



Subcontractor Agreement

This agreement is made by ABLED, a Nebraska Subchapter S Corporation, hereinafter referred to as “ABLED” and _____, hereinafter referred to as “Subcontractor.”

WHEREAS, ABLED is certified by the Nebraska Department of Health and Human Services (DHHS) as a provider of community-based developmental disability services to individuals, and has entered into a Nebraska Department of Health and Human Services Service Contract for the Provision of Community-Based Developmental Disability Services;

WHEREAS, ABLED and Subcontractor mutually desire to enter into an agreement for the Subcontractor to provide Developmental Disability Specialized Services, as defined by the Nebraska Department of Health and Human Services, for the individual(s) named in the attached addendum, who is(are) herein and hereinafter as the "Individual" whether single or plural; and

WHEREAS, ABLED and the Subcontractor desire to specify in writing the terms and conditions upon which Subcontractor will provide services and required support as aforesaid for the Individual.

NOW THEREFORE, IT IS AGREED:

1. **Services Provided by Subcontractor to Individual.** Subcontractor shall provide Developmental Disability Specialized Services to the Individual. Subcontractor understands that this requires constant supervision, except when the Individual is authorized to be out of Subcontractor's care (e.g., at day services, in school, on a home visit, etc.). Without limiting the foregoing, Subcontractor shall throughout the term of this Agreement:
 - a. Provide input and participate in the development of the Individual's Individual Support Plan ("ISP") as required by State Regulations and the Nebraska DHHS Service Contract.
 - b. Follow the ISP, addressing all aspects of the Individual's life as identified by the ISP.
 - c. Provide habilitation services, namely ongoing intensive or intermittent face-to-face training and support at the home so the Individual can learn life-related and/or work-related responsibilities, skills, and behavior in order to obtain, maintain or advance employment, all in accordance with the ISP.
 - d. Monitor the personal funds of the Individual and keep accurate records of these funds. Subcontractor shall maintain such records in the manner prescribed by ABLED's Funds Management Policy, state and federal law, court order, and the ISP. The Subcontractor is responsible for refunding to the Individual any misspent or non-receipted funds.



- e. Assure availability of safe and reliable transportation for the Individual.
- f. Encourage and afford the Individual the opportunity to attend and participate in the Individual's preferred activities as well as in family and community activities.
- g. Provide training and support to the Individual to increase life skills that support increased independence and community integration.

2. Subcontractor's Responsibilities in Carrying out Duties. In providing services for the Individual under this Agreement, Subcontractor shall:

- a. Follow all ABLED policies and procedures. Any reference in the policies and procedures to "Staff" or "Employee" will apply to "Subcontractor" unless it is not practicable or it is expressly stated otherwise.
- b. Provide all services and documentation required of the Subcontractor by the Nebraska DHHS Service Contract, all applicable laws and regulations, and ABLED's Policies and Procedures. Subcontractor acknowledges, represents, and warrants that Subcontractor has received a copy of and is familiar with ABLED's Policies and Procedures and the Nebraska DHHS Service Contract.
- c. Treat all information regarding the Individual as strictly confidential. In disclosing information regarding the Individual, the Subcontractor shall comply with ABLED's Confidentiality Policy and with all applicable federal and state laws, including without limitation the Health Insurance Portability and Accountability Act ("HIPAA").
- d. Inform ABLED at least 48 hours prior to any travel involving the Individual and the phone numbers where the Individual and Subcontractor can be reached while traveling.
- e. Ensure that any person transporting Individual is licensed to drive and has Motor Vehicle Insurance in an amount not less than that required by law. Subcontractor agrees to provide proof of compliance with this Paragraph 2.e upon request of ABLED;
- f. Obtain all training required by federal and state rules and regulations, and ABLED's Policies and Procedures.
- g. Pay for all costs of repair of property damage caused by Individual, except to the extent an applicable behavior support plan identifies such damage as being Individual's responsibility. Subcontractor understands and agrees that this provision covers all property, whether owned by Subcontractor or a third-party. This Paragraph 2.g shall not be construed as limiting Subcontractor's obligations under Paragraphs 12 or 14.
- h. Assume the charges for any missed appointments with Individual's service providers that result in charges to ABLED or the Individual if missing the appointment was the fault of Subcontractor.
- i. Immediately report to ABLED and to all appropriate State and local agencies as required by law, any act or condition required to be reported by law or regulation, including, without limitation, any abuse, neglect, injury or illness involving the Individual.
- j. Follow ABLED's General Event Report (GER) Policy.
- k. Follow all ABLED's documentation requirements whether now existing or subsequently adopted by ABLED, including the utilization of any electronic communication/ documentation systems required by ABLED
- l. To the extent applicable, comply with all Workers' Compensation, employer's liability and other federal, state, county and municipal laws, ordinances, rules and regulations



required of an employer providing the services contemplated by the Nebraska DHHS Service Contract.

- m. Submit an annual financial audit to ABLED and to Nebraska DHHS unless such requirement is waived in writing by Nebraska DHHS.
- n. Subcontractor is required and hereby agrees to use the federal immigration verification system to determine the worker eligibility status of any persons Subcontractor employs. Federal immigration verification system refers to the electronic verification of the work authorization program, known as the E-Verify Program. The Subcontractor understands and agrees that lawful presence in the United States is required and this Agreement can be terminated if such lawful presence cannot be verified.
- o. Promptly make all records relating to Individual available to ABLED at ABLED's request.
- p. Subcontractor agrees to comply fully with Title VI of the Civil Rights Act of 1964, as amended; the Americans with Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, as amended, in that there shall be no discrimination against any employee who is employed in the performance of this Agreement, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex or marital status. This provision shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.
- q. The following are required if the subcontractor provides residential services:
 - i. Ensure the home is drug free to the extent required by federal and state law,
 - ii. Maintain a clean, safe and suitable home for the Individual if providing residential services.
 - iii. Arrange to provide any needed support or supervision if the Individual is home from day services or from school (if applicable).
 - iv. Arrange to provide any needed support or supervision if the Individual is home from day services or from school (if applicable).
 - v. Permit representatives of ABLED, the Individual's ISP Team, Individual's immediate family, Individual's court-appointed guardian (if any), and representatives of the State to enter Subcontractor's Home without advance notice. Subcontractor further agrees to obtain, at ABLED's request, written consent from all persons residing in the Subcontractor's home permitting such entry.
 - vi. If Subcontractor intends to move, Subcontractor shall timely inform ABLED of such intent and permit ABLED to inspect the new home to ensure it is suitable for the Individual.

3. Background Checks.

- a. In General. Subcontractor agrees and understands the Nebraska DHHS Service Contract Requires Subcontractor and, for residential services, members of Subcontractor's household, submit to certain Background Checks. Subcontractor consents to each and every Background Check required by the Nebraska DHHS Service



Contract, ABLED's Policies and Procedures, and federal and state law. For residential services, Subcontractor agrees to provide written consent from each member of Subcontractor's household for such Background Checks to ABLED

b. Specific Requirements. Without limiting Paragraph 3.a, Subcontractor further agrees to:

(1) Provide any and all documentation necessary to ABLED authorizing the Nebraska DHHS to verify Subcontractor and household members 13 and over (for residential providers) are not in the Nebraska Adult and Child Abuse and Neglect Registry.

(2) Submit to a state and federal criminal history record information check completed by the agency authorized by the Nebraska DHHS.

c. Warranties and Representations. Subcontractor warrants and represents to ABLED that neither Subcontractor nor, if providing residential services, any person in Subcontractor's household age 13 or over (excluding the Individual) has ever:

(1) been on the Nebraska Adult and Child Abuse and Neglect Registry,

(2) been convicted of: child pornography, abuse of a child or vulnerable adult, felony domestic assault, misdemeanor domestic assault within the last five years, shoplifting after age 19 and within the last three years, felony fraud within the last ten years, misdemeanor fraud within the last five years, possession of any controlled substance within the last five years, possession of any controlled substance with intent to deliver within the last ten years, felony assault without a weapon within the last ten years, felony or misdemeanor assault with a weapon in the last 15 years, prostitution or solicitation of prostitution within the last five years, felony or misdemeanor robbery or burglary within the last ten years, rape or sexual assault, or homicide.

d. Notification. Subcontractor agrees that it will immediately notify ABLED if:

(1) the Subcontractor or, if providing residential services, any member of Subcontractor's household, is charged with a crime;

(2) Contractor becomes aware that the Subcontractor or, if providing residential services, any member of the Subcontractor's household, is under investigation for a crime; or

(3) the Subcontractor or, if providing residential services, any member of the Subcontractor's household, is placed on Nebraska Adult and Child Abuse and Neglect Registry, or the Nebraska State Patrol Sex Offender Registry.

4. Further Responsibilities of ABLED In addition to making payments to Subcontractor as provided in Paragraph 21 of this Agreement, ABLED shall provide the following throughout the duration of this contract:

a. Provide or assist Subcontractor in obtaining any special orientation or special training necessary due to the unique needs of the Individual;

b. Provide reasonable support services and consultation as requested by Subcontractor;

c. Provide copies of any applicable rules, regulations, policies, procedures, service contract or plans as requested by Subcontractor, or as required to meet the contractual requirements of funding agencies; and



- d. Provide monitoring (on-site visits) of services in accordance with the Nebraska DHHS Service Contract, applicable law and regulations, and ABLED's Policies and Procedures.
5. **Temporary Substitute Residential Support Professionals.** For residential services providers, when on a short time basis Subcontractor is unable for any reason to provide Extended Family Home assisted residential services to Individual, Subcontractor shall arrange temporary respite provider. Such respite provider shall be qualified and/or trained by ABLED Subcontractor shall notify ABLED of the times and dates of such temporary respite provider services. Such notification shall be given prior to placing Individual in the care of the respite provider except in emergency situation in which case notice shall be given as soon as practicable.
- a. In arranging for temporary respite provider services, Subcontractor shall:
 - (1) Ensure all respite providers have obtained all training required by federal and state rules and regulations, and ABLED's Policies and Procedures.
 - (2) Not use any respite provider, if the respite provider or any member of the respite provider's household: (1) is on Nebraska Adult and Child Abuse and Neglect Registry, or the Nebraska State Patrol Sex Offender Registry, or (2) has been convicted of one of the crimes set out in Paragraph 3.c. Subcontractor will take all reasonable means to ensure compliance with this Paragraph.
 - (3) Ensure all respite providers have satisfied all background checks required by the Nebraska DHHS Service Contract and state and federal law.
 - (4) Ensure the respite provider complies with all applicable state and federal laws and regulations, and also complies with ABLED's Policies and Procedures, including, without limitation its confidentiality policy and its General Event Report (GER) policy. Subcontractor shall provide to the respite provider a copy of ABLED's Policies and Procedures.
 - b. Subcontractor is directly and exclusively responsible for paying any Respite Providers used by Subcontractor. It is Subcontractor's sole and exclusive responsibility to report any such payments to the appropriate taxing authorities in accordance with applicable law.
 - c. The use of a Respite Provider for temporary substitute services shall not relieve Subcontractor of its duties under this Agreement and Subcontractor shall remain liable for the performance of such duties and the quality thereof under this Agreement, as if Subcontractor alone were performing such duties.
6. **Independent Subcontractor Status.** The parties to this Agreement intend that the relationship between them is that of an independent contractor. In fulfilling the terms of this Agreement, neither Subcontractor nor any agent of Subcontractor, employee of Subcontractor, or member of Subcontractor's household shall be or shall be deemed to be an agent or employee of ABLED with respect to services provided hereunder. Subcontractor acknowledges that ABLED is not maintaining any insurance on Subcontractor, Subcontractor's business operations, or members of Subcontractor's household including, but not limited to, general liability, workers' compensation or unemployment coverage. Subcontractor further acknowledges that Subcontractor is responsible for Subcontractor's own federal and state taxes, social



security benefit payments, federal unemployment tax liabilities, liability insurance, and any other assessments that may arise by virtue of Subcontractor's activities under the terms of this Agreement. Subcontractor further acknowledges that as an independent contractor, the parties' relationship is not subject to certain federal and state laws which generally provide certain protections to employees, including, without limitation, the Fair Labor Standards Act, the Family and Medical Leave Act, the Nebraska Wage and Hour Act, the Nebraska Wage Payment Collection Act, and the Nebraska Workers' Compensation Act.

7. Term and Early Termination.

- a. Unless terminated early in accordance with this Paragraph 7, this Agreement shall be for a term commencing on the Commencement Date and continuing through the Termination Date.
- b. Early Termination by ABLED ABLED may, upon written notice to Subcontractor, immediately terminate this Agreement for any of the following reasons:
 - (1) If ABLED, in its discretion, determines that Subcontractor has violated its duty to protect the health, safety or welfare of the Individual, or that its Policies and Procedures otherwise are not being followed by Subcontractor;
 - (2) If a license or certification required of Subcontractor by law or regulation has lapsed, or been suspended or terminated;
 - (3) If the Individual expresses the desire for a change to his or her placement and it is determined by the ISP Team that a change in placement would be in the best interest of the Individual;
 - (4) Upon reduction, termination or withholding of funding relied upon by ABLED to provide the Extended Family Home services for the Individual;
 - (5) If the Nebraska DHHS Service Contract is terminated for any reason;
 - (6) If required under state or federal law;
 - (7) If Subcontractor or any member of the Subcontractor's household is charged with, under investigation for, or convicted of any of the crimes set out in Paragraph 3.b;
 - (8) If Subcontractor or any member of the Subcontractor's household is placed on Nebraska Adult and Child Abuse and Neglect Registry, or the Nebraska State Patrol Sex Offender Registry;
 - (9) If Subcontractor has misappropriated the Individual's funds;
 - (10) If Subcontractor has failed to follow ABLED's General Event Reporting (GER) Policy;
 - (11) If Subcontractor moves from Subcontractor's home without first providing notice to ABLED;
 - (12) If Individual or Individual's legal guardian terminates the contract between Individual and ABLED;
 - (13) If Subcontractor fails to carry insurance as required under this Agreement;
 - (14) If Subcontractor uses an unauthorized respite provider for temporary substitute services; or



- (15) If Subcontractor breaches any other provision of this Agreement and fails to cure such breach within fifteen (15) days of receiving notification of such breach from ABLED
- c. Early Termination by Either Party. Either party may terminate this Agreement for any reason upon thirty (30) days prior written notice to the other party.
8. **Effect of Termination.** Upon termination of this Agreement, Subcontractor shall immediately return the Individual to either ABLED or to the Individual's legal guardian, together with all funds, documentation, and personal property of the Individual then in the possession of the Subcontractor. If this Agreement is terminated before the Termination Date, Subcontractor will be paid Subcontractor's share of collected billings for the period for which services were provided, subject to any withholdings or offsets otherwise permitted by this Agreement.
9. **Removal of the Individual.** If at any time ABLED or the Individual's ISP Team believes that the welfare and well-being of the Individual has been, or will be, seriously compromised, the Individual may be removed from Subcontractor's care and home immediately and without notice to Subcontractor, and ABLED may terminate this Agreement in accordance Paragraph 7.b. If the Individual is removed from the Subcontractor's home under this Paragraph and later returned to the home, Subcontractor will receive Subcontractor's share of collected billings for the period of time the Individual was not residing in the Subcontractor's home.
10. **Notice.** Any notice required or permitted to be given by either party to this Agreement will be deemed sufficient if hand-delivered or mailed by first class mail to the following addresses:
- a. If to ABLED:
- ABLED, Inc.
7562 Upton Grey Lane
Lincoln, NE 68516
- b. If to Subcontractor: (See Addendum)
11. **Indemnification.** Subcontractor agrees to indemnify, defend and hold ABLED, and its employees, officers, and assignees or contracting parties harmless from any and all liability, claims and causes of action of any kind related to the services provided under this Agreement, including, without limitation: (1) for any and all damage or injuries Individual may cause to Subcontractor, members of Subcontractors' household, individuals at Subcontractor's home, or any other third party; (2) for any and all damage or injury Individual may cause to property, whether such property is owned by Subcontractor or another; (3) for any and all damages or injuries Individual may cause to a respite provider providing temporary substitute services, members of such



respite provider's household, or individuals at such respite provider's home; (4) any injuries suffered by Individual while in the care of Subcontractor or any respite provider providing temporary substitute services.

12. Insurance. Subcontractor agrees to maintain at all times while this Agreement shall remain in force the following types of insurance:

- a. home or rental insurance;
- b. general liability coverage covering the Subcontractor's business operations, including the Subcontractor's operations under this Agreement with policy limits of at least \$100,000 per person and \$300,000 per occurrence;
- c. Automobile liability insurance with minimum policy limits of \$100,000 per person and \$300,000 per occurrence

Contractor shall upon ABLED's request provide ABLED with a current certificate of coverage showing the coverages set out above. ABLED may require Subcontractor to obtain other types of coverage not listed above or increase the coverage amounts.

13. Assumption of Risk. Subcontractor acknowledges that there are inherent dangers related to providing Developmental Disability Specialized Services to the Individual. Subcontractor understands that some individuals may exhibit dangerous tendencies and inflict harm on property and persons. Subcontractor hereby assumes all such risk associated with providing Developmental Disability Specialized Services to the Individual.

14. No Contractual Interference. Subcontractor acknowledges that ABLED has an ongoing interest in the well-being and continued provision of services to the Individual. Subcontractor understands that ABLED has entered into contracts with third parties for the Individual's well-being and the provisions of these services. Subcontractor agrees that Subcontractor will not interfere with ABLED's contractual relationships regarding the Individual and will not take any action, or fail to act in any way that would reasonably be expected to jeopardize ABLED's ability to continue to provide services to the Individual.

15. Assignment. Subcontractor shall have no right to sell, assign, transfer, encumber, or otherwise dispose of Subcontractor's obligation to perform services under this Agreement. This provision shall not be construed as prohibiting Subcontractor's from making periodic use of respite providers for temporary substitute services as set out in Paragraph 5.

16. Complete Agreement. This Agreement constitutes the full, complete and entire agreement between Subcontractor and ABLED and supersedes all prior understandings, agreements or other arrangements between the parties with respect to the subject matter hereof.

17. Binding Effect. This Agreement shall be binding upon the Parties hereto, their heirs, successors, legal representatives and assigns. If more than one individual is a signatory to this Agreement as "Subcontractor", then each individual is jointly and



severally obligated to perform all obligations of Subcontractor. A breach of this Agreement by either Subcontractor shall be deemed a breach by both Subcontractors.

18. Governing law / Jurisdiction. This Agreement shall be governed in accordance with the laws of the State of Nebraska without regard to its conflict of laws provision. The exclusive venue for the pursuit of any legal proceeding or remedy arising out of this Agreement shall be in Lancaster County, Nebraska.

19. Policies and Procedures. Subcontractor acknowledges that ABLED may in its absolute discretion amend ABLED's Policies and Procedures. As stated in paragraph 2.a above, Subcontractor agrees to comply with all Policies and Procedures.

20. Interpretation. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties. Subcontractor has had a fair and full opportunity to review this Agreement and to consult with Subcontractor's attorney regarding this Agreement. If any portion or provision of this Agreement is determined to be illegal, invalid, or unenforceable by any court of competent jurisdiction and cannot be modified to be legal, valid, or enforceable, the remainder of this Agreement shall not be affected by such determination and shall be valid and enforceable to the fullest extent permitted by law, and such illegal, invalid, or unenforceable portion or provision shall be deemed not to be a part of this Agreement.

21. Payment to Subcontractor. Nebraska DHHS pays ABLED, Inc. in the month after services are rendered. ABLED will make every effort to pay Subcontractors on or around the 5th business day of month following the month they start providing services.

- a. To receive payment, Subcontractor must complete his/her Attendance records on THERAP by noon on the 1st day of the month. Subcontractor agrees to complete required daily documentation in Therap: TLogs, Attendance, and Programs. Furthermore, Subcontractor agrees to document on-site reviews for verification that services have been provided to the Individual. If Subcontractor fails to provide such records, ABLED may, in addition to any other remedy available to ABLED, withhold payment until such records are provided.
- b. Contractor acknowledges that ABLED may withhold or offset an amount representing the unaccounted for, or misapplied, personal funds of the Individual.
- c. If the Agreement is terminated due to a breach by Subcontractor, payments due Subcontractor may be withheld by ABLED and applied against damages incurred by ABLED resulting from Subcontractor's breach. Any amount so withheld shall not limit the amount of damages to which ABLED may lawfully be entitled.

Subcontractor agrees to promptly remit to ABLED any overpayments made to Subcontractor due to omission, error, fraud, or which may be subsequently denied as the



result of Subcontractor's failure to deliver the required services, or through other improper billing.

IN WITNESS **WHEREOF**, the Parties have executed this Agreement to become effective when signed below.

Subcontractor Signature

Subcontractor Printed Name

Date

Co-Subcontractor Signature (If applicable)

Co-Subcontractor Printed Name

Date

ABLED Signature

ABLED Printed Name & Title

Date



Subcontractor Agreement Addendum

This is the _____ (#) addendum to the Subcontractor Agreement between ABLED, Inc. and _____ (Subcontractor) whose address is _____ (address).

The terms of the original agreement remain unaltered except as noted herein.

This Addendum is for Extended Family Home/ Vocational Day/ Respite (service type) services provided to _____(Individual). The amount of payment to the subcontractor will be 85% of the Daily Rate funded by Nebraska DHHS. I understand that if I provide fewer than the required Daily Hours I will be compensated at 85% of the Hourly Rate. Furthermore, if I split the shift with other subcontractors/staff, my compensation will be calculated based on my share of 85% of the Daily Rate (my hours divided by the total hours of service for the day). **Alternatively**, I will be paid the agreed upon hourly rate of \$_____ for Intermittent Day or Other Services.

Services and compensation under this Addendum will begin on _____, 2016 and terminate June 30, 2017.

Subcontractor Signature

Subcontractor Printed Name

Date

Co-Subcontractor Signature (If applicable)

Co-Subcontractor Printed Name

Date

ABLED, Inc. Signature

ABLED, Inc. Printed Name & Title

Date