OUTLINE OF THE SUBSIDIARY SERVICE AGREEMENT

I. WHAT IS A SUBSIDIARY?
A subsidiary corporation is one that is wholly controlled, in both business activities and governance by another organization, commonly known as a parent. In a parent-subsidiary relationship, the subsidiary organization is transformed from being a separate, autonomous until to one that is a part and parcel of the overall structure of the parent. While the subsidiary retains all of the characteristics of an autonomous corporation, including a situs of business, a Board of Directors and Officers, all aspects of its business are controlled by the parent. The most efficient method of accomplishing this is to have the parent corporate be made the sole corporate member, through a bylaw amendment. The parent then has the ability to elect the Board of the subsidiary and thus control same. The most apparent benefit of using the parent-subsidiary model as a means to effect a corporate affiliation is that no Attorney General or Supreme Court approval is ordinarily required. The combination can be affected merely through an agreement by the respective Boards.

II. WHAT IS A SUBSIDIARY SERVICE AGREEMENT?
In the event the corporate affiliation organizations agree, via, the Task Force process to enter into a corporate form known as a parent/subsidiary relationship, the Subsidiary Service Agreement governs all aspects of the party’s agreement to enter such a corporate form. At the conclusion of the Task Force process, one of the corporate affiliation organizations will become the parent organization and will thereafter control all aspects of the subsidiary organization.

III. WHAT ARE THE DUTIES OF THE PARENT ORGANIZATION?
To consummate the corporate affiliation, the parent or controlling organization has the following rights and duties:

• to coordinate with the Board of Directors of the subsidiary to provide the subsidiary those services necessary for its successful operation, and to support those services where necessary or when officially requested in writing by the subsidiary Board of Directors and always consistent with budgetary limitations set by The subsidiary;

• to provide fiscal department oversight to the subsidiary, or to provide the service typical of a fiscal department as requested by the subsidiary.

• to provide the subsidiary with the parent’s employees for any and all of their programs, and all of the relevant employees and related human resources documents and support as are necessary for the operation of the services that The subsidiary will be delivering, including, but not limited to, the provision to The subsidiary of Executive, Administrative, Contract Administration and Direct Service personnel;
• to administer any benefits provided by the parent in its employment relationships, if any, in accordance with the applicable contracts that The subsidiary maintains at The subsidiary’s worksite or within their programs, if any;

• to utilize employees only in a manner consistent with their employment relationship and with their qualifications, professional licenses or otherwise;

• to employ the parent’s employees where directed by the subsidiary’s own Board of Directors, as applicable;

• to ensure that employees who are required to maintain professional licenses possess such license and comply with their respective licensing requirements, and to provide proof of same to The parent;

• to comply with all laws and regulations affecting the employment relationship and the workplace, and to do their best to assure that employees who hold supervisory authority exercise that authority in compliance with applicable law;

• to comply with applicable federal, state and local employment-related laws, and regulations, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans With Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Occupational Safety and Health Act, the Immigration Reform and Control Act, and the Worker Adjustment and Retraining Notification Act, as well as the regulations of any New York State Agency, that contracts with The subsidiary for the duration of this Agreement;

• to monitor significant changes in law governing its employment relationships and to inform The subsidiary of such changes;

• to conduct mutual programs and activities as specified; and

• to collect sufficient funds to cover the salaries plus any and all fringe benefits normally provided to the parent employees for all the parent employees conducting The subsidiary programs and services from The subsidiary on a periodic basis once The subsidiary vouchers are paid.
IV. WHAT ARE THE RIGHTS AND DUTIES OF THE SUBSIDIARY ORGANIZATION?

To consummate the corporate affiliation, the subsidiary or controlled organization has the following rights and duties:

- to designate the President of its Board of Directors to report directly to the Board of Directors of the parent and act as liaison to the parent, when necessary, to provide coordination and management of the policies and procedures that the subsidiary has decided upon or will decide upon;

- to allow the parent access to the subsidiary premises and records in order to exercise its rights and duties under this Agreement;

- to pay the parent’s invoices when due;

- to record, retain and maintain accurate reports of the hours worked under each contract;

- to maintain accurate business records of the subsidiary’s operations and make the same available to the parent upon request;

- to implement and enforce proper safety and human resource policies and procedures at the subsidiary worksite and follow recommendations from the parent regarding workplace safety and compliance with employment-related laws;

- to implement employment decisions following consultation with the parent, or relevant third-parties and only through the auspices of this Agreement;

- to provide the parent advance notice if the subsidiary plans to discontinue operations;

- to notify the parent immediately when the subsidiary learns that an employee has been injured on the job, or when the subsidiary becomes aware of any proposed wage garnishment order or any actual or threatened employee complaint, government proceeding or litigation concerning discrimination, harassment, compensation, benefits or any other matter affecting the employment relationship;

- to not employ subcontractors or independent contractors to provide the services contemplated by The subsidiary or services provided by the parent;
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- to accept exclusive responsibility and liability for compliance by the subsidiary with all laws, regulations and standards impacting the subsidiary’s business operations, productions and services, especially all licensed services, including those conducted pursuant to state agency funding or operating certificates;

- to supervise the details of the program work performed by the parent employees on the subsidiary’s worksite;

- To pay the parent an amount per year for services rendered by the parent in the discharge of the mission related programs of the subsidiary including all compensation/fringe to staff of the parent who administer the subsidiary’s programs;

- to accept exclusive responsibility and liability for compliance with provisions of the subsidiary’s contracts;

- to provide information to the parent of any other contractual relationship entered into by the subsidiary;

- to implement audit, financial control and inventory control procedures to protect the property of The subsidiary or third-party, and to secure all required fidelity bonds;

- to own, file for and protect any trademarks, copyrights or patents related to any intellectual property of the subsidiary;

- to accept exclusive responsibility and liability for payment of any relevant occupational or business privilege taxes, or other taxes on The subsidiary’s business operations, property, or otherwise, regardless of whether such taxes are based in whole or in part on the number of contract employees; and

- The subsidiary remains responsible for ensuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, State and local statutes, rules and regulations, including without limitation those prescribed in this Part, 810 of the regulations of the Commissioner and the provisions of Part 2 of Title 42 of the Code of Federal Regulations.

V. WHAT WARRANTIES ARE PROVIDED BY THE PARENT?
The parent organization warranties the following:

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- That it is a non-profit 501(c)(3) organization incorporated in New York State
- Their employees are qualified to deliver the services contemplated by the corporate affiliation agreements; and
- It will maintain insurance to cover its liabilities during the entire term of the agreement.

VI. WHAT ARE THE WARRANTIES PROVIDED BY THE SUBSIDIARY?
The subsidiary organization provides the following warranties:

- It is a non-profit 501(c)(3) organization incorporated in New York State;
- It will comply with all federal state and local employment laws;
- It is not a party to any collective bargaining agreement and it’s employees are not unionized;
- It has no knowledge of any unreported workplace injury and no pending legal action exists against it from any source;
- It will pay all employment related taxes to federal and state authorities;
- All information provided to the parent is accurate;
- It will maintain insurance to cover its liabilities during the entire term of the agreement;

VII. WHEN DOES THE AGREEMENT TERMINATE?
Under the following conditions, the agreement may be terminated:

Either the parent or the subsidiary may terminate this Agreement for any reason by providing the non-terminating party ninety (90) days’ in advance written notice of intent to terminate. In addition, The parent may terminate this Agreement without prior notice under the following conditions:

(a) The subsidiary fails to pay any invoice when due;
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(b) The subsidiary becomes insolvent (that is, unable to pay its debts as they become due in the ordinary course of business), commits an act of bankruptcy, engages in discussions contemplated to lead to either Consolidation, dissolution or Merger, as discussed in the Not-for-Profit Corporation Law of the State of New York, or applies for, consents to or acquiesces in the appointment of a trustee or receiver for it or any part of its property, or a trustee or receiver is appointed for the subsidiary or for a substantial part of its property and is not discharged within 30 days thereafter;

(c) The subsidiary materially violates any employment-related regulations, including those relating to safety and health, and fails to take appropriate steps to correct the violation upon request by The parent; or

(d) The subsidiary makes or furnishes to the parent any representation, warranty or other statement of material fact, which is false or misleading, or The subsidiary fails to disclose to the parent full and complete information as required by this Agreement.

Upon termination of this Agreement, The subsidiary will be obligated to do the following;

(a) pay all outstanding invoices owed to The parent;

(b) pay the parent a reasonable copying charge if the subsidiary requests documents of the parent; and

(c) assume exclusive responsibility and liability for all of its legal obligations.

VIII. WHAT DOES THE FINAL ORGANIZATION LOOK LIKE?
The final structure of a parent/subsidiary organization can take several forms. The subsidiary can become a shell, with no business activity taking place whatsoever, or on the opposite extreme, can be an operable, vital entity running virtually the same as prior to the corporate affiliation except under different managing control. In either example, the parent controls all aspects of the subsidiary including electing it’s Board of Directors as the sole corporate members, and by implication managing the day to day activities of the subsidiary, whatever they may be.