HMCDDO AFFILIATION AGREEMENT:

Home and Community-Based Intellectual/Developmental Disability Services and Supports

This agreement is entered into by and between the Harvey-Marion County Community Developmental Disability Organization, hereinafter referred to as “HMCDDO,” and “\_\_\_”, hereinafter referred to as “Service Provider.”

RECITALS

The Kansas Statutes Annotated for the DD Reform Act, K.S.A. 39-1801 et seq, hereinafter referred to as K.S.A. 39-1801 et seq, became effective January 1, 1996. K.S.A. 39-1801 et seq. establishes the Community Developmental Disabilities Organization (CDDO) as the local body charged with administering services for persons who have intellectual or developmental disabilities. K.S.A. 39-1801 et seq. states that the CDDO shall “serve” as the single point of application and referral for services and assist all persons to have access to and opportunity to participate in community services. HMCDDO is designated as the CDDO in its service area by the Kansas Department for Aging and Disability Services (KDADS) and by joint resolution of the County Commissions of Harvey and Marion Counties. HMCDDO provides no direct services to persons with intellectual/developmental disabilities. HMCDDO affiliates through this agreement with service providers for provision of home and community-based services and supports to persons with intellectual or developmental disabilities.

I. GENERAL PROVISIONS

A. Through this agreement, the parties desire to set out their respective obligations as CDDO and Affiliated Service Provider regarding the services to be provided and the use of funds that are accessible as reimbursement for these services because of the contractual relationship between the parties. Consistent with K.S.A. 39-1801 et seq., however, “nothing in this (contract) shall create an entitlement to services”. This agreement is a sub-contract to the agreement entered into as provided in the DD Reform Act between KDADS, Kansas Department of Health and Environment (KDHE) and HMCDDO.

B. For the purpose of this agreement the definitions of terms contained in the KDADS/CDDO Contract and appendices, KDADS Regulations, KDADS Policy, KDADS HCBS IDD Program, Kansas Medical Assistance Program (KMAP) manuals and licensing guidelines or protocols shall apply and by reference become part of this agreement. The definitions of these terms shall be interpreted narrowly.

1. Nothing in this agreement requires HMCDDO as the CDDO to pay the operating deficit of a Service Provider.
2. Nothing in this agreement requires HMCDDO as the CDDO to pay local tax support revenue to a Service Provider.
3. The Service Provider shall be responsible for obtaining, maintaining and complying with all applicable licensure requirements, rules and regulations, and policies which are now or hereafter applicable to their/its status as a Service Provider.

F. The Service Provider will submit to HMCDDO any required licensure prior to the initiation of this agreement and thereafter throughout the period that they/it remain(s) a Service Provider. Service Provider shall immediately notify HMCDDO in the event that their/its licensure is restricted, suspended, terminated, or otherwise negatively affected.

1. The Service Provider will maintain such insurance as will protect HMCDDO and Service Provider from claims by employees of the Service Provider under any Worker’s Compensation or similar acts, and also from any other claims for personal injury including death or property damage, which may be made by or on behalf of agents or employees of the Service Provider and the general public arising from or related to performance of the duties and obligations of the Service Provider under or pursuant to this Agreement, or the applicable statutes, rules, and regulations.
2. Prior to the commencement of the services described herein, the Service Provider will furnish HMCDDO with certificates that Service Provider has in effect the following insurance:

1. Workers Compensation insurance as required according to Kansas law with Employers’ Liability (E.L.) Insurance plus Occupational Disease Insurance of the following limits:

E.L. – each accident $100,000

E.L. – Disease – each employee $100,000

E.L. – Disease -- policy limit $500,000

2. If Service Provider transports individuals served during services provided for under this agreement, Automobile Liability Insurance in the minimum amount of $500,000 is required. Coverage must be written with a carrier approved to do business in the State of Kansas with a financial rating (Best Guide) of A or better.

3. Service Provider shall annually provide the HMCDDO with a certificate of Comprehensive (also known as Commercial) General Liability Insurance in the minimum amount of $500,000. The HMCDDO must be named as an additional insured on the general liability policy. Coverage must be written with a carrier approved to do business in the State of Kansas with a financial rating (Best Guide) of A or better.

II. INTELLECTUAL DEVELOPMENTAL DISABILITY (IDD) SERVICES PROVIDED BY SERVICE PROVIDER

1. Service provider will indicate in Addendum One of this agreement the specific IDD services that the Service Provider is affiliating with HMCDDO to provide. Services shall be provided in accordance with all KDADS/Medicaid regulations, policies, and Kansas Medical Assistance Program Manuals and, if applicable, subject to integrated plans of care (ISPs)/prior authorizations/plans of care as applicable.
2. HCBS/IDD program funding units are those approved through the KanCare Managed Care Organization (MCO) Prior Authorization process pursuant to the Integrated Service Plan (ISP) and are reimbursed at the established rates as published by KDADS except for those persons who receive rates established through the provisions of C.
3. On occasion some service circumstances require the payment of HCBS IDD special tier or individualized service rates. These requests may be made on an individual basis and will be processed at the time of the request according to KDADS KanCare IDD flow charts including MCO recommendation and HMCDDO funding procedures.
4. IDD State Aid services are those consistent with IDD service descriptions in the KDADS Service Taxonomy, limited to KDADS-CDDO contract priority areas of transportation, children’s services, direct service provision, non-Medicaid eligible case management, and flex funding for services provided to individuals with IDD that are not paid for by other sources, for example dental procedures, home modifications, etc. State aid services are approved through the HMCDDO Prior Authorization process pursuant to an annual Plan of Care, or approved Personal Needs Fund request, subject to available resources.

III. BILLING AND PAYMENT FOR SERVICES

1. Prior to commencement of this Agreement, the Service Provider agrees to complete all necessary paperwork to obtain a Medicaid provider number and submit the Medicaid number to HMCDDO as soon as received.
2. The Service Provider agrees to complete contracting and credentialing with applicable MCO(s) for billing and payment of KanCare Medicaid services.
3. The Service Provider will be responsible for documenting services provided per current KDADS policy, HCBS IDD Handbook and KMAP manual, and any amendments to KDADS policy, the HCBS IDD Handbook and KMAP manual that may be hereafter implemented.
4. State Aid or Discretionary Funded services will be reimbursed according to the annual Plan of Care, or approved Personal Needs Fund request, subject to available resources.
5. The Service Provider will bill at least monthly for services rendered. Billing for services reimbursed by Harvey-Marion County CDDO through the Local Finance Plan with state aid or discretionary funding is due by the 10th of the month following the provision of service.
6. The Service Provider will submit to HMCDDO, upon request, copies of Remittance Advice(s) received within 10 days following the request.
7. The Service Provider hereto specifically acknowledges that the relationship between HMCDDO and the Service Provider is that of an independent contractor and not as an agent, representative or employee of HMCDDO and neither HMCDDO nor the Service Provider shall in any way hold themselves as an agent, representative, or employee of the other at any time. The Service Provider is solely responsible for all knowledge of and adherence to applicable laws, rules, regulations, and payment of all debts, including, but not limited to, income and other tax liabilities and payroll related liabilities.
8. Payment of Wages and Payroll Taxes – compliance with laws; indemnity.
   1. The Service Provider shall pay the wages and salaries of the officers, agents, employees, and contract labor of the Service Provider in strict accordance with applicable state and federal laws, rules, and regulations, and shall indemnify and hold harmless HMCDDO against and from any and all liabilities, damages, penalties, and expenses of whatsoever nature resulting from failure so to do, including its reasonable attorneys’ fees and expenses.
9. In the performance of the work herein specified, the Service Provider shall comply with all federal, state, county, municipal and local laws, statutes, ordinances, orders, codes, rules and regulations applicable to the work including, but not limited to, those relating to wages, working hours, overtime and working conditions. The Service Provider agrees to accept exclusive liability and responsibility for the payment of any and all payroll taxes or contributions for unemployment insurance or old age pensions or annuities which are measured by the wages, salaries or other remuneration paid to the employees of the Service Provider or measured by the performance by Service Provider of the services, or the furnishing of equipment, tools, or materials, as provided herein. The Service Provider further agrees to reimburse HMCDDO for any of such taxes and contributions, as by law HMCDDO may be required to pay as related to fees paid for services performed under this Agreement.
10. The Service Provider agrees to comply with all valid administrative regulations respecting the assumption of liability for such taxes and contributions and the supplying of information to the proper authorities.
    1. If necessary or required by HMCDDO, the Service Provider will provide information for purposes of verification of the Medicaid/Medicare eligibility of the persons served through KDADS and for carrying out its responsibilities regarding any monthly obligation or spenddown due from the individual. The Service Provider is responsible for billing and collecting the monthly obligation or spenddown from the person served. Requests for payment that are denied by Medicaid due to ineligibility or monthly obligation or spenddown shall not be the responsibility of HMCDDO.
11. In the event that KDADS determines that lack of funding requires a modification of its KDADS/CDDO contract, HMCDDO reserves the right to renegotiate terms and conditions of this Agreement. In the event that KDADS is subject to formal funding reduction or allotment, HMCDDO reserves the right to alter or adjust payment amounts to meet funding reductions or allotments providing written notice of such alterations within 20 days before such alterations or adjustments become effective.
    1. In the event HMCDDO takes measures to reduce services, HMCDDO will comply with KDADS policy Involuntary Service Reduction Methodology and KDADS policy Service Termination.
12. Any overpayment received by the Service Provider as verified through audit, will be paid back by the Service Provider in accordance with applicable rules and regulations. HMCDDO is not responsible for such paybacks.
13. Service Provider shall provide information in the biennial independent rate study defined and conducted by KDADS according to the DDRA (K.S.A. 39.1801) as a condition of participation in the HCBS IDD program.

V. CDDO & SERVICE ADMINISTRATION

1. Service Provider will comply with all HMCDDO written service area policy, procedure, and protocol. Service Provider acknowledges it has received, or had opportunity to review, current service area policy, procedure, and protocol prior to execution of this agreement.
2. The Service Provider shall refer all individuals requesting I/DD services in Harvey-Marion County CDDO area to HMCDDO. HMCDDO shall serve as the single point of application, eligibility determination and referral for persons desiring community services in the Harvey-Marion County CDDO area.
3. Service Provider shall refer funded individuals interested in relocating from other CDDO areas to HMCDDO for options counseling/informed choice of available service providers affiliated with HMCDDO.
4. At each time an individual in the HMCDDO service area requesting IDD services is awarded access to new and/or additional HCBS IDD services by the individual’s MCO, the Service Provider shall refer the individual to HMCDDO for options counseling/informed choice of available service providers affiliated with HMCDDO.
5. HMCDDO shall complete functional assessment and periodic quality oversight indicators. Affiliated Service Provider will furnish all necessary documentation and information for functional assessment, as applicable, within time frame specified in HMCDDO Functional Assessment Protocol.
6. Service Provider will utilize, complete, and timely provide the HMCDDO forms and procedures for fulfillment of CDDO administrative requirements.
7. Service Provider will report all adverse incidents/critical events in compliance with the KDADS Adverse Incident Reporting System policy, and HMCDDO to HMCDDO including but not limited to emergency medical services, unplanned hospitalizations, law enforcement involvement, deaths of persons served, and reports of abuse, neglect, or exploitation within time frame identified in the HMCDDO Critical Event Protocol.
8. HMCDDO shall whenever feasible provide information to the Service Provider regarding KDADS policy, regulation or guidelines associated with this Agreement.
9. The Service Provider shall maintain e-mail accessibility through at minimum one e-mail address, which will serve as a contact point for the Service Provider to the HMCDDO and vice-versa. HMCDDO shall also maintain e-mail accessibility through no less than one email address for the same purpose.
10. HMCDDO shall act as the sole referral contact point for all individuals seeking services from a state hospital including but not limited to Parsons or KNI, or Larned or Osawatomie. This includes, and is not limited to, admission, evaluation, and outreach consultation services.
11. Service Provider agrees to notify HMCDDO of any inquiries for service from residents or guardians of residents of state hospitals, private Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/IID), or nursing facilities (NF). HMCDDO will determine the individual’s eligibility, work with KDADS and the individual’s MCO regarding the availability of funding for community services, and assure individuals are adequately informed of DD Reform rights, services, and service provider options.
12. HMCDDO may impose deadlines on cooperation with or performance of regulatory, policy or HMCDDO procedures to assure compliance with responsibilities by Service Provider.

VI. OUTCOMES FOR PERSONS SERVED

1. The Service Provider shall administer services for each person covered by this agreement in ways which are responsive to the person-centered support plan while ensuring services meet the needs of individuals served and provide such individuals with opportunities to increase their independence, integration and productivity in the community. The Service Provider agrees to measure the extent to which this outcome is being met by:
   1. Utilizing a methodology established by HMCDDO, which determines whether or not a person served, the person’s guardian(s), if one has been appointed, and the person’s family, reports services have been responsive to the individual and assisted with outcomes/goals.

B. The Service Provider shall administer services for each person covered by this Agreement in a manner that will enable them to exercise the right to risk, a principle that requires service systems to deliver services in such a way that the person served is not overprotected and thereby not unnecessarily limited in his or her opportunities for normal life experiences.

C. The Service Provider agrees if an individual in the Service Provider’s service is admitted to an institutional setting through the CDDO Gatekeeping process, a transition plan will be developed in conjunction with HMCDDO and KDADS to support the person’s return to home and community-based services, including the identification of specific timelines, planning activities and responsible parties.

VII. QUALITY ASSURANCE

1. Services provided in this agreement in consideration for funds received may at any time be monitored or evaluated by KDADS or HMCDDO or their designees.
2. The Service Provider will comply with an agreed Integrated Service Plan/Plan of Care and Person-Centered Support Plan for each person served.
3. HMCDDO and KDADS shall monitor or evaluate, regularly, and at any time for cause, the services provided by the Service Provider. Either KDADS or HMCDDO may review the annual independent financial audit of the Service Provider at any reasonable time. Monitoring may include reviews of case records, service plans, interviews and physical inspections, if applicable.
4. The Service Provider agrees to comply with all applicable OSHA regulations.
5. The Service Provider will provide all the necessary services and support for the specific services contracted in this Agreement to the person served that may include access to proper services in the areas of medical, physical, dietary, behavioral, personal, family living, educational and religious needs. In addition, the Service Provider will seek to ensure that the person served has adequate room for living, meals, clothing and other usual and necessary incidentals.
6. The Service Provider will be responsible for applying for and maintaining any license required by Kansas to operate or provide the services contracted. If the Service Provider is not subject to licensing standards, the Service Provider still must meet all applicable HCBS IDD program requirements and applicable regulations and adhere to any applicable laws, regulations, program definitions/limitations, KDADS policy, and HMCDDO requirements.
   1. Any Service Provider CSP that loses its license to provide services will no longer be entitled to receive IDD service funds and must cooperate with assisting in the transition of persons to alternative Service Providers until all service needs are met.
7. Training
   1. The Service Provider will have training in place applicable to meet all applicable rules, regulations, policies and licensure requirements.
   2. Upon request, the Service Provider shall make available to HMCDDO its training outlines or programs.
8. Safeguards for persons served:
   1. The Service Provider shall promote the involvement of multiple individuals and entities in the lives of persons served. Without the safeguard of having more than one individual or set of individuals in an individual’s support system, risks of abuse, neglect, or exploitation become greater.
   2. The Service Provider shall not assume or maintain a guardianship or fiduciary role with an individual in Service Provider’s services unless Service Provider is family, as per KDADS/CDDO Contract definition: any person immediately related to the beneficiary of services. Immediate related family members are: parents (including adoptive parents), grandparents, spouses, aunts, uncles, sisters, brothers, first cousins and any stepfamily relationships. Foster Families for children in services may be allowed a temporary family status.
   3. Service Provider shall notify HMCDDO if an unrelated Guardian/Fiduciary appears in a conflict of interest or impropriety when dealing with needs of the person served, such as interest that can be perceived as self-serving or adverse to the position or best interests of the individual served. Service Provider shall assure Guardian/fiduciary is independent from all Service Provider services to ensure Guardian/fiduciary’s freedom to challenge inappropriate or poorly delivered services and to advocate for the individual.
   4. Service Provider shall inform HMCDDO if an individual is represented by a Guardian/Fiduciary who would not qualify to be employed for IDD services per KDADS Policy regarding Background Checks.
   5. Service Provider shall have policies and procedures in place to provide positive behavioral supports strategies for individuals served.
   6. If Service Provider maintains private funds of persons served for personal spending money and/or to assist with shopping for groceries, clothing, or personal items, the Service Provider shall have processes and procedures in place to account for the private funds of persons served.
   7. Targeted Case Management (TCM) Service Providers shall be prepared to coordinate and/or arrange for back-up coverage of case management caseload when a case manager is on leave.

VIII. PERSON’S RIGHTS

A. The Service Provider shall take or arrange to have taken proactive and remedial actions to protect the legal rights of all persons served by the Service Provider so that the persons are afforded “the same dignity and respect as individuals who do not have a developmental disability” including being free from chemical restraint as defined by 42 CFR 483.450. The proactive and remedial actions taken or arranged to have taken shall include but not be limited to:

* + 1. Providing appropriate training for all staff, persons served, the persons’ families and guardians to encourage and assist persons in understanding their rights.

2. Monitoring community services provided for the persons.

3. Implementing a plan to correct all identified violations of the person’s rights.

B. The Service Provider shall comply with provisions of K.S.A. 39-1401 et. seq. The Service Provider and all its employees must immediately report any incidents of suspected abuse, neglect or exploitation directly to the appropriate official body responsible for investigating such incidents including, but not limited to, the Kansas Protection Report Center, by phone at 1-800-922-5330, or electronically at <http://www.dcf.ks.gov/services/PPS>. The Service Provider must fully cooperate with all such investigations. Service Provider shall also report any incident of suspected abuse, neglect or exploitation directly to HMCDDO. Service Provider shall forward to HMCDDO any and all final findings, recommendations, or reports made between KDADS and the Service Provider concerning the reported ANE incident upon completion of any KDADS investigation processing.

C. The Service Provider agrees that they will not knowingly hire any individual with a history of abuse, neglect, or exploitation in accordance with state law, regulation or KDADS policy. The Service Provider will institute necessary procedures to adequately check backgrounds of employees, including payment of all fees as per KDADS Policy regarding Background Checks. Service Provider will be responsible for conducting self-background checks as prescribed per KDADS Policy, including payment of all fees.

D. The Service Provider shall notify HMCDDO and the person served, the person’s guardian, if one has been appointed, family members, as appropriate, and KDADS at least 60 days prior to the Service Provider permanently discharging a person served in HMCDDO service area. If the person requires continued services and requests assistance the Service Provider shall assist the CDDO and the person served with the transition to the equivalent services and the Service Provider shall not discharge the individual served until he or she has transitioned to alternative, appropriate services.

* 1. A person cannot be terminated from services unless at least one of the following occurs:
     + 1. The Secretary of KDADS determines a person to be inappropriate for community services based on a finding that the person presents a clear and present danger to self or others in the community;
       2. A person, who has available private funding, fails to abide by a written service agreement with the Service Provider which specifies payment of any amount with private funding;
       3. A person refuses to apply for Medicaid benefits;
       4. All funding for the person allocated in this agreement is discontinued;
       5. The person voluntarily withdraws from services; or
       6. The person’s service needs exceed service funds available and/or the person’s needs have exceeded the Service Provider’s capacity to provide services. The Service Provider must verify to HMCDDO that all HCBS IDD Medicaid waiver service funds for all individuals in services have been expended.

E. Health Insurance Portability and Accountability Act (“HIPAA”)

1. Service Provider will preserve the confidentiality of all information concerning eligible persons served and restrict the use of such information to purposes necessary for carrying out the terms of this agreement. Furthermore, both parties agree that they will comply with the federal Health Insurance Portability and Accountability Act including the HITECH Act amendments contained in the American Recovery and Reinvestment Act of 2009, and implementing federal regulations.

2. HMCDDO is obligated to obtain reasonable assurances from Service Provider that Service Provider will not use or disclose Protected Health Information (PHI) in ways that HMCDDO could not. These confidentiality protections must continue for as long as the PHI is in the possession of Service Provider.

3. The terms “Protected Health Information” and “PHI” mean individually identifiable information in any medium pertaining to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, that Service Provider receives from HMCDDO or that Service Provider creates or receives during execution of this agreement. The terms “Protected Health Information” and “PHI” apply to the original data and to any data derived or extracted from the original data that has not been de-identified.

4. Service Provider may use or disclose PHI to perform functions, activities or services for, or on behalf of, HMCDDO as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if performed by HMCDDO.

5. Service Provider may use PHI for the proper management and administration of Service Provider, or to carry out Service Provider’s legal responsibilities. Except as otherwise limited in this Agreement, Service Provider may disclose PHI for the proper management and administration of Service Provider, provided that disclosure is required by law, or, when permitted by HIPAA, Service Provider 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 purpose for which it was disclosed to the person, and the person notifies Service Provider of any instances of which it is aware in which the confidentiality of the information has been breached.

6. Service Provider will limit the amount of PHI used and/or disclosed pursuant to this section to the minimum necessary to achieve the purpose of the use and disclosure.

7. Service Provider will establish and maintain appropriate safeguards to protect the physical and electronic security of and prevent unauthorized access to the PHI and upon request will furnish HMCDDO with a written description of such safeguards. Service Provider agrees to allow HMCDDO access to premises where the PHI is kept for the purpose of inspecting physical security arrangements.

8. Appropriate administrative, technical, procedural and physical safeguards shall be established by Service Provider to protect the confidentiality of PHI and to prevent unauthorized access to it. The safeguards shall provide a level of security that is required by the HIPAA regulations, including the HITECH Act and implementing regulations.

9. Service Provider will provide and maintain all reasonable security procedures at any place where services are performed by the Service Provider under this Agreement.

10. Service Provider will require all entities, including agents which perform Covered Entity Functions on behalf of Service Provider, and to whom Service Provider discloses PHI received from HMCDDO or created or received by Service Provider during the execution of this agreement to agree to the same restrictions and conditions that apply to Service Provider with respect to use and disclosure of such information.

11. Service Provider will notify HMCDDO in writing of any use or disclosure of PHI not allowed by the provisions of this Agreement of which it becomes aware, and in the event PHI, subject to this Agreement, is subpoenaed, copied or removed by anyone except an authorized representative of KDADS, the HMCDDO, or Service Provider.

12. Service Provider will follow the HIPAA standards with regard to the transmission of PHI.

13. Service Provider will notify HMCDDO of the individual Service Provider has designated as the custodian of PHI who is responsible for observance of all conditions of use (i.e. Privacy Officer). If custodianship is transferred within the organization, Service Provider shall notify HMCDDO within five (5) business days.

14. Service Provider will provide access to the PHI in accordance with 45 C.F.R. Section 164.524. Service Provider will make the PHI available for amendment and incorporate any amendments to the PHI in accordance with 45 C.F.R. Section 164.526. Service Provider will make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. Section 164.528.

15. Service Provider will make its internal practices, books, and records relating to the use and disclosure of the PHI received from HMCDDO, or created or received by Service Provider during execution of this agreement available to the Secretary of the United States Department of Health and Human Services for purposes of determining compliance with 45 C.F.R. Parts 160 and 164. Service Provider will make these same practices, books and records available to HMCDDO upon written request.

16. Service Provider will, if this Agreement is terminated by HMCDDO within the contract term, within 90 days of such termination, return or destroy, at HMCDDO’s direction, any and all PHI that it maintains in any form and will retain no copies of the PHI, to the extent such regulations do not conflict with K.S.A. 45-401 et seq. or other applicable record retention obligations under federal or state law. If the return or destruction of the PHI is not feasible, the protections of this section of the Agreement shall be extended to the information, and further use and disclosure of PHI is limited to those purposes that make the return or destruction of PHI infeasible.

17. Service Provider acknowledges that HMCDDO is authorized to terminate this Agreement if HMCDDO determines that Service Provider has violated a material term of this paragraph.

IX. RECORDS, REPORTS, AND INSPECTION

A. All costs incurred by the Service Provider shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper details the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

B. The licensed Service Provider shall maintain all records of services in accordance with K.A.R. 30-63-1 thru 30-63-30.

C. All Service Providers shall maintain records in accordance with HCBS IDD Program, KDADS, and Fiscal Intermediary requirements.

D. Except as otherwise authorized by HMCDDO, the Service Provider shall retain such documentation for a period(s) of six (6) years or as otherwise required by federal and state law after receipt of the final expenditure report under this Agreement.

E. The Service Provider shall furnish at the request of HMCDDO, in such form as HMCDDO may require, such statements, records, reports, contracts, agreements, data and information as HMCDDO requests pertaining to matters covered by this Agreement and its appendices. All reports, information, data, and other related materials prepared or assembled by the Service Provider under this Agreement are confidential. The Service Provider will comply with the provision of state and federal regulations in regard to confidentiality of the records of persons served.

F. The Service Provider gives KDADS and HMCDDO, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the services, and financial records pertaining to this agreement.

G. Neither party to the contract shall prohibit or prevent the Legislative Division of the Post Audit, KDADS Audit Services, Kansas Department of Health and Environment (KDHE) (the Kansas Medicaid authority), KDADS, or Centers for Medicare & Medicaid Services (CMS) from having access to any records, documents, or other information, confidential or otherwise, regarding or relating to the execution and/or performance of this agreement. (See K.S.A. 46-1101)

H. The Service Provider shall provide HMCDDO with information required by the Kansas Assessment and Service Information System known as KAMIS. Any additional requests for information by HMCDDO will be reasonably made based on specific need for information not available through KAMIS or other current sources, but which is necessary for continued operations or which has been requested by KDADS.

I. As applicable, Service Provider is responsible for Independent Audits in accordance with KDADS /CDDO Independent Audit Policy and according to State of Kansas Subrecipient Monitoring Policy.

X. COMPLIANCE

A. The Service Provider shall be required by HMCDDO to comply with:

1. Applicable regulatory and statutory requirements in existence January 1, 1996, including but not limited, to: 31 U.S.C. 7301 et seq., K.S.A. 65-4411 et seq., and K.A.R. 30-41-1 et seq.

2. All services provided as a result of this Agreement, except Personal Care Services or services provided through self-directed care options, must be licensed in accordance with K.A.R. 30-63-01 by KDADS or other appropriate license, law or regulation.

3. Federal and state requirements for Medicaid and HCBS program requirements including, but not limited to, CMS requirements, Kansas Medicaid and HCBS IDD program rules, regulations, policies, and guidelines. Additionally, the Service Provider should be prepared to provide evidence of compliance with the Kansas Medicaid and HCBS IDD program rules, regulations, policies, and guidelines to HMCDDO upon request.

4. The Service Provider agrees: a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1011 et. seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et. seq.) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 et. seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; b) to include in all solicitations or advertisements for employees, the phrase “equal opportunity employer”; c) to comply with the reporting requirements set out at K.S.A. 44-1031; and d) to include these provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor.

5. Parties to this Agreement understand that the provisions of paragraph number XII.A.4 (with the exception of those provisions relating to the ADA) are not applicable to an Service Provider that employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total $5,000 or less during the fiscal year of such agency.

6. The Service Provider will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against persons with disabilities in employment services, participation and access to all programs receiving federal financial assistance. The Service Provider shall also comply with applicable requirements of the Americans With Disabilities Act (ADA) which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

7. The Service Provider hereby acknowledges and agrees that it shall comply with and remain in compliance with the regulations, policies, guidelines and requirements of the federal government, including checking the “Excluded Parties List” for potential debarred persons and entities. The Service Provider acknowledges and agrees that it shall comply with and remain in compliance with the provisions of the State of Kansas “Financial and Administrative Guide for Grants.”

8. The Service Provider represents that it has, or shall secure at its own expense, sufficient personnel to perform the services under this Agreement. Personnel of the Service Provider shall not be considered employees of or have any other employment or contractual relationship with HMCDDO. All personnel engaged in the work shall be fully qualified and trained in accordance with the laws of the State of Kansas. The Service Provider will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, and, if applicable, the laws of the State of Kansas. The Service Provider will provide proof to HMCDDO, as requested, that all payroll taxes are paid as they come due.

9. Any alterations to this Agreement shall only be valid when they have been reduced to writing, duly signed by all parties, and attached to the original of this Agreement. This Agreement shall be subject to renegotiation upon changes in federal or state laws or regulations to conform to any changes caused by amendments or revisions to said laws or regulations.

10. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of HMCDDO. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

XI. INDEMNIFICATION

A. The Service Provider hereby expressly agrees and covenants that it will hold and save harmless and indemnify HMCDDO, its officers, agents, servants, and employees from liability of any nature or kind connected with the work to be performed hereunder arising out of any act or omission of the Service Provider or of any employee, representative, or agent of the Service Provider or any of them, including reasonable attorneys’ fees and expenses. Neither the purchase of insurance by the Service Provider, nor the execution of this Agreement by either party, shall constitute a program of any applicable exemption from liability or limitation of liability provided to HMCDDO pursuant to the Kansas Tort Claims Act, K.S.A. 75-6101, et seq. Nothing contained herein shall be construed to be a purchase of insurance as contemplated by K.S.A. 75-6111, and the indemnification provided to HMCDDO by the Service Provider hereunder shall not exceed the maximum liability of HMCDDO established by K.S.A. 75-6105, as amended.

B. HMCDDO hereby expressly agrees and covenants that it will hold and save harmless and indemnify the Service Provider, its officers, agents, servants, and employees from liability of any nature or kind, including reasonable attorneys’ fees connected with the work to be performed hereunder arising out of any act or omission of HMCDDO or of any employee, representative, or agent of HMCDDO, or any of them.

XII. TERMINATION OF CONTRACT

* 1. The Service Provider may terminate this Agreement after giving HMCDDO at least ninety (90) days’ written notice, or another mutually agreed to time, for successful transition to alternative service providers for all people receiving services.
  2. HMCDDO may terminate this Agreement as provided under K.A.R. 30-64-22(f) or any other controlling state law or regulation or in the event that Service Provider is in material breach of any term or provision of this Service Provider agreement, which is not cured within 45 days of written notification from HMCDDO to Service Provider specifying the breach. This Agreement shall terminate automatically, or may be amended by mutual agreement of the parties, if Service Provider fails to maintain any licenses or certifications or Medicaid Provider Agreements that may be required by law or regulations in order to provide the services Service Provider is to deliver under this Agreement.
  3. Notwithstanding the above, the Service Provider shall not be relieved of liability to HMCDDO by virtue of any breach of this Agreement by the Service Provider and HMCDDO may withhold any payments to the Service Provider for the purpose of set-off or pursue collection of damages, together with HMCDDO’s reasonable attorneys’ fees and expenses, until such time as the exact amount of damages due HMCDDO from the Service Provider is determined.

XIII. REPRESENTATIVE’S AUTHORITY TO EXECUTE THIS AGREEMENT

By signing this Agreement, the representative of the Service Provider hereby represents that such person is duly authorized by the Service Provider to execute this Agreement on behalf of the Service Provider and that the Service Provider agrees to be bound by the provisions hereof.

This Agreement is effective beginning \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Effective Date) and shall remain in effect until terminated according to the termination provisions above, or replaced by a subsequent Agreement executed by the Parties.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Service Provider Federal Tax ID Number

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Service Provider KMAP Number for HCBS IDD *if applicable*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Service Provider KMAP Number for IDD TCM *if applicable*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Service Provider Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Harvey-Marion County CDDO Signature Date

ADDENDUM ONE:

Home and Community-Based Intellectual/Developmental Disability Services and Supports to be Provided by Affiliated Service Provider

By X in the left column below, this Addendum identifies each planned service the Service Provider is qualified and has elected to provide as an HMCDDO-affiliated Provider. By numbers in the right column below, this Addendum indicates maximum capacity of individuals for each initialed service the affiliated provider is qualified and prepared to serve/support in HMCDDO service area.

|  |  |  |
| --- | --- | --- |
| Mark X to Select | Specific Service/Support to be Provided  in HMCDDO Service Area | Max Capacity in HMCDDO area |
|  | I/DD Targeted Case Management |  |
|  | Adult Day Supports 18+ |  |
|  | Adult Residential Supports 18+ |  |
|  | Wellness Monitoring |  |
|  | Specialized Medical Care |  |
|  | Medical Alert |  |
|  | Assistive Services |  |
|  | Personal Care Services (Agency Supportive Home Care) |  |
|  | Enhanced Care Services (Sleep Cycle Support) |  |
|  | Overnight Respite Care |  |
|  | Residential Supports for Children Not in DCF Custody |  |
|  | Financial Management Services (FMS) |  |
|  | Self-Directed Personal Care Services |  |
|  | Self-Directed Enhanced Care Services |  |
|  | Self-Directed Overnight Respite Care |  |
|  | Self-Directed Specialized Medical Care |  |
|  | Non-HCBS Respite Care for Children 0 - 16 |  |
|  |  |  |
|  |  |  |

APPENDIX A

Targeted Case Management

This appendix supplements the HMCDDO Affiliation Agreement for providers of Licensed Targeted Case Management (TCM) services.

1. Providers of Licensed Targeted Case Management (TCM) services assume full responsibility for obtaining and maintaining licensure from KDADS to perform licensed targeted case management services.
2. Providers of Licensed Targeted Case Management (TCM) services assume full responsibility for meeting training requirements established by KDADS.
3. Providers of Licensed Targeted Case Management (TCM) services assume full responsibility for providing back-up coverage of case manager caseloads during case manager vacation/leave of absence.
4. Providers of Licensed Targeted Case Management (TCM) services will notify persons served and their legally responsible parties as applicable of changes in caseload responsibilities.
5. Providers of Licensed Targeted Case Management (TCM) services will notify Harvey-Marion County CDDO of the following:
6. Changes in caseload responsibilities;
7. New case manager hires;
8. Case managers ending employment.
9. When TCM provider capacity is reached and TCM provider is no longer accepting referrals for TCM services.
10. Providers of Licensed Targeted Case Management (TCM) services will coordinate with Managed Care Organization (MCO) Care Coordinators as follows:
11. Invite MCO Care Coordinators to PCSP meetings; and
12. Participate in person-centered integrated service plan meetings as notified and as available.

APPENDIX B

Child Placing Agency

This Appendix supplements the HMCDDO Affiliation Agreement for the provision of services by Child Placing Agencies. This Appendix further defines expectations in the provision of services to children placed outside their family home. “Home County” is defined as the designated county where the child’s Medicaid case is located. Verification can be made through the applicable DCF office.

1. Provision of HCBS IDD residential services for children not in DCF custody.
2. Affiliated Child Placing agency agrees to maintain resource families (also known as foster families) licensed by KDHE who are willing to support children with IDD.
3. Affiliate agrees to review referrals from HMCDDO for children with IDD who are not in DCF custody, whose parents seek voluntary out of home placement due to the child’s disability-related need, preventing when feasible the need for the child with IDD to enter custody.

1. In seeking voluntary out of home placement, the parties agree that priority will be given to available foster families in or near the child’s home community and same school district whenever possible, so the child remains in contact with the natural family, if appropriate, and maintains established community connections with school and teachers, friends and neighbors, community activities, church, and health care professionals.

1. The Child Placing Agency agrees to follow HCBS IDD handbook requirements that the foster family home may serve no more than home to serve no more than two (2) children unrelated to the foster family, nor may more than two individuals funded with State or Medicaid money reside in the home.
2. The Child placing Agency further agrees to:
3. Cooperate with case management, the school district, and any consultants in designing and implementing specialized training procedures;
4. Actively participate in Individual Education Plan development and public school education program;

APPENDIX B

Child Placing Agency

1. Have a documented back-up plan, coordinated by the agency responsible for the child’s placement that, in the event the setting disrupts, includes the provision of services until an alternate community-based placement is found and a transition meeting occurs that includes, and a minimum, the CDDO.
2. Referral for HCBS IDD program services for children in DCF custody who have IDD.
3. Affiliated Child Placing Agency agrees to refer children in DCF custody who have IDD, and who present additional disability-related need, to the CDDO serving the child’s home county for specialized services and supports.
4. If the child in custody is determined eligible for IDD services and supports, the home CDDO will coordinate with placement area CDDO to offer TCM, and will cooperate with the TCM and the KanCare MCO to assess IDD-related need for HCBS IDD program services.

APPENDIX C

**Financial Management Services (FMS)**

This Appendix supplements the HMCDDO Affiliation Agreement for the provision of Financial Management Services.

I. REQUIRED DOCUMENTATION. The Financial Management Services Provider is required to provide the following documentation as indicated in the submission timeline. Documentation is to be updated within 30 days of any material change.

Documentation Submission Timeline

Certificate of Corporation with Kansas Secretary of State Prior to Affiliation

Business Plan Prior to Affiliation

Description of Capacity Methodology Prior to Affiliation

Statement designating the Provider’s Fiscal Year Prior to Affiliation

Owner/Operator Background checks per KDADS policy Prior to Affiliation

Three letters of reference/indicators of good standing Prior to Affiliation

Copy of provider handbook/information packet for persons served Prior to Affiliation

demonstrating compliance with K.S.A. 39-7, 100 (b) (2), to include

description of information and assistance provided, background check

requirements, and grievance process

Copy of blank Service Agreement templates with persons served Prior to Affiliation

direct support attendants

Certificate of Insurance to include worker’s compensation, and Liability Prior to Affiliation *&*

Insurance with HMCDDO named as an additional insured. *Annually thereafter*

APPENDIX C

**Financial Management Services (FMS)**

Copy of Annual Independent Financial Audit *Annually after Affiliation*

Kansas Medical Assistance Program Provider Number As soon as available

Provider contact information: Names, phone/fax, e-mail Prior to Affiliation

II. FISCAL MANAGEMENT RESPONSIBILITIES.

A. FMS Provider will follow billing requirements of the Kansas Medicaid Assistance Program and KDADS.

B. FMS Provider will enter into service agreements with individuals and their legally responsible parties, as applicable, which identify the responsible party for payment of the individual’s client obligation as determined by DCF. FMS Provider will bill the financially responsible party for the client obligation.

C. FMS Provider is responsible correcting and/or addressing any correction process associated with billing errors.

III. QUALITY ASSURANCE RESPONSIBILITIES OF FMS PROVIDER

A. FMS provider will ensure that all background checks required by KDADS Policy are completed on all employees of persons or families providing direct service for whom the FMS provider performs administrative duties.

B. FMS Provider will ensure that no employees of persons or families who provide services through this agreement are on the federal “Excluded Parties List.”

C. FMS Provider will ensure that all employees of persons or families providing direct service have received a minimum of 15 hours of prescribed training, or provide a written certification from Employer that each employee has been provided sufficient training to meet the needs of the person receiving the services. Training records or training certification must be available to Harvey-Marion County CDDO upon request.

D. FMS Provider will comply with all Kansas Medicaid and HCBS IDD program manuals and handbooks, rules, regulations, policies, and guidelines.

E. FMS Provider will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act.

**APPENDIX D**

Service Provider Capacity and Capacity Building

This Appendix supplements the HMCDDO Affiliation Agreement to address Service Provider Capacity and Capacity Building expectations.

1. CAPACITY DETERMINATION. Service Providers will determine their own capacity for service provision for each service they have affiliated to provide. Service Providers will provide this information in writing to HMCDDO.
2. SELF-LIMITED CAPACITY. Service Providers may limit capacity to serving a specific individual or two with whom they have an established relationship. For example, a provider of Limited License day supports may affiliate to provide limited capacity supportive home care only to the individuals receiving day supports through the limited license.
3. NOTIFICATION OF REACHING CAPACITY. Service Providers will notify HMCDDO in writing when they have reached capacity for providing a service they have affiliated to provide.
4. NOTIFICATION OF AVAILABLE CAPACITY. Service Providers who have reached capacity, will notify HMCDDO in writing when they have developed or established capacity to serve additional individuals.
5. CDDO-AREA CAPACITY BUILDING. Service Providers agree to participate in HMCDDO-area capacity building activities together with representatives of the KanCare Managed Care Organizations, to identify service gaps and develop strategies to build capacity to meet identified service needs.

APPENDIX E

Provider Specialization

This Appendix supplements the HMCDDO Affiliation Agreement for the provision of specialized services.

# Service Providers may specialize in service delivery as long as services are provided without discrimination due to the severity of any person’s disability.

1. Examples of specialized services include, but are not limited to, the following: children’s services, low vision services, supported employment services, respite care.
2. Within a service specialty, all persons served must be offered appropriate services without regard to severity of disability. The service provider is prohibited from discriminating due to severity of a person’s disability.

# Service Providers who affiliate for provision of specialized service must provide written description of their specialized service.

# 

1. Written description of the service specialization must be provided to HMCDDO prior to affiliation.
2. Written description of service specialization must be available in the form of brochures and/or web-based resources.
3. Any revision to service specialization must be provided in writing to HMCDDO prior to implementation.