification Regarding Lobbying  
Certification for Contracts, Grants, Loans  
and Cooperative Agreements

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

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

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

Equinox Inc  
Organization

Kathryn Fletcher  
Authorized Signature

Chief Executive Officer  
Title

\_\_\_\_\_ Date

Note: If Disclosure Forms are required, please contact: Mr. William Saxton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001.

**EXHIBIT 1****Service Provision Responsibilities**

The Provider will provide residential domestic violence services to eligible victims of domestic violence, as follows:

- I. Service Definition- Residential domestic violence services will be defined as the provision of temporary shelter, emergency services and care provided through an approved domestic violence shelter, in accordance with 18 NYCRR Parts 452 and 453 of NYS regulations.
- II. Eligible Persons- A victim of domestic violence will be considered to be any person 16 years of age or older, any married person, or any parent accompanied by his or her minor child or children in situations where such persons or such person's child is a victim of an act which would constitute a violation of the Penal Law, including, but not limited to acts constituting disorderly conduct, harassment, menacing, reckless endangerment, kidnapping, assault, attempted assault, or attempted murder; and
  1. such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and
  2. such act or acts are, or are alleged to have been committed by a family or household member, as defined by 18 NYCRR Part 408.2.

For the purposes of this definition, "family or household member" will incorporate the following individuals.

- persons related by blood or marriage;
  - persons legally married to one another;
  - persons formerly married to one another regardless of whether they still reside in the same household;
  - persons who have a child in common regardless of whether such persons are married or have lived together at any time;
  - unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household;
  - or
  - unrelated persons who have had intimate or continuous social contact with one another and have access to one another's household.
- III. Service Provision- The Provider will maintain and operate the facility in a manner that assures compliance with all applicable statutes, regulations, codes, and ordinances, and most particularly those specified 18 NYCRR Parts 408, 452, and 453 of NYS regulations. The Provider hereby certifies that it is a NYS approved domestic violence shelter, and will maintain full compliance with all related laws and regulations. In the event that the Provider should fail to maintain NYS approval as a residential program for victims of domestic violence, this Agreement shall terminate immediately, according to the provisions previously outlined.

In addition, as required under 18 NYCRR Part 408 of NYS regulations, the Department and the Provider specifically agree to the following.

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1. Length of Stay

- a. Upon an initial, emergency determination of financial eligibility, the ACS/SS Temporary Assistance Division will authorize the resident for a 30-day stay in emergency shelter, beginning with the date of admission. Any necessary appointments to complete a full financial eligibility determination will be scheduled accordingly.
- b. Assuming that the victims continuing financial eligibility is established, the Economic Security Division will issue a subsequent authorization for the full remaining period of up to 60 days. If financial eligibility has not been fully established, the client may request an extension of the waiver of documentation requirement, and the shelter stay will be reauthorized for a period of up to 30 days. Authorization for extension beyond the initial 90-day maximum, up to 90 additional days, will be made consistent with NYS regulations, Section 408.6(d) and Section 459-b, amended in 2012. When such will be necessary, the Provider agrees to notify the Departments Contract Manager of the extension on or before the 75th day of residence. Notice may be given after the 75th day only if emergency circumstances made the need for such an extension unforeseeable before the 75th day. In such cases, notice of the extension must be given immediately.
- c. Throughout the stay of each Albany County resident, the Provider agrees to submit a written progress report every 30 days, summarizing the individual/family's status and detailing his or her progress concerning a housing search. If an individual/family has not initiated a housing search, the Provider should specify the reasons for this in their report. Client-specific progress reports shall be submitted to the appropriate contact persons.

2. Assessment of Service Needs

- a) When completing the initial assessment to see if DV shelter is warranted and the client requires DV Shelter, the provider is responsible to assist any client(s) unable to navigate the process, by facilitating calls to other counties for shelter placement
- b) In all instances, the Department agrees to accept the determination of the Provider that an individual or family continues to meet admission criteria and exhibit the need for temporary shelter, emergency services and care.
- c) The Provider agrees to reassess each resident's continued eligibility and need for residential domestic violence services on a weekly basis, throughout the resident's stay.
- d) The Provider agrees to provide the Department with relevant information related to such reassessment, upon request.



## EXHIBIT 2

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### Rate for Service/Fiscal Reporting

#### I. Rate for Service

The Department will reimburse the Provider for services rendered at the rate established by NYS, as follows.

1. A per diem rate (see Article XI) will be utilized in calculating reimbursement due to the Provider. This rate includes the full food add-on allowed under NYS regulations, and is applicable regardless of the funding stream under which payment is authorized.
2. In the event that NYS should increase or decrease the per diem rate applicable to the Provider's domestic violence residential facility, the new rate will automatically supersede the rate shown above.

#### II. Billing and Reimbursement

The Department will reimburse the Provider for shelter "bed days" provided to an eligible person(s), as follows.

1. Shelter reimbursement and payment of benefits to, or on behalf of, the recipient will be made in compliance with current federal and State regulations.
2. The Department will reimburse the Provider for shelter stays of individuals and families who have appropriately established eligibility under EAF, Family Assistance, Safety Net, EAA or Title XX funding streams. As a last resort if the individual and/or family do not sign the consent to release identifying information, the Department, will reimburse under other funding sources.
3. The Provider is required and agrees to meet with the individual and/or family within the first business day of entry into the residential program to provide the individual and family with information explaining their right to apply for Temporary Assistance and relevant information to make an informed decision whether to apply for assistance.
4. The Provider agrees to encourage individuals to apply for Temporary Assistance and work with them to sign the Domestic Violence Release of Information form regardless of whether they chose to apply for Temporary Assistance.
5. For those individuals who sign the Domestic Violence Release of Information form and agree to apply for Temporary Assistance, the individual will complete the appropriate public assistance application process, including compliance with documentation and face-to-face interview requirements.
6. For those individuals who are not able to come to ACDSS, the Provider may seek reimbursement for shelter bed days through a "mail-in application and release of information" process, according to guidelines established by the Department, within the context of applicable State and federal regulations.

7. In the instance that a resident has an alternate and available source(s) of income, and is entitled to only partial Temporary Assistance, the Department will provide reimbursement of the NYS per diem rate to the Provider utilizing both Temporary Assistance and Title XX funding.
8. The Department and the Provider mutually recognize that circumstances occur which render the above impossible. The most common of these circumstances involve the departure and/or discharge of the resident from the facility prior to their scheduled appointment with the ACDSS Division of Temporary Assistance.
9. The Provider will bill the Department for each resident determined eligible for domestic violence shelter. The billing format is required to be submitted as follows:
  - a. Bills should be submitted by the 15<sup>th</sup> of the month following the month the services were provided.
  - b. Bills being submitted under the “mail-in application process” will require a signed, completed application and a completed and signed Domestic Violence Release of Information.
  - c. For Claims submitted for payment of shelter stays where an individual does not apply for Temporary Assistance or provide a signed Domestic Violence Release of Information, the provider is responsible to assign the client a unique Case ID Number and provide dates of stays, as outlined by NYS regulations. This unique Case ID numbers and dates of service will be reported and attested to on the County required DV claiming log.
  - d. The provider is responsible to make sure they maintain all required client information/documentation records including personal identifying information (PII) for each Unique Case ID number to support all claims submitted. The provider is responsible to keep records of all client information for future auditing purposes.
  - e. On a monthly basis, the Provider shall submit the DV Claiming Support Log to the Department, along with the billing for the month, reflecting actual expenses incurred. Included in this is the amount they are claiming under Temporary Assistance funding, Title XX, and funding from other County sources. The Temporary Assistance expenses and Title XX need to reflect whom the payment is for. This report needs to be submitted by the 15<sup>th</sup> of the month following the month the services were provided. In order for this form to be valid, the provider attesting that DV shelter/services were provided must sign it

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APPENDIX A

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**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 Equinox, 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

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- 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 or Mental Hygiene Law.

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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 January 1, 2023 – December 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.

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#### 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 New York State 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.