



STATE USE PROGRAM SERVICES AGREEMENT

This State Use Program Services Agreement (the "Agreement"), entered into by and between Ability Indiana, Inc. as the Central Coordinating Agency of the State of Indiana Committee for the Purchase of Products and Services of Persons with Severe Disabilities, located at 615 North Alabama Street, Suite 410, Indianapolis, Indiana (hereinafter referred to as the "CCA") and _____, as an approved Ability Indiana Organization of the Indiana Committee for the Purchase of Products and Services of Persons with Severe Disabilities, located at _____, Indiana (hereinafter referred to as the "CAIO").

WITNESSETH:

WHEREAS, the CCA has been appointed by the Committee for the Purchase of Products and Services of Persons with Severe Disabilities (hereinafter referred to as the "Committee") to represent all participating qualified nonprofit agencies as described in Indiana Code Sections 16-32-2 et. seq. and 5-22-13 et. seq. (hereinafter referred to as the "Act") in fulfilling the mission of the Committee;

WHEREAS, the CCA has been mandated by the Committee to monitor the CAIO's activities to assure compliance with the Act, the rules, the guidelines and the policies of the Committee, in addition to compliance with specifications in the production of products and/or the performance of services, time of delivery, and fair market pricing relating to the production of products and the performance of services;

WHEREAS, the CCA has been authorized by the Committee to charge the CAIO a Program Service Fee for facilitating participation by the CAIO under the Act;

WHEREAS, the CAIO desires to comply with the Act and the rules, guidelines and policies of the Committee.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. Appointment of CCA as Representative for Limited Purpose. The CAIO hereby appoints the CCA, as its legal representative and authorizes the CCA, through its duly appointed agents and representatives and their respective employees (collectively, the "Representatives"), to represent the CAIO in the following capacities:
 - a) To represent the CAIO and negotiate on behalf of the CAIO for any and all contracts relating to the provision of services or the sale of products by the CAIO to any Government Agency (as defined in Section 4.a) hereof pursuant to the State Use Program reflected in the Act, as the CCA shall deem advisable (the "State Use Contracts"); and

- b.) Subject to any express limitations on the authority of the CCA to act as the duly authorized legal representative of the CAIO to which the CCA has been notified of and acknowledged in writing, to accept, approve, execute and deliver all such State Use Contracts on behalf of the CAIO.

2. Service Fee.

- a) For each order or contract for the purchase of a commodity and/or service procured by the CCA, the CAIO shall pay a service fee equal to five percent (5%) of the purchase order or contract price.
- b) For any order or contract placed with a competitive bid or a sole source contract opportunity, the CCA shall invoice the service fee equal to an established scale related to the monthly amount invoiced to the state agency.
- c) The CAIO shall remit to the CCA the foregoing service fee within twenty (20) days after receipt of an invoice from the CCA relating to the CAIO's order or contract price for a specified product or service.
- d) The service fee set forth herein shall in no case exceed an amount based on a rate approved and reviewed from time to time by the Committee.
- e) The service fee set forth herein may be increased upon the approval of the Committee and any increase in the fee shall be applicable respecting any contract entered into after the date of such approval by the Committee.

3. Authority to Represent the CAIO to Conduct Business Via the eProcurement Program. The CAIO hereby authorizes the CCA to engage in the following activities on its behalf to participate in the State of Indiana eProcurement Program (the "Program"):

- a) Vendor Registration. The CCA shall assist in registering the CAIO to participate in the Program and update the CAIO's registration as required to ensure that it is complete and accurate.
- b) Serve as Information Liaison. The CCA shall serve as an information liaison between the Indiana State Department of Administration and all other State Agencies (the "Department") and the CAIO to advise the CAIO of the progress of implementing the Program and answer questions raised by the Department regarding the CAIO.
- c) Update Product List. The CCA shall periodically update the Program's online catalog to reflect approved changes in pricing, product descriptions, discontinued items, etc. and shall coordinate with the Department to update the eProcurement system.
- d) Assist with Quantity Purchase Awards. Upon implementation by the Department, the CCA shall assist the CAIO with new and renewal on-line Quantity Purchase Awards.
- e) Serve as Order Liaison. The CCA shall serve as an order liaison between the CAIO and any Government Agency (as defined in Section 4.a hereof) for the

purchase of products and/or services pursuant to the Program by recording the receipt and distribution dates for all orders placed. The CAIO shall be responsible for filling orders received, shipping product, billing and collection of invoices.

4. Reporting and Certification.

- (a) Reporting Duty of the CAIO. On a monthly basis, the CAIO shall provide the following information in writing to the CCA: i) consistent with Indiana Code Sections 16-32-2-7(3) and 5-22-13-1, both the aggregate dollar sales and the unit volume sales for the month for each product or service sold by the CAIO to agencies or other entities of the legislative, judicial or executive branches of state, city, town or county government (collectively, the "Government Agencies" and, individually, a "Government Agency"); ii) consistent with Policy 2, Section 3.(f) of the Committee's Policies and Procedures (the "Policies"), the number of workers with disabilities working on the contracts relating to the products or services so sold by the CAIO and the earnings of such workers; iii) consistent with Policy 4, Section 2.(a)(4) of the Policies, the total number of individuals with disabilities employed by or otherwise working for the CAIO; and iv) consistent with Policy 3, Section 2.(i)(4) and Policy 4, Section 3.(b) of the Policies, the number of increased opportunities for employment in the competitive labor market, the number of job stations created, and the number of competitive job placements as a result of such State Use Program activities, for persons with severe or other disabilities employed by or otherwise working for the CAIO and engaged in the production of the CAIO's products or the provision of the CAIO's services and any other information deemed necessary by the Committee. The CAIO shall provide this information to the CCA within 15 days of the end of each calendar month.
- (b) Certification Duty of the CAIO. On an annual basis by August 15 of each year, the CAIO shall complete and submit the Annual Certification approved form to the CCA. In addition, the CAIO shall also indicate in writing to the CCA whether, as of June 30 of the immediately preceding year if the percent of the CAIO's total workers comprising its direct labor work who have disabilities exceeded 51%.

5. Compliance Violations.

- a) It is understood by the CAIO that the CCA has been delegated the responsibility by the Committee of investigating any alleged violations of, or failures to comply with, the Act and the rules, guidelines and policies of the Committee, as well as failures to comply with the specifications relating to the production of a product and/or the performance of a service and failures to satisfy requirements relating to time of delivery or fair market pricing related to the production of a product or the performance of a service. Accordingly, the CAIO hereby agrees to cooperate with the CCA in the investigation of: (i) any alleged violation of the Act; (ii) any alleged violation of the rules, guidelines or policies of the Committee; (iii) any production of an allegedly defective or sub-par product or any alleged improper or deficient performance of a service; (iv) any failure to satisfy requirements relating to the time of delivery or fair market pricing related to the production of a product or the performance of a service; and/or (v) any substantiated complaint from any Government Agency.
- b) If the CCA obtains actual knowledge of an alleged violation, non-compliance or other problem relating to the conduct of the CAIO relating to the provision by the CAIO of products or services, whether the CCA obtains this knowledge from a Government Agency or any other source, the CCA will notify the CAIO of the

alleged violation, non-compliance or other problem and afford the CAIO the opportunity to submit a written statement of facts and evidence with respect to the alleged violation, non-compliance or other problem.

- c) The CCA will report its findings and any statement of facts and/or evidence submitted to it by the CAIO to the Committee, together with its recommendations, including the advisability of whether allocations to the CAIO should be suspended for a time.
- d) The CAIO understands that the Committee may request the submission of additional evidence or hold an inquiry into any alleged violation, non-compliance or other problem and, pursuant to policies adopted by the Committee, may direct the CCA to temporarily suspend allocations of orders to the CAIO.

6. Representations and Warranties of the CAIO. The CAIO hereby represents and warrants to the CCA that the following statements are true, as of the effective date of this Agreement:

- a) Due Organization. The CAIO is a corporation duly organized, validly existing and in good standing under the laws of the State of Indiana.
- b) Qualification. The CAIO is a qualified approved organization of the Indiana Committee for the purchase of products and services of persons with severe disabilities.
- c) Authorization. The execution and delivery of this Agreement have been duly authorized by all necessary corporate action of the CAIO, including approval and authorization thereof by the Board of Directors and/or members of the CAIO.
- d) Execution. This Agreement has been duly executed and delivered by the CAIO, and constitutes a legal, valid and binding obligation of the CAIO which is enforceable in accordance with its terms and conditions.
- e) No Violation. Neither the execution and delivery of this Agreement, nor the compliance with or fulfillment of the terms and conditions hereof, will violate, conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under, the organizational documents of the CAIO or any approval, contract, commitment, agreement, understanding, arrangement or restriction to which the CAIO is a party or by which the CAIO is otherwise bound, or any statute, ordinance, law, rule, regulation, policy, guideline, code, ruling, order, writ, injunction, decree or judgment of any governmental authority or court (collectively, the "Laws") applicable to the CAIO.

7. Indemnity and Default. The CAIO hereby indemnifies the CCA against any claim, loss, damage, liability, or obligation of any kind and description, contingent or otherwise (including reasonable attorney's fees) resulting from (a) the CAIO's breach of this Agreement; (b) the CAIO's material breach of any representation or warranty contained herein; or (c) any claim made against the CCA arising out of or related to the provision of services or the sale of products by the CAIO to any Government Agency (as defined in Section 4.a) hereof, including but not limited to products liability.

8. General.

- a) Notices. Any notice to be given hereunder by either party to the other shall be in writing and may be effected by United States Certified Mail, return receipt requested, postage prepaid. Mailed notices shall be addressed as set forth below, but each party may change its address by written notice to the other party by United States Certified Mail, return receipt requested, postage prepaid, indicating the new address.

TO: CCA:

Ability Indiana, Inc.
615 North Alabama Street, Suite 410
Indianapolis, Indiana 46204
Attention: John Barth

TO: CAIO:

Street Address

City, State, Zip Code

Contact Person

- b) Governing Law. This Agreement will be governed by the laws of the State of Indiana without regard to choice of law rules.
- c) Amendment. This Agreement may be amended only by a writing executed by the parties hereto.
- d) Complete Agreement. This Agreement supersedes all agreements and arrangements between the parties including, without limitation, any oral agreements.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2020

CAIO

CCA

Ability Indiana, Inc.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____