

**AGREEMENT
BETWEEN
THE COUNTY OF ALBANY
AND
NEW YORK STATE INDUSTRIES FOR THE DISABLED
FOR
ANCILLARY LAUNDRY SERVICES**

**PURSUANT TO RESOLUTIONS
NO. 68 FOR 2019, ADOPTED 2/11/2019 &
297, ADOPTED 7/8/2019**

This is an Agreement 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”), Albany County Office Building, 112 State Street, Albany, New York 12207 and New York State Industries For The Disabled located at 11 Columbia Circle, Albany, NY 12203 (hereinafter referred to as the “Provider”).

WITNESSETH:

WHEREAS, the Department is mandated by NYS law to provide cost effective personal care/homemaker services to eligible persons as they preclude or delay more costly nursing home care, and

WHEREAS, the Commissioner of the Department has requested authorization to enter into an agreement with the Provider regarding the provision of laundry services as an ancillary service under the Expanded In-home Services for the Elderly Program (EISEP), and

WHEREAS, the Provider will subcontract with Plaza Linens to provide the laundry bags, pick up, delivery, cleaning and processing of laundry.

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

ARTICLE I. SCOPE OF SERVICES

As part of this Agreement, the Provider shall provide all services set forth in Exhibit 1 attached hereto and made a part hereof.

ARTICLE II. GENERAL PROVISIONS

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 of Temporary and Disability Assistance (hereinafter referred to as “OTDA”) will be able to fulfill their functions and responsibilities.

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

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

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. 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 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 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.

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 IX. FEES

In consideration of the terms of this Agreement, the County agrees to pay and the Provider agrees to accept reimbursement, effective August 1, 2019, at a rate of THIRTY DOLLARS (\$30.00) per bag of laundry, per week, per client (FIFTEEN DOLLARS (\$15) for each additional bag with Department approval). For the period April 1, 2019 thru July 31, 2019 the County agrees to pay and the Provider agrees to accept reimbursement at a rate of TWENTY FOUR DOLLARS (\$24.00) per bag of laundry, per week, per client (TEN DOLLARS (\$10.00) for each additional bag with Department approval). The total amount of compensation for all services rendered under this Agreement shall be an amount not to exceed **ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00)**.

Fees for the services provided shall be payable upon submission, by the Provider, of a County claim form signed by the Provider to the Albany County Department of Social Services. The claim form or attached invoice must contain itemized detail of the services rendered.

ARTICLE X. 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 XI. 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 XII. 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 XIII. 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 XIV. 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 XV. 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 XVI. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of New York.

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 years.

ARTICLE XVIII. MACBRIDE PRINCIPLES

Contractor 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 XIX. 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 XX. TERM OF AGREEMENT

The term of this Agreement shall commence on April 1, 2019 and continue in effect through March 31, 2020. It is agreed upon by the Provider that performance outside the terms and conditions of this Agreement will not be paid for by the Department.

ARTICLE XXI. 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.

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 XXII. LOCAL LAW NO. 1 FOR 2002

As part of this Agreement, the Provider will comply with the provisions of Local Law No. 1 for 2002. A copy of said Law and Procedures are a part of this Agreement and attached hereto as Exhibit 3.

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.

ARTICLE XXIII. 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.

ARTICLE XXIX. 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 XXX. MODIFICATION

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

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
Philip F. Calderone
Deputy County Executive

**NEW YORK STATE INDUSTRIES
FOR THE DISABLED**

DATE: _____

BY: _____

Signature

Title

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

On the ____ day of _____, 20__, 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 _____, 20__, before me, the undersigned, personally appeared Phillip F. Calderone, 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 _____)
COUNTY OF _____) SS.:

On the ____ day of _____, 20__, 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 s/he executed the same in her/his capacity, and that by her/his 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.

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; and
- (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

Scope of Services

Albany County continues to strive to provide cost effective types of services most needed and preferred by older adults to keep them in their homes and assist them in avoiding more costly institutional care. One of these services will be the provision of laundry pick-up, cleaning and delivery as an ancillary service through the EISEP program.

Eligibility

These ancillary services under the EISEP program shall be provided only in accordance with a care plan established by Albany County. Albany County will assess, at least annually, the need for ancillary services. An annual assessment enables Albany County to be certain that the services and items provided to each client are appropriate and continue to meet the clients' needs. If an assessment determines a client is no longer eligible for laundry pick-up and delivery or the client needs an increase or decrease in the frequency of laundry pick-up and delivery, The Department will notify the Provider immediately.

Any new client names and addresses will be provided to the Provider for service.

Laundry Bags

- The Provider will provide laundry bag(s) sufficient to hold 5 lbs. of laundry for each client.
- The Provider shall be responsible for marking the bags with each client's name.
- The client shall be responsible for marking and personalizing any individual clothing/laundry items.
- Bags must be kept in well-maintained condition. Damaged bags must be repaired or replaced immediately by the Provider.

Equipment, Supplies and Sanitation

- The Provider's laundry facility must be operated and maintained in a safe and sanitary manner in conformance with all applicable local, State and federal laws or regulations, whether known now or revised or adopted during the term of the contract. This requirement includes, but is not limited to, the Provider's obligation to demonstrate the existence of an effective pest control program.
- The Provider shall make available, upon request, copies of any Quality Assurance forms, licenses, certifications or test results that may be submitted to or required by any local, State or Federal regulatory agency.

- The Provider shall furnish all equipment, utilities, supplies, work space, and will provide all management and labor necessary for the efficient, sanitary and ecologically sound provision of the laundry services.
- Only branded quality detergents and cleaning materials are to be used for laundry.
- The Provider shall clean and process each client's laundry, including occasional heavily soiled and contaminated materials requiring special separate handling.
- The Provider must process the laundry under established quality standards to ensure maximum sanitary, safety and comfort for individual use.
- The Provider must ensure the separation of clean and soiled laundry at all times.
- The Provider must protect all clean laundry from all sources of cross contamination. Care will be taken that items are not subjected to unnecessary strain or tear.
- The Provider shall fold, stack and package laundry for delivery in a manner to ensure a minimum of wrinkling.

Damaged Items

The Provider will be responsible for any damage to client's laundry caused by its staff while performing duties under this contract. Such damage is the responsibility of the Provider and payment for such damage shall be payable to the client (customer) upon receipt of a detailed statement. The Provider must reimburse for all lost or damaged items according to the standard scale in Exhibit II below:

EXHIBIT 2

Life Expectancy rating of article (from table I)						Adjustment Values		
1	2	3	4	5	6	% of Replacement Cost		
Age of Article in Months					Age in Years	Excellent	Average	Poor
0 to 4	0 to 4	0 to 4	0 to 4	0 to 4	0 to 1 year	100%	100%	100%
4 to 7	4 to 7	4 to 10	4 to 13	4 to 16	1 to 4 years	75%	75%	60%
7 to 9	7 to 13	10 to 19	13 to 25	16 – 31	4 to 6 years	70%	60%	45%
9 to 11	13 to 19	19 to 28	25 to 37	31 to 46	6 to 8 years	50%	40%	30%
11 to 13	19 to 25	28 to 37	37 to 49	46 to 61	8 to 11 years	30%	20%	15%
13 months and older	25 months and older	37 months and older	49 months and older	61 months and older	11 years and older	20%	15%	10%

Note: Ages are given to, but not including the 1st day of the month of the year shown

Personal Property, Rewashing and Laundry Item Repairs

- All client's personal items/property (false teeth, eye glasses, slippers, jewelry etc.) or money that may be found in the soiled laundry shall be returned with the clean linen delivery. Any found items should be wrapped in a separate, clear plastic bag or container.
- Items failing to meet the client's washing standards will be returned for rewash at no cost to the client or the County. The Provider will label rewash as such.
- If there are occasions when the client may request the Provider to make repair of laundry items (i.e. lost button, new zipper, etc.), terms and prices will be determined by mutual agreement of the Provider and the client. The County will not be responsible for costs associated with repair of laundry items.

Pickup and Delivery Schedule

- Laundry for pick-up and delivery will be packed in Provider supplied laundry bags and clearly labeled with individual client's name.
- For a set number of clients, Provider shall provide pick-up and return delivery services within 48 hours.
- Any increase or decrease in the frequency of laundry pickup and delivery service for an individual client requires approval by The Department.
- The Department reserves the right to request adjustments to said pickup and delivery schedule, including adjustments based on patient care demands and changes in funding.

Criminal Background Checks

- Provider shall conduct criminal background checks on all employees and sub-contractors who will be responsible for picking up and delivering laundry to older adults and individuals with disabilities under this contract.
- Provider agrees that no employee or subcontractor convicted of a crime, whether a felony or a misdemeanor, shall be authorized to perform any laundry pick-up or delivery work under the terms of this contract.
- The costs related to criminal background checks shall be paid by the Provider.
- County has the right to request removal of any Provider employee or subcontractor who does not properly conduct himself/herself/itself or perform quality work.

Employee Identification

For security and safety purposes, all the Provider's employees must wear a clearly displayed photo identification badge (provided by the Provider at the Provider's cost) and Provider work uniforms/jackets showing they are employees of the Provider.

Cost Share Policy

- In accordance with New York State Regulations, EISEP clients are required to cost share according to a sliding scale based on their income and the cost of the services they receive.
- A listing of clients along with cost share amounts will be provided to the Provider by The Department.
- The Department will notify clients in writing what their cost share responsibility is for laundry pick-up and delivery services.
- The Provider, will be required to bill and collect directly from clients any cost share they are responsible for under the laundry pick-up and delivery service under the EISEP program.
- The Provider must keep an itemized accounting of all cost share funds received.
- All cost share funds must be used for program expenses.

Billing Basis

The Provider shall bill The Department for services rendered based on one (1) five (5) pound bag of laundry, per individual client, per week. Should the client require an additional bag, the Provider agrees to bill an additional \$10 per bag. Any client who is authorized by the County to receive laundry pick-up and delivery twice a week shall be noted accordingly.

The Provider shall issue invoices to clients with cost share on a monthly basis and be responsible for collecting those fees on applicable clients. This fee will be deducted from the bill submitted by NYSID.

The Provider shall submit an Albany County Claim Form as well as an Excel Spreadsheet which provides itemization details on each client's service delivery.

The claim forms and itemized spreadsheet totals must match and will be submitted monthly to:

Accounting Division, Albany County Department of Social Services
162 Washington Avenue, 3rd Floor, Albany, NY 12210.

The Provider acknowledges that failure to follow the procedure will result in delayed or denied payments.

Client Concerns

The Provider will work closely with Albany County Department for Aging to ensure all drivers have received annual training using the County's Driver training program. The driver training will specifically address policies and procedures that drivers must follow to remain properly oriented to detect and report changes in a client's condition or environment.

The drivers will report all apparent deterioration in the physical, mental, or environmental condition of a client and then the Provider will be required to report this information to the Albany County NY Connects Unit or assigned Case Manager by telephone on the same day the deterioration in condition is detected. If a life-threatening emergency arises, a call to 911 and the senior's emergency contacts will be made immediately. The Assessment Unit will also be immediately notified by telephone.

If the Provider determines that laundry pick-up and delivery services requested for a client cannot be provided, the Provider will submit a written report substantiating why such services cannot be provided and it shall be forwarded to the County no later than the next business day.

If an appointment prevents a client from being home at the time the laundry is being picked up or delivered, they will be instructed to call the Provider and let them know at least 24 hours in advance. The Provider should attempt to make arrangements to conduct the pickup and deliver on an alternative day if possible.

If the Provider conducts multiple unsuccessful attempts for a laundry pick-up and delivery to a client, and the client does not notify the Provider, and there are no known changes in circumstances, the Provider will notify The Department immediately so a determination can be made as to whether the client's laundry services should be terminated.

Contingency Plan

The Provider must provide a written contingency plan in the event of a disaster or emergency situation, and include their capability to pick up and deliver during inclement weather.

In the event of service disruptions for any reason (equipment or vehicle breakdowns, water or chemical issues, staffing issues, etc.), Provider must provide a written plan to demonstrate that they are capable of providing on going contractual requirements and services to The Department and its' clients.

EXHIBIT 3

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 New York State Industries for the Disabled and Plaza Linens.
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 Mental Social Service and/or 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, 2019 through March 31, 2020. 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.