

STATE OF NEW YORK MULTI YEAR AGREEMENT

<u>STATE AGENCY</u> (Name & Address): New York State Department of Corrections and Community Supervision The Harriman State Campus, Building 2 1220 Washington Avenue Albany, New York 12226	<u>NYS COMPTROLLER'S NUMBER</u> <u>DEPARTMENT CODE:</u> <u>BUSINESS CODE:</u> DOC01
<u>CONTRACTOR</u> (Name & Address)	<u>TYPE OF PROGRAM (S):</u>
<u>VENDOR IDENTIFICATION NUMBER:</u> <u>CHARITIES REGISTRATION NUMBER:</u> <u>FEDERAL TAX IDENTIFICATION NUMBER</u> <u>MUNICIPALITY NO.:</u> (if applicable)	<u>INITIAL CONTRACT PERIOD</u> FROM: January 1, 2014 TO: December 31, 2016 <u>FUNDING AMOUNT FOR INITIAL PERIOD</u>

APPENDICES ATTACHED AND PART OF THIS AGREEMENT:

- APPENDIX A Standard Clauses as required by the Attorney General for all State contracts
- APPENDIX B Request for Proposal including all attachments
- APPENDIX C Contractor's Proposal including all attachments
- APPENDIX D Contract Budget Plan
- APPENDIX E Non-Disclosure Form
- APPENDIX F M/WBE Compliance
- APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)
- OTHER _____
- OTHER _____
- OTHER _____

AGREEMENT

This AGREEMENT made this _____ day of _____, 201____, by and between the NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION (hereinafter referred to as "DOCCS" or "The Department") with its principal office located at The Harriman State Campus, Building 2, 1220 Washington Avenue, Albany, New York 12226 and _____ having its principal office located at _____ (hereinafter referred to as "CONTRACTOR") is for the development and implementation of a program that will provide educational and therapeutic support to inmates regarding effective parenting training and the strengthening of marital and familial relationships.

WHEREAS, pursuant to New York Correction Law § 112(1), the Commissioner of DOCCS is given the authority to contract with private entities for the performance of such functions deemed necessary or desirable to promote the efficient operation of DOCCS, as well as the fulfillment of all lawful responsibilities of DOCCS; and

WHEREAS, the CONTRACTOR is ready, willing, and able to provide such services and possesses or can make available all necessary qualified personnel, licenses, facilities, and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT; and

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, DOCCS and the CONTRACTOR agree as follows:

I. TERM

A. When signed by the parties and approved by all necessary government agencies, this AGREEMENT shall be in effect for the period from January 1, 2014, to December 31, 2016, with two 12-month renewals, (hereinafter "Term") unless terminated earlier pursuant to its terms.

II. AMENDMENTS

A. This AGREEMENT may be amended only upon the mutual written consent of the parties.

B. To modify the AGREEMENT within an existing Term, the parties shall revise or complete Appendix X. Any change in the amount of consideration to be paid, change in scope, change in the term, or any proposed modification to the contract which results in a change of greater than 10 percent to any budget category, is subject to the approval of the Office of the State Comptroller.

C. Funding for the entire period of this AGREEMENT shall not exceed the aggregate amount of _____ Dollars. Funding for each annual term shall be set forth in Appendix D and include an annual budget reflecting that amount. DOCCS will notify CONTRACTOR in writing and CONTRACTOR will submit the required documents.

D. Any such amendment to or extension of this Agreement shall be subject to approval by the Office of the State Comptroller ("OSC") and where necessary as set forth in Section VI(A) below, shall contain a new budget.

III. TERMINATION

A. DOCCS shall have the right to terminate this AGREEMENT early for (i) unavailability of funds; (ii) cause; or (iii) convenience provided that DOCCS has given written notice to the CONTRACTOR no later than thirty (30) days or more prior to the date of termination.

B. DOCCS may terminate the AGREEMENT immediately upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. DOCCS may terminate this AGREEMENT without cause by thirty (30) days prior written notice. In the event of such termination, the parties will adjust the accrued amount due and the CONTRACTOR will undertake no additional expenditures not already required. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder.

D. This AGREEMENT may be terminated at any time upon mutual written consent of the DOCCS and the CONTRACTOR.

E. Upon written notice to the CONTRACTOR, and a reasonable opportunity to be heard with appropriate DOCCS officials or staff, the AGREEMENT may be terminated by the Commissioner of DOCCS or his designee at the CONTRACTOR'S expense where the CONTRACTOR is determined by the DOCCS Commissioner or his designee to be non-responsible. In such event, the Commissioner or his designee may complete the contractual requirements in any manner he may deem advisable and pursue available legal or equitable remedies for breach.

F. DOCCS reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law Sections 139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, DOCCS may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

G. DOCCS may terminate said contract upon ten (10) days written notice if the CONTRACTOR makes any arrangement or assignment for the benefit of creditors.

H. In the event of the termination of this AGREEMENT by either party, DOCCS shall be liable for the services actually provided by CONTRACTOR up to and including the effective date of termination.

I. Any termination by DOCCS shall in no event constitute or be deemed a breach of contract and no liability shall be incurred by or arise against DOCCS, its agents, and employees for lost profits or any other damages.

IV. CONTRACTOR RESPONSIBILITY

A. The CONTRACTOR shall, at all times during the AGREEMENT term remain responsible. The CONTRACTOR agrees, if requested by the Commissioner of DOCCS or his designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

B. The Commissioner of DOCCS or his designee, in his sole discretion, reserves the right to suspend any or all activities under this AGREEMENT, at any time, when he discovers information that calls into question the responsibility of the CONTRACTOR. In the event of such suspension, the CONTRACTOR will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the CONTRACTOR must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of DOCCS or his designee issues a written notice authorizing a resumption of performance under the Contract.

V. REQUEST FOR PROPOSAL AND AWARD

A. DOCCS has determined that CONTRACTOR is the successful bidder and that CONTRACTOR is willing and able to provide the services required in connection with said bid for the areas identified by DOCCS as _____.

B. CONTRACTOR shall provide a comprehensive parenting program to DOCCS at eight (8) facilities in accordance with DOCCS'S Request for Proposal (hereinafter "RFP") for Inmate Parenting Program, RFP 2013-03, a true copy of which is annexed hereto and made a part hereof as Appendix B; and (b) the proposal for said bid submitted by CONTRACTOR, a true copy of which is annexed hereto and made a part of as Appendix C.

VI. SCOPE OF SERVICES

A. Pursuant to this AGREEMENT, CONTRACTOR shall provide the services set forth herein and in Appendices B and C hereto. Appendices C and D contain a description of the services to be provided by CONTRACTOR, the schedule for the provision of services by CONTRACTOR shall be evaluated, and the compensation due CONTRACTOR for the provision of these services.

B. It is expressly understood and agreed by CONTRACTOR that any and all services specified in this AGREEMENT shall be provided only at the direction of the DOCCS.

VII. COMPENSATION

A. The maximum compensation payable to CONTRACTOR for the services described in this AGREEMENT for the aggregate terms of this AGREEMENT shall not exceed _____ (\$_____,000.00) Dollars. The annual compensation throughout the Term shall not exceed _____ (\$_____.00) Dollars.

B. DOCCS agrees to pay the not-for-profit CONTRACTOR, at the option of CONTRACTOR, a cash advance to facilitate the provision of inmate parenting services pursuant to this AGREEMENT, said advance not to exceed 2/12ths of the approved year one budget, _____ (\$_____). This cash advance is based upon the estimated costs that will be incurred by CONTRACTOR prior to receiving its first monthly reimbursement from DOCCS, and it shall be payable on the first day that services are provided by CONTRACTOR pursuant to this AGREEMENT. Any cash advance provided by DOCCS shall be repaid by CONTRACTOR by a deducting 1/5 of the cash advance owed the first five months of the inception of the AGREEMENT or at any time in the event that this AGREEMENT is terminated prematurely. DOCCS may withhold any payment due and owing to CONTRACTOR for the purpose of recouping the amount of the cash advance.

C. The budget for the Term of the AGREEMENT is set forth in Appendix D to this AGREEMENT, which is attached hereto and made a part of hereof.

D. Throughout the term of this AGREEMENT, CONTRACTOR shall be reimbursed only for services actually performed in accordance with this AGREEMENT and with Appendices B, C, and D. Payments shall be made monthly and shall be processed upon submission by CONTRACTOR. Appropriate statements and vouchers, in a format approved by the DOCCS and the Office of the State Comptroller, are to be submitted on the 10th day of every month to the DOCCS address noted below and shall include the names and New York State Identification (NYSID) numbers of the inmates for whom services have been provided and the dates for the provision of services.

E. When submitting State vouchers for the payment of services provided by CONTRACTOR pursuant to this AGREEMENT, CONTRACTOR shall certify that such payment requests do not and will not duplicate reimbursement of costs that have or will be reimbursed by other sources. In the event that federal, private, or any other type of financial assistance which was not included in the calculation of CONTRACTOR'S budget for the services to be provided pursuant to this AGREEMENT become available to CONTRACTOR, such financial assistance shall result in an equal reduction of the amount payable by DOCCS to CONTRACTOR. CONTRACTOR shall identify conspicuously the amount and source of any third party reimbursement or offsets on such vouchers.

F. No funds provided to CONTRACTOR by DOCCS pursuant to this AGREEMENT may be used for any partisan political party or for any activities that may influence legislation or the election or defeat of any candidate for public office or for the advancement or defeat of any ideological, political or social issue.

G. The amounts reimbursed to CONTRACTOR by DOCCS for services pursuant to this AGREEMENT shall only be for actual and necessary expenses for the previous 30-day period. In the event of overpayment or payment for services rendered not pursuant

to this AGREEMENT, the funds actually provided by DOCCS shall be returned to DOCCS by CONTRACTOR.

H. CONTRACTOR shall provide complete and accurate billing vouchers to the DOCCS in order to receive payment. Billing vouchers submitted to the DOCCS must contain all information and supporting documentation required by the AGREEMENT, DOCCS, and the New York State Office of the Comptroller (hereinafter "State Comptroller"). Payment for vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the DOCCS Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by e-mail at epundit@osc.state.ny.us or by telephone at (518) 474-4032. CONTRACTOR acknowledges that it will not receive payment on any in submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

VIII. CONFIDENTIALITY

A. In addition to the confidentiality requirements, if any, contained in Appendix E, CONTRACTOR acknowledges that any and all information, records, files, documents or reports contained in any media format (e.g. print, electronic) provided to CONTRACTOR by DOCCS or otherwise encountered by CONTRACTOR in the provision of services pursuant to this AGREEMENT shall be considered extremely confidential and shall be handled accordingly at all times. Neither CONTRACTOR nor any of its employees, servants, subcontractors, agents or volunteers shall at any time be permitted to utilize any such confidential information for any purpose outside the scope of this AGREEMENT without the express prior written authorization of DOCCS. CONTRACTOR shall educate, monitor and be responsible for its employees, servants,

subcontractors, agents and volunteers providing services for CONTRACTOR pursuant to this AGREEMENT concerning these confidentiality requirements. Any breach of the confidentiality requirements set forth in this Section or in Appendix E by CONTRACTOR or by any of its employees, servants, subcontractors, agents or volunteers may result in the immediate termination of this AGREEMENT by DOCCS and may subject the CONTRACTOR to further penalties. Annexed hereto as Appendix E is a copy of the Non-Disclosure Agreement.

IX. REPORTING; RECORD KEEPING; MONITORING; AUDITS

A. In addition to the fiscal reporting requirements set forth in Section VI above, CONTRACTOR shall submit such other oral and written reports concerning its provisions of services as set forth herein and in Appendices B and C and as may be required from time to time by DOCCS.

B. CONTRACTOR shall submit a final program report to DOCCS at the same time as it submits a final fiscal report.

C. At its discretion, DOCCS shall have the right to conduct on-site inspections and to otherwise monitor the provision of services by CONTRACTOR, as well as the offices of the CONTRACTOR.

D. CONTRACTOR shall be required to retain all financial records pertaining to this AGREEMENT as per the Standard Clauses, Appendix A.

E. DOCCS shall have the right to perform both pre and post audits of CONTRACTOR'S records relating to the receipt and expenditure of any funds provided pursuant to this AGREEMENT.

X. INDEPENDENT CONTRACTOR

A. It is expressly understood and agreed that CONTRACTOR'S status hereunder is that of an independent contractor and that no official, employee, servant, subcontractor,

agent or volunteer of CONTRACTOR is an employee of DOCCS or the State of New York. CONTRACTOR is solely responsible for the work, compensation, benefits and personal conduct of all such persons assigned to the provision of services pursuant to this Agreement. Nothing contained in this Section or in any other provision of this Agreement shall be construed to impose any liability or duty to DOCCS or the State of New York to persons, firms, consultants or corporations employed or engaged or otherwise utilized by the CONTRACTOR, either directly or indirectly, in any capacity whatsoever, nor shall DOCCS or the State of New York be liable for any acts, omissions, obligations and taxes of any nature, including unemployment insurance and worker's compensation, of CONTRACTOR or any of its officials, employees, servants, subcontractors, agents or volunteers.

XI. ASSIGNMENT

A. The rights and obligations of CONTRACTOR under this AGREEMENT may not be assigned, conveyed, transferred, or subcontracted by CONTRACTOR without prior written authorization of DOCCS.

XII. NOTICES

A. All notices and communications made pursuant to this AGREEMENT shall be in writing and shall be delivered to the addresses set forth below or to such addresses as the parties may from time to time provide to each other. Said notices should be served via registered mail or personally.

Notification to DOCCS:

NYS Department of Corrections and
Community Supervision
Attn: Director of Budget and Finance
The Harriman State Campus, Building 2
1220 Washington Avenue
Albany, New York 12226

Notification to CONTRACTOR:

or any other address as may be hereinafter designated by written notice. No notice shall be effective until received by the addressee.

XIII. TITLE TO EQUIPMENT

- a. Throughout the term of this AGREEMENT and any extensions thereto, CONTRACTOR shall retain title to and possession of any furniture, computers and other equipment ("Purchased Equipment") that may be purchased by CONTRACTOR with funds provided by DOCCS.
- b. Upon expiration or termination of this AGREEMENT in accordance with its terms:
 1. CONTRACTOR shall submit a final inventory of all such Purchased Equipment to DOCCS, no later than ten (10) business days after the effective date of expiration or termination.
 2. Title to all Purchased Equipment purchased less than five (5) years prior to the effective date of expiration or termination shall be automatically transferred to DOCCS, unless DOCCS exempts a specific item of Purchased Equipment and provides written notification thereof to CONTRACTOR.
 3. CONTRACTOR shall transfer non-exempt Purchased Equipment to DOCCS at the time and in a manner determined by DOCCS.
 4. CONTRACTOR may retain title to and possession of all Purchased Equipment purchased at least five (5) years prior to the effective date of expiration or termination.

XIV. MISCELLANEOUS PROVISIONS

- a. Entire Agreement: This AGREEMENT, including the face page and all its appendices, constitutes the entire AGREEMENT between the parties and supersedes all other communications between the parties relating to the subject matter herein.

- b. Appendix A: DOCCS Appendix A (Standard Clauses as required by the Attorney General for all State contracts) is attached hereto and made a part hereof.
- c. Order of Precedence: In the event of any conflict between the terms of this AGREEMENT and the terms of its Appendices, the following order of precedence shall apply:
1. Appendix A;
 2. AGREEMENT and All Appendices except Appendix A and X
 3. Appendix B (RFP and all attachments);
 4. Appendix C (Contractor's Bid);and
 5. Appendix D (Contract Budget Plan).
- d. Controlling Statutes: This AGREEMENT shall be governed by and construed in accordance with the laws of the State of New York.
- e. Unenforceability: If any part of this AGREEMENT is found to be unenforceable for any reason, that part shall be deemed deleted and all other terms, conditions, and provisions of this AGREEMENT shall remain in full force and effect.
- f. Captions: The captions contained in this AGREEMENT are intended for convenience and reference purposes only and shall in no way be deemed to define, limit or describe the scope or intent of this AGREEMENT, or any provision thereof, or in any way affect this AGREEMENT.
- g. Defense and Indemnification: The contractor shall provide for the complete defense of the State, the Department, its officials,

employees, and agents and for their complete indemnification from judgments, settlements, or losses that result from actions, claims, or proceedings both judicial or administrative, that arise out of the contractor's performance of this contract. The contractor's duty to indemnify shall not be lessened by its utilization of subcontractors and shall cover direct, indirect, special and consequential damages.

- h. Force Majeure: Neither party shall be liable for losses, defaults, or damages, under this AGREEMENT which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this AGREEMENT, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, typhoons, civil strife, fire or any cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform, provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.
- i. Non-sectarian: CONTRACTOR is a non-sectarian organization and does not have as one of its purposes the advancement of any religion.
- j. McBride: CONTRACTOR has no business operations in Northern Ireland.
- k. Discrimination: CONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status. CONTRACTOR also agrees to provide DOCCS'S Office of Affirmative Action with such

information and data as may be requested by said Office, in such format and using such forms as said Office may prescribe.

- i. Strict Adherence: The failure of DOCCS to insist upon strict adherence to any provision, fiscal obligation, reporting or other requirement of this AGREEMENT shall not be considered to constitute a waiver or constructive modification to deprive DOCCS of the right to insist upon strict adherence to the terms of this AGREEMENT in the future.

- m. Approval: This AGREEMENT shall not become effective unless and until approved by the Department of Law (Attorney General) and the Comptroller.

- n. Iran Divestment Act: As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) has developed a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list has been posted on the OGS website. Said list is posted on the following website: <http://ogs.ny.gov/about/regs/ida.asp>.

By entering into this AGREEMENT, CONTRACTOR (or any assignee) certifies that it will not utilize on such AGREEMENT any subcontractor that is identified on the prohibited entities list. Additionally, CONTRACTOR agrees that should it seek to renew or extend the AGREEMENT, it will be required to certify at the time the AGREEMENT is renewed or extended that it is not included on the prohibited entities list. CONTRACTOR also agrees that any proposed Assignee of the AGREEMENT will be required to certify that it is not on

the prohibited entities list before DOCCS may approve a request for the Assignment of Agreement.

During the term of the AGREEMENT, should DOCCS receive information that a person is in violation of the above-referenced certification, DOCCS will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation then DOCCS shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the CONTRACTOR in default.

DOCCS reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

- o. Executive Order 38 - Limits on Administrative Expenses and Executive Compensation (7 NYCRR Part 513, et seq., incorporated herein by reference):

If a CONTRACTOR is a “covered provider” as defined in 7 NYCRR Section 513.3(d), then the CONTRACTOR must comply with the following throughout the entire time period that CONTRACTOR is a “covered provider”:

- a. CONTRACTOR shall comply with requirements set forth in 7 NYCRR Part 513;

- b. CONTRACTOR's failure to comply with any applicable requirement of 7 NYCRR Part 513, including, but not limited to, the restrictions on allowable administrative expenses, the limits on executive compensation, and the reporting requirements, may be deemed a material breach of this Agreement and constitute a sufficient basis for, in the discretion of DOCCS, termination for cause, suspension for cause, or the reduction of funding provided pursuant to this Agreement; and
- c. CONTRACTOR shall include the following provision in any agreement with a subcontractor or agent receiving State funds or State-authorized payments from the CONTRACTOR to provide program or administrative services under this CONTRACT:

[Name of the subcontractor/agent] acknowledges that it is receiving "State funds" or "State-authorized payments" originating with or passing through the New York Department of Corrections and Community Supervision in order to provide program or administrative services on behalf of [Name of CONTRACTOR]. If at any time during the life of this Agreement, [Name of subcontractor/agent] is a "covered provider" within the meaning of Section 513.3(d) of DOCCS regulations, [Name of subcontractor/agent] shall comply with the terms of 7 NYCRR Part 513. A failure to comply with 7 NYCRR Part 513, where applicable, may be deemed a material breach of this Agreement constituting a sufficient basis for suspension or termination for cause. The terms of 7 NYCRR Part 513 are incorporated herein by reference.

p. M/WBE: By signing said AGREEMENT, CONTRACTOR agrees to comply with all requirements of Minority and Women Business Enterprise Laws, Regulations and Rules (M/WBE). Annexed hereto as Appendix F is a copy of the M/WBE policy.

SAMPLE

APPENDIX X

Department Code _____

Contract No. _____

Period _____

Funding Amount for Period _____

Program Type _____

This is an AGREEMENT between THE STATE OF NEW YORK acting by and through _____, having its principal office at _____ (hereinafter referred to as the STATE), and _____ (CONTRACTOR), for modification of Contract Number _____, as amended in attached Appendix(ices) _____

All other provisions of said AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR SIGNATURE

STATE AGENCY SIGNATURE

By: _____

By: _____

Printed Name

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

STATE AGENCY CERTIFICATION

"In addition to the acceptance of this contract, I also certify that original copies of this signature page will attached to all other exact copies of this contract"

STATE OF NEW YORK)
County of _____)

SS.:

On the _____ day of _____, 20____, before me personally appeared _____, to me known, who being by me duly sworn, did depose and say that he/she resides at _____, that he/she is the _____ of the _____, the corporation described herein which executed the foregoing instrument; and that he/she signed his/her name thereto by order of the board of directors of said corporation.

(Notary): _____

STATE COMPTROLLER'S SIGNATURE

Title: _____

Date: _____