

DCDHS - COUNTY OF DANE
Purchase of Services Agreement

Agreement No. _____

Begin Date: _____

Expiration Date: _____

Authority: Res. _____

Maximum Cost: See Schedule B, Section B.8.

Estimated Cost on Begin Date: _____

Number of Pages: _____

Corporation Counsel Approval _____

THIS AGREEMENT is made and entered into by and between the County of Dane (hereafter referred to as "COUNTY") and _____ (hereafter, "PROVIDER"), as of the respective dates representatives of both parties have affixed their respective signatures.

WHEREAS COUNTY, whose address is 1202 Northport Drive, Madison, Wisconsin 53704, desires to purchase services from PROVIDER, whose address is _____ for the purpose of

Self-Directed Day Services
Self-Directed Community Based Work Services
Self-Directed Facility-Based Work Services
Self-Directed Supported Living Arrangement Services
Self-Directed Daily Living Skill Training
(through the Self-Directed Support Program (SDS) for the benefit of eligible developmentally disabled participants identified by COUNTY.)

These services are more particularly described in Section 1 of Schedule A.

AND WHEREAS PROVIDER, is able and willing to provide such services;

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

[End of Page]

I. TERM.

The term of this Agreement shall commence as of the BEGIN DATE and shall end as of the EXPIRATION DATE, both of which are set forth on page one (1) hereof. PROVIDER shall complete its service obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the "maximum cost" as stated above for all services.

II. SERVICES.

- A. PROVIDER agrees to provide the services detailed on the attached Schedule A, which is fully incorporated herein by reference.
- B. PROVIDER shall furnish the services contained in and comply with the performance and productivity requirements contained in the "Program Summary" document, which is attached hereto and fully incorporated herein by reference.
- C. PROVIDER agrees to cooperate with departments, agencies, employees and officers of COUNTY in providing the services described herein.
- D. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be deemed to be employees of COUNTY. PROVIDER shall ensure PROVIDER'S personnel are instructed that they will not have any direct contractual relationship with COUNTY. COUNTY shall not participate in or have any authority over any aspect of PROVIDER'S personnel policies and practices, and shall not be liable for actions arising from such policies and practices.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, and that the persons executing this Agreement on its behalf are authorized to do so.
- F. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and/or PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.
- G. PROVIDER understands that time is of the essence.
- H. Unless specified differently herein, a PROVIDER shall maintain a consistent volume of service delivery throughout the months of the Agreement as determined by COUNTY.

SECTION A
(Non-Discrimination)

III. NON-DISCRIMINATION.

- A. During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s).
- B. PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

IV. AFFIRMATIVE ACTION.

- A. If PROVIDER has twenty (20) or more employees and receives \$20,000 in annual contracts with COUNTY, PROVIDER shall file an Affirmative Action Plan with the Dane County Contract Compliance Officer in accord with chapter 19 of the Dane County Code of Ordinances. Such plan must be filed within fifteen (15) days of the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY.
- B. PROVIDER shall also, during the term of this Agreement, provide copies of all announcements of employment opportunities to COUNTY's Contract Compliance office, and shall report annually the number of persons, by race, ethnicity, gender, and disability, status, who apply for employment and, similarly classified, the number hired and the number rejected.
- C. PROVIDER agrees to furnish all information and reports required by COUNTY's Contract Compliance Officer as the same relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate to determine compliance with chapter 19, D. C. Ords., and the provisions of this Agreement.

V. AMERICANS WITH DISABILITIES ACT COMPLIANCE.

- A. PROVIDER and all Subcontractors agree not to discriminate on the basis of disability in accordance with The Americans with Disabilities Act (ADA) of 1990, the Wisconsin Statutes secs. 111.321 and 111.34, and Chapter 19 of the Dane County Code of Ordinances. PROVIDER agrees to post in conspicuous places, available to employees, service recipients, and applicants for employment and services, notices setting forth the provisions of this paragraph.
- B. PROVIDER shall give priority to those methods that offer programs and activities to disabled persons in the most integrated setting. Where service or program delivery is housed in an inaccessible location, and accessible alterations are not readily achievable, PROVIDER agrees to offer "programmatically accessible" to recipients (real or potential) of said services and programs (e.g. change time/location of service).
- C. PROVIDER agrees that it will employ staff with, special translation, and sign language skills appropriate to the needs of the client population, or will purchase the services of qualified adult interpreters who are available within a reasonable time to communicate with hearing impaired clients. PROVIDER agrees to refrain from the use of family members or friends as language interpreters unless specifically requested by the consumer and after a qualified agency interpreter has been offered. PROVIDER agrees to train staff in human relations techniques and sensitivity to persons with disabilities. PROVIDER agrees to make programs and facilities accessible, as appropriate, through outstations, authorized representatives, adjusted work hours, ramps, doorways, elevators, or ground floor rooms. PROVIDER agrees to provide, free of charge, all documents necessary to its clients' meaningful participation in PROVIDER's programs and services in alternative formats and languages appropriate to the needs of the client population, including, but not limited to, Braille, large print and verbally transcribed or translated taped information. The PROVIDER agrees that it will train its staff on the content of these policies and will invite its applicants and clients to identify themselves as persons needing additional assistance or accommodations in order to apply for or participate in PROVIDER's programs and services.

VI. BILINGUAL SERVICES.

PROVIDER agrees to maintain comprehensive policies to ensure compliance with Title VI of the Civil Rights Act of 1964, as updated to address the needs of employees and clients with limited English proficiency. PROVIDER agrees that it will employ staff with bilingual or special foreign language translation skills appropriate to the needs of the client population, or will purchase the services of qualified adult interpreters who are available within a reasonable time to communicate with clients who have limited English proficiency. PROVIDER agrees to refrain from the use of family members or friends as language interpreters unless specifically requested by the consumer

and after a qualified agency interpreter has been offered. PROVIDER will provide, free of charge, all documents necessary to its clients' meaningful participation in PROVIDER's programs and services in alternative languages appropriate to the needs of the client population. PROVIDER agrees that it will train its staff on the content of these policies and will invite its applicants and clients to identify themselves as persons needing additional assistance or accommodations in order to apply or participate in PROVIDER's programs and services.

VII. CIVIL RIGHTS COMPLIANCE.

- A. If PROVIDER has twenty (20) or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to the COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts under paragraph (20) below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by Dane County, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. The PROVIDER further agrees to cooperate with the COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of the PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, and applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to the Dane County Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to the Dane County Contract Compliance officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

VIII. EQUAL OPPORTUNITY NOTICE.

In all solicitations for employment placed on PROVIDER's behalf during the term of this Agreement, PROVIDER shall include a statement to the effect that PROVIDER is an "Equal Opportunity Employer."

SECTION B
(General Terms)

IX. ASSIGNMENT AND TRANSFER.

PROVIDER shall neither assign nor transfer any interest or obligation in this Agreement without the prior written consent of COUNTY, unless otherwise provided herein. Claims for money due to PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without COUNTY consent if and only if the instrument of assignment provides that the right of the assignee in and to any amounts due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall furnish COUNTY with notice of any such assignment or transfer.

X. CONFIDENTIALITY.

A. PROVIDER agrees to comply with all pertinent Federal and State statutes, rules, regulations and county ordinances related to confidentiality. Further, COUNTY and PROVIDER agree that:

1. Client specific information, including, but not limited to, information which would identify any of the individuals receiving services under this Agreement, shall at all times remain confidential and shall not be disclosed to any unauthorized person, forum, or agency except as permitted or required by law.
2. PROVIDER knows and understands it is not entitled to any client specific information unless it is released to persons who have a specific need for the information which is directly connected to the delivery of services to the client under the terms of this Agreement and only where such persons require the requested information to carry out official functions and responsibilities.
3. Upon request from COUNTY, client specific information, including but not limited to treatment information, shall be exchanged between PROVIDER and COUNTY, consistent with applicable federal and state statutes, for the following purposes:
 - a. Research (names and specific identifying information not to be disclosed);
 - b. Fiscal and clinical audits and evaluations;
 - c. Coordination of treatment or services; and
 - d. Determination of conformance with court-ordered service plans.

B. Health Insurance Portability and Accountability Act of 1996 (HIPAA) Applicability.

1. The PROVIDER agrees to comply with the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the extent those regulations apply to the services the PROVIDER provides or purchases with funds provided under this contract.
2. In addition, certain functions included in this Agreement may be covered within HIPAA rules. As such, the COUNTY must comply with all provisions of the law. If COUNTY has determined that PROVIDER is a "Business Associate" within the context of the law, PROVIDER will sign and return the attached Business Associate Agreement, which will be included and made part of this Agreement.

XI. DELIVERY OF NOTICES.

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth in this Agreement. Any party changing its address shall notify the other party in writing within five (5) business days.

XII. DISPUTE RESOLUTION.

A. **Good faith efforts.** In the event of a dispute between PROVIDER and COUNTY involving the interpretation or application of the contents of this Agreement, PROVIDER and COUNTY agree to make good faith efforts to resolve grievances informally.

- B. **Formal procedure.** In the event informal resolution is not achieved, COUNTY and PROVIDER shall follow the following procedure to resolve all disputes:

Step 1: PROVIDER's Chief Executive Officer shall present a description of the dispute and PROVIDER's position, in writing, to COUNTY's Division Manager within fifteen (15) working days of gaining knowledge of the issue. The description shall cite the provision or provisions of this Agreement that are in dispute and shall present all available factual information supporting PROVIDER's position. Failure to timely provide said document constitutes a waiver of PROVIDER's right to dispute the item.

Step 2: Both parties shall designate representatives, who shall attempt to reach a mutually satisfactory resolution within the fifteen (15) working days after mailing of the written notice.

Step 3: If resolution is not reached in Step 2, COUNTY's Division Manager shall provide by mail and in writing, an initial decision. Said decision shall be binding until and unless a different decision is reached as outlined below.

Step 4: PROVIDER's Chief Executive Officer or equivalent may request a review of the initial decision by mailing a written request to County's Human Services Director within fifteen (15) working days of the receipt of the initial decision. Failure to timely provide said request constitutes a waiver of PROVIDER's right to dispute the item.

Step 5: COUNTY's Human Services Director shall respond to the request for review by mailing a final written decision to PROVIDER within fifteen (15) working days of receipt of the request.

Step 6: PROVIDER's Chief Executive Officer or equivalent may request a review by the County Executive of the final decision by mailing said request within fifteen (15) working days of the postmarked date of the final decision. Failure to timely provide said request constitutes a waiver of PROVIDER's right to dispute the item.

Step 7: The County Executive shall provide a final decision by mailing it to PROVIDER within fifteen (15) working days following the postmarked date of the request for a review. The decision of the County Executive is final and binding on the parties.

- C. **Client Grievance Procedure.**

1. PROVIDER shall have a written client grievance procedure approved by COUNTY, posted in its service area, at all times during the term of this Agreement.
2. Where Clients may be entitled to an administrative hearing concerning eligibility, PROVIDER will cooperate with COUNTY in providing notice of said eligibility to clients.

XIII. EMERGENCY PLANNING.

- A. In order for PROVIDER and the people PROVIDER serves to be prepared for an emergency such as a tornado, blizzard, electrical blackout or other natural or man-made disaster, PROVIDER shall develop a written plan that addresses:

1. The steps PROVIDER has taken or will be taking to prepare for an emergency;
2. Which, if any, of PROVIDER's services will remain operational during an emergency;
3. The role of staff members during an emergency;
4. PROVIDER's order of succession and emergency communications plan; and
5. How PROVIDER will assist clients/consumers to individually prepare for an emergency.

A copy of the written plan should be kept at each of PROVIDER's offices.

- B. Providers who offer case management or residential care for individuals with substantial cognitive, medical, or physical needs shall assure at-risk clients/consumers are actively encouraged to develop an individualized emergency preparedness plan and have been offered any assistance they might require to complete the plan.

XIV. INDEMNIFICATION BY PROVIDER.

- A. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.
- B. Except as otherwise provided herein, it is understood that COUNTY assumes no control over PROVIDER's business operations, methods or procedures. PROVIDER shall indemnify hold harmless and defend COUNTY against any and all loss, including attorney fees, arising from any aspect of PROVIDER's personnel policies or practices.

XV. INSURANCE.

- A. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, employees and representatives under the indemnity provisions of paragraph XIV, PROVIDER shall obtain and at all times during the term of this Agreement keep in full force and effect comprehensive general liability and auto liability insurance policies (as well as professional malpractice or errors and omissions coverage for professional service or where applicable), issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department, with liability coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. COUNTY shall be given ten (10) days advance notice of cancellation or nonrenewal. Upon execution of this Agreement, PROVIDER shall furnish COUNTY with a Certificate of Insurance listing COUNTY as an additional insured and, upon request, certified copies of the required insurance policies. If PROVIDER's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this agreement, the Certificate of Insurance shall state that *professional malpractice or errors and omissions coverage, if the services being provided are professional services* coverage is Claims-Made and indicate the Retroactive Date, PROVIDER shall maintain coverage for the duration of this Agreement and for six (6) years following the completion of this Agreement. PROVIDER shall furnish COUNTY, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that PROVIDER shall furnish the COUNTY with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either PROVIDER or COUNTY may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by PROVIDER. In the event any action, suit or other proceeding is brought against COUNTY upon any matter herein indemnified against, COUNTY shall give reasonable notice thereof to PROVIDER and shall cooperate with PROVIDER's attorneys in the defense of the action, suit or other proceeding. PROVIDER shall furnish evidence of adequate Worker's Compensation Insurance.
- B. In case of any sublet of work under this Agreement, PROVIDER shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of PROVIDER.
- C. COUNTY, acting at its sole option and through its Risk Manager, may waive any and all insurance requirements. Waiver is not effective unless in writing. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

- D. The requirements of section XV are waived where PROVIDER is the State of Wisconsin.

XVI. LICENSE, CERTIFICATION AND STANDARD COMPLIANCE.

- A. **Service standards.** PROVIDER agrees to meet State and Federal service standards as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement, including all regulations applicable to the expenditure and reporting of funds for services purchased by this Agreement.
- B. **Licenses and certifications.** Where required by law, PROVIDER must, at all times, be licensed or certified by either the State or County as a qualified provider of the services purchased hereby. PROVIDER shall fully cooperate with licensing and certification authorities. PROVIDER shall submit copies of the required licenses or certifications upon request by COUNTY. PROVIDER shall promptly notify COUNTY in writing of any citation PROVIDER receives from any licensing or certification authority, including all responses and correction plans.
- C. **County Standards.** Where COUNTY wants to apply a specific set of standards to PROVIDER not contrary to State and Federal regulations, the same are specified in this Agreement.
- D. **Background Checks.** PROVIDER agrees to do background checks for all employees having regular contact with children, elderly or vulnerable adults.
- E. **Notification.** PROVIDER shall notify the COUNTY promptly, in writing, if it is unable to comply with any of the above requirements.

XVII. LIVING WAGE.

- A. PROVIDER agrees to pay all workers employed by PROVIDER in the performance of this Agreement, whether on a full-time or part-time basis, the prevailing living wage as defined in section 25.015(1)(f), Dane County Ordinances. PROVIDER agrees to make available for COUNTY inspection PROVIDER's payroll records relating to employees providing services on or under this Agreement or subcontract.
- B. If any payroll records of PROVIDER contain any false, misleading or fraudulent information, or if PROVIDER fails to comply with the provisions of section 25.015 of the Dane County Code of Ordinances, COUNTY may withhold payments on the Agreement, terminate, cancel or suspend the Agreement in whole or in part, or, after a due process hearing, deny PROVIDER the right to participate in bidding on future county contracts for a period of one year after the first violation is found and for a period of 3 years after a second violation is found.
- C. PROVIDER agrees to submit a certification as required in section 25.015(7) of the Dane County Code of Ordinances.
- D. PROVIDER agrees to display COUNTY's current living wage poster in a prominent place where it can be easily seen and read by persons employed by PROVIDER.
- E. PROVIDER shall ensure that any subcontractors conform with the provisions of this section.
- F. The following are exemptions from the requirements of this section:
 - 1. When the Maximum Cost of the Agreement is less than \$5,000;
 - 2. When the provider is a school district, a municipality, or other unit of government;
 - 3. When the County is purchasing residential services at an established per bed rate;
 - 4. When employees are persons with disabilities working in employment programs and the provider holds a current sub-minimum wage certificate issued by the U.S. Department of Labor or where such a certificate could be issued but for the fact that the employer is paying a wage higher than the minimum wage;
 - 5. When an individual receives compensation for providing services to a family member;
 - 6. When employees are student interns;

7. When the provider meets any other criteria for exemption outlined in section 25.015(1)(d) of the Dane County Code of Ordinances;
8. Where the contract is funded by a government agency requiring a different living wage, the higher wage requirement shall prevail.

XVIII. NO WAIVER OF RIGHT OF RECOVERY.

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER. The making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

XIX. PENALTIES.

- A. PROVIDER shall provide immediate notice in the event it will be unable to meet any deadline, including deadlines for filing reports, set by COUNTY. Concurrent with notification, PROVIDER shall submit either a request for an alternative deadline or optional courses of action or both. COUNTY may grant or deny the request. COUNTY has the prerogative to withhold payment to PROVIDER upon denial of request or until any condition set by COUNTY is met. In the case of contracts that have been renewed or continued from a previous contractual period, COUNTY may withhold payment in the current period for failures that occurred in a previous period.
- B. If COUNTY is liable for damages sustained as a result of breach of this Agreement by PROVIDER, COUNTY may withhold payments to PROVIDER as set off against said damages.
- C. If, through any act of or failure of action by PROVIDER, COUNTY is required to refund money to a funding source or granting agency, PROVIDER shall pay to COUNTY within ten (10) working days any such amount, along with any interest and penalties.

XX. RECORDS.

- A. **Open Records Requests.** PROVIDER agrees to assist COUNTY in promptly fulfilling or answering any open records request, in the manner determined by COUNTY, of a record not protected by a law requiring confidentiality, that PROVIDER keeps or maintains on behalf of COUNTY.
- B. **Records Retention.** PROVIDER shall retain any record required to be kept on behalf of COUNTY for a period of not less than seven (7) years unless a shorter period of retention is authorized by applicable law.
- C. **Records Ownership.**
 1. It is understood that in the event this contract terminates for any reason, COUNTY, at its option may take ownership of all records created for the purpose of providing and facilitating provision of services under the contract.
 2. If, as the result of the expiration or termination of this Agreement, PROVIDER discontinues services provided under this Agreement to any client who continues to require such service, COUNTY shall have the right to take immediate physical custody of any of the client's records that are necessary to facilitate the transition of services to another provider of such service, including, but not limited to, all documents, electronic data, products and services prepared or produced by PROVIDER under this Agreement.

XXI. RENEGOTIATION.

- A. This Agreement or any part thereof, may be renegotiated at the option of County in the case of: 1) increased or decreased volume of services; 2) changes required by Federal or State law or regulations or court action; 3) cancellation, increase or decrease in funding; 4) changes in service needs identified by COUNTY; 5) PROVIDER's failure to provide

monthly services purchased; or 6) upon any mutual agreement. PROVIDER agrees to renegotiate in good faith if COUNTY exercises this option.

- B. Any agreement reached pursuant to renegotiation shall be acknowledged through a written Agreement addendum signed by COUNTY and PROVIDER.
- C. Changes to the number of units purchased under this Agreement pursuant to renegotiation shall be reflected by amendment to the Program Summary.
- D. If PROVIDER refuses to renegotiate in good faith as required by this section, COUNTY may either terminate the contract or unilaterally adjust payments downward to reflect COUNTY's best estimate of the volume of services actually delivered by PROVIDER under this Agreement.

XXII. TERMINATION, SUSPENSION AND /OR MODIFICATION.

This Agreement may be terminated and/or its terms may be modified or altered as follows:

- A. Either Party may terminate the Agreement, for any reason, at any time upon 90 days' written notice.
- B. Failure of PROVIDER to fill any of its obligations under Agreement in a timely manner or violation by PROVIDER of any covenants or stipulations contained in this Agreement shall constitute grounds for COUNTY to terminate this Agreement upon ten (10) days' written notice of the effective date of termination.
- C. The following shall constitute grounds for immediate termination:
 - 1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
 - 2. failure by PROVIDER to carry applicable licenses or certifications as required by law.
 - 3. failure of PROVIDER to comply with reporting requirements contained herein.
 - 4. inability of PROVIDER to perform the work provided for herein.
 - 5. exposure of a client to immediate danger when interacting with PROVIDER.
- D. In the event of cancellation or reduction of State, Federal or County funding upon which COUNTY relies to fulfill its obligations under this agreement, PROVIDER agrees and understands that COUNTY may take any of the following actions:
 - 1. COUNTY may terminate this Agreement, upon thirty (30) days written notice.
 - 2. COUNTY may suspend this Agreement without notice for purposes of evaluating the impact of changed funding.
 - 3. COUNTY may reduce funding to PROVIDER upon thirty (30) days written notice. If COUNTY opts to reduce funding under this provision, COUNTY may, after consultation between PROVIDER and COUNTY's contract manager or designee, specify the manner in which PROVIDER accomplishes said reduction, including, but not limited to, directing PROVIDER to reduce expenditures on designated goods, services and/or costs.
- E. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder or failure of PROVIDER to timely commence the contracted for services, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- F. Termination or reduction actions taken by COUNTY under this Agreement are not subject to the review process set forth in section XII B of this document.

XXIII. MISCELLANEOUS PROVISIONS.

- A. **Choice Of Law.** It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

- B. **Limitation of Agreement.** This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees or subcontractors of either of the parties. Except, where PROVIDER intends to meet its obligations under this or any part of this Agreement through a subcontract with another entity, PROVIDER shall first obtain the written permission of COUNTY; and further, PROVIDER shall ensure that it requires of its subcontractor the same obligations incurred by PROVIDER under this Agreement.
- C. **Entire Agreement.** The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.
- D. **Counterparts.** The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.
- E. **County Logo.** PROVIDER agrees to display the DCDHS logo in its waiting rooms and incorporate the logo in all PROVIDER publications and stationery that pertain to services funded by COUNTY. Costs associated with display of the logo are the responsibility of COUNTY.
- F. **Patents and Inventions.** PROVIDER may elect to retain the entire right, title and interest to any invention conceived or first actually reduced to practice in the performance of this Agreement as provided by 37 CFR 401. In the event any invention results from work performed jointly by PROVIDER and COUNTY, the invention(s) shall be jointly owned.
- G. **Severability.** The invalidity or un-enforceability of any particular provision of this Agreement shall not affect the other provisions herein, and this Agreement shall be construed, in all respects, as though all such invalid or unenforceable provisions were omitted.

SECTION C
(Financial Terms)

XXIV. FINANCIAL PROVISIONS.

- A. **Accounting.** PROVIDER shall adhere to the State of Wisconsin's Allowable Cost Policy Manual, including revisions and updates. PROVIDER agrees to return to COUNTY any funding paid in excess of allowable costs.
- B. **Method of Payment.** PROVIDER shall be paid for its services as indicated below.

1. *Cost-Based Reimbursement (Monthly Expense):* Expenses incurred by PROVIDER shall be reimbursed by COUNTY on a monthly basis. Requests for payment shall be made on COUNTY's Payment Voucher (Form 014-64-05) and submitted to COUNTY within twenty-five (25) days after the month of service. This provision will be applicable to the following programs:

N/A

2. *Unit of Service Reimbursement:* Units of service provided shall be paid by COUNTY on a monthly basis. Requests for payment shall be made on COUNTY's Payment Voucher (Form 014-64-05) or a monthly billing statement and submitted to COUNTY within twenty-five (25) days after the month of service. This provision will be applicable to the following programs:

N/A

3. *Cost-Based Reimbursement (Equal Monthly Payment)*: PROVIDER shall be advanced equal monthly payments consisting of the annual Agreement amount divided by the number of months covered under this Agreement. The last monthly payment to PROVIDER may be adjusted to actual expenses anticipated for the Agreement term. Request for payment shall be made on COUNTY's Payment Voucher (Form 014-64-05) and submitted to COUNTY by the first of the month previous to the month the payment is to be issued. This provision will be applicable to the following programs:

N/A

4. *Other*:

See Schedule B – Fiscal

C. **Alternate Method of Payment.** Notwithstanding the agreed upon method of payment stated above, COUNTY may at its option refuse to advance all or part of any unearned payment otherwise due to PROVIDER if COUNTY reasonably suspects any of the following:

1. PROVIDER has mismanaged any funds provided by COUNTY.
2. Funds in PROVIDER's possession are at risk of being seized by PROVIDER's creditors or other adverse interest.
3. PROVIDER appears incapable of maintaining itself as a going concern.

D. **Administrative Cost Ceiling.** PROVIDER agrees to keep administrative costs for each program at or below the percentage approved by COUNTY. The approved administrative cost is that percentage most recently approved by COUNTY, whether governed by this year's contract or by a previous year's contract. No variance in excess of the approved administrative percentage will be allowed unless approved by COUNTY in advance and in writing. In no event will COUNTY approve an administrative cost percentage in excess of 15%.

E. **Exemptions From Administrative Cost Ceiling.** At the discretion of COUNTY, programs will be exempt from the prescribed ceiling if any of the following applies:

1. The program is 100% administrative, or
2. The program is paid monthly under the unit of service reimbursement method of payment, or
3. The program is 100% funded from Medical Assistance or another federal source; in such case the administrative expense shall be limited to the requirements of the funding source.

F. **Bond.** At all times during the term of this Agreement PROVIDER shall maintain an employee dishonesty bond in an amount sufficient to hold PROVIDER harmless in the event of employee fraud or defalcation. Said bond shall insure PROVIDER against the loss of funds provided through this Agreement and the loss of client funds to which the PROVIDER or its employees has access through the services provided through this Agreement. PROVIDER shall furnish evidence of having met this requirement upon request by COUNTY.

G. **Budgets And Personnel Schedules.**

1. Programs paid under the unit of service reimbursement method of payment shall be exempt from the requirements of this section.
2. For each program funded by COUNTY, PROVIDER shall prepare a program budget and supporting personnel schedule and submit it to COUNTY for approval within 56 days after entering this agreement. PROVIDER agrees to submit its program budgets and personnel schedules on forms provided by COUNTY and according to guidelines provided by COUNTY. Program budgets and personnel schedules shall be considered approved when signed by both PROVIDER and

COUNTY. Upon approval by COUNTY, both the program budget and personnel schedule shall be made a part of this Agreement.

3. Variances in any program account category (categories are: Personnel, Operating, Space, Special Costs, and Other Expense) in excess of \$5,000.00 or 10%, whichever is less, shall not be allowed unless PROVIDER obtains prior written approval of COUNTY.
4. Funds allocated to each program must be used as allocated in accordance with the approved program budget and may not be transferred between programs without the advanced written agreement of COUNTY.
5. If there is a change in program funding under this Agreement, PROVIDER shall submit a revised budget and personnel schedule, unless waived in writing by COUNTY.
6. In performing services required under this Agreement, PROVIDER shall not exceed either the approved program budget or the staffing level indicated in the approved personnel schedule.

H. Client Accounts.

1. Under no circumstances is PROVIDER permitted to commingle funds belonging to clients with PROVIDER's funds. Client funds shall be kept in separate accounts ("Client Accounts") such that all monies can be accounted for at all times.
2. Client Accounts established pursuant to this section shall be subject to audit at any time during normal business hours and without prior notice.
3. If COUNTY discovers a deficiency in any Client Account or if a formal complaint is filed pertaining to such an account, COUNTY or its representative may withhold from PROVIDER funds equivalent to the sum in dispute until settlement is reached.

I. Collection Of Client Fees.

1. COUNTY shall determine which programs operated by PROVIDER are required under Wis. Stats. 46.03(18), to participate in the Wisconsin Administrative Code (HFS1) Uniform Fee System of charging clients for services provided and inform PROVIDER. PROVIDER shall assume responsibility for the billing and collection of fees, unless specified otherwise in this Agreement.
2. PROVIDER shall not delegate collection of fees to private collection firms without written permission from COUNTY.

- J. Deadline for requesting cost variances and transfers of funds between programs.** Requests for approval of cost variances and transfers of funds between programs must be made in writing to COUNTY no later than January 25 of the year following the Agreement year. COUNTY will consider written requests for further revisions only if they are the result of auditing adjustments detailed in a letter from PROVIDER's auditor and submitted prior to or with the annual audit report.

- K. Donations.** PROVIDER shall account for donations in accordance with the State of Wisconsin's Allowable Cost Policy Manual (Section III, item 12) and other applicable law.

L. Final Settlement Where County Pays PROVIDER's Costs.

1. If this Agreement employs Method of Payment under sections B (1), (3) or (4) above, COUNTY shall pay the lesser of net audited expenses or the annual Agreement amount on a per program basis. Net audited expenses shall be determined as follows:
 - a. As required by the terms of this Agreement, PROVIDER shall submit an audit, which shall include a supplementary schedule identifying expenses and revenues by funding source and by program. Where there are other revenues in COUNTY program columns of the audit, except for interest and dividends, the revenues shall be deducted from the expenses in those columns to give the net expense to COUNTY.

- b. In the event the audit requirement is waived by COUNTY, PROVIDER shall provide COUNTY an unaudited supplementary schedule by program showing net County-funded expenditures by category (i.e., Personnel, Operating, Space, Special Costs, and Other Expense) compared to the most recently approved program budget for this Agreement, which shall be submitted to COUNTY no later than January 25 of the year following the agreement year. Said schedule shall include an actual vs. budget analysis of expenditures as allocated between “administrative” and “program”. The percentage actual expenses vary from the budget shall be calculated and displayed for each account category. This schedule shall be submitted on the form provided by COUNTY and COUNTY shall pay the lesser of unaudited expenses or the annual Agreement amount on a per program basis.
- c. On a per program basis, any account category or administrative cost variance not approved by COUNTY will be considered an overpayment **and** PROVIDER shall reimburse any such amount to COUNTY within ten (10) working days of notification.

M. **Notice of Financial Instability.** PROVIDER shall give COUNTY immediate notice of any of the following events:

- 1. That PROVIDER is unable to meet its financial obligations to its employees, to the state or federal governments, or to any creditor.
- 2. That PROVIDER has written a check drawn on insufficient funds.
- 3. That PROVIDER has received notice that it has been sued or that a lawsuit against PROVIDER is pending.
- 4. That PROVIDER has filed a bankruptcy action.
- 5. That PROVIDER has sustained or will sustain a loss for which it has insufficient financial resources.
- 6. Any other event that impedes PROVIDER’s ability to perform under this agreement.

N. **Purchased Equipment.**

- 1. The State of Wisconsin’s Allowable Cost Policy Manual requires that any asset with an acquisition cost in excess of \$5000 be capitalized. PROVIDER shall make requests for any exceptions to this policy in writing to the appropriate Division Manager for COUNTY. These requests shall be made prior to the purchase of any such asset.
- 2. If COUNTY approves an exception under sub. (1), above, and any assets are expensed to COUNTY, said assets shall become the property of COUNTY upon termination or non-renewal of this or any extension or future Agreement.
- 3. Any item capitalized on PROVIDER’s books and depreciated to COUNTY shall remain the property of PROVIDER.
- 4. PROVIDER agrees to maintain records that clearly identify all items expensed or depreciated to COUNTY and shall provide those records to COUNTY upon request. Where the records are unclear, it shall be assumed that COUNTY is the owner of the property upon termination or non-renewal of the Agreement.

O. **Purchase Of Computer Equipment.**

- 1. Any of PROVIDER’s hardware intended to link with a COUNTY Local Area Network (LAN) and/or Wide Area Network (WAN), shall meet Dane County Department of Administration, Management Information Services standards in effect at the time the linkage is desired.
- 2. PROVIDER shall be responsible for the costs associated with connectivity hardware and software, including, but not limited to, installation of data lines and associated monthly costs, port patch panels (hubs), patch cables, network interface cards and network software.
- 3. PROVIDER shall be responsible for all maintenance of its computer equipment. Dane County Department of Administration, Management Information Services shall be responsible for maintenance of the local and wide area networks.

4. PROVIDER shall be responsible for completing and submitting current and accurate COUNTY Security Access forms to the COUNTY Security Officer for all staff who will be logging on to a Dane County Local Area Network. It is PROVIDER's responsibility to ensure accuracy of said Security Access forms. COUNTY has the discretion to refuse access to the Local Area Network for any reason.

SECTION D

(Reporting and Evaluation Requirements)

XXV. REPORTS AND EVALUATION.

- A. **Audits by COUNTY.** PROVIDER agrees to submit to such random audits by COUNTY as COUNTY may request during the existence of this Agreement within ten (10) days after receiving written notice of a request for such an audit.
- B. **Client Reporting.** PROVIDER shall submit monthly client registration and/or client service participation reports in a format provided by COUNTY. Reports for January through November are due on the tenth of the following month. The December report is due no later than January 5.
- C. **Copies to be supplied.** Copies of any evaluative information obtained by PROVIDER during the year such as outside evaluation or accreditation will be submitted to COUNTY at the time received.
- D. **Data gathering.** PROVIDER will cooperate with COUNTY and other providers to define common data elements to be reported to COUNTY to assist in developing baseline data about program delivery, efficiency, and effectiveness.
- E. **Evaluation compliance.** PROVIDER will comply with all COUNTY requirements regarding program evaluation COUNTY deems required to meet the requirements of Wis. Stats. 46.23(6m)(g).
- F. **Expense Reports.** PROVIDER shall submit expense reports on the form provided by COUNTY. The report shall be submitted on a quarterly basis and is due no later than the 25th of the month following the end of the quarter. COUNTY may require reports more frequently upon thirty (30) day notice. Programs paid under the unit of service reimbursement method of payment shall be exempt from submitting the expense reports described in this paragraph.
- G. **Financial And Compliance Audit By PROVIDER.**
 1. PROVIDER, if it receives departmental funding over \$100,000, shall submit a copy of its annual audit to COUNTY within 180 days of the end of its fiscal year. The audit shall be performed by an independent certified public accountant and shall be conducted in accordance with the applicable state and federal regulations and guidelines, including, but not limited to: OMB Circular A-133, the State of Wisconsin's Provider Agency Audit Guide, and the State of Wisconsin's Allowable Cost Policy Manual. The audit shall include the following items:
 - a. The auditor's opinion on the financial statements.
 - b. A supplementary schedule identifying expenses and revenues by funding source and by program. This schedule shall be presented in worksheet format with programs and funding sources as columns, revenues and expenses as line items, with expenditures reflected by category (i.e., Personnel, Operating, Space, Special Costs, and Other Expenses) as allocated between "administrative" and "program" categories, and an excess or deficit computed at the foot of each column.
 - c. For each program funded by COUNTY, a supplementary schedule in the form of a final expense report as prescribed by COUNTY.
 - d. The auditor's opinion on the supplementary schedules.
 - e. The auditor's Report on Compliance.
 - f. A Schedule of Questioned Costs, if any.

- g. The auditor's Report on Internal Control.
 - h. The auditor's Letter to Management.
 - i. The auditor's Summary of Audit Results.
2. COUNTY shall identify in writing to PROVIDER those findings or recommendations in the audit which shall require a written response and plan of corrective action by PROVIDER.
 3. Where the Agreement period and PROVIDER's fiscal year do not coincide, the audit shall include a bridging schedule by program identifying expenses to the Agreement period. "By program" means that the bridging schedule must show each program individually.
 4. COUNTY shall accept its allocated share of the audit cost as indicated in the approved budget. COUNTY shall comment on the audit in writing to PROVIDER within 180 days of when the audit is due or received whichever is later.
- H. **Overpayment.** Any overpayment due COUNTY shall be paid within ten (10) working days of notification.
- I. **Quarterly report.** PROVIDER will report, either in writing or verbally as required by COUNTY, to COUNTY's designee on a quarterly basis, beginning on May 1. The final report shall be provided on April 1 of the following year. Reports shall include:
1. Information on client waiting lists.
 2. Quantity of services by Agreement/client category.
 3. Progress or problems in achieving Agreement goals and performance outcomes.
 4. Progress or problems associated with overall PROVIDER operations.
 5. Other information as may reasonably be required by COUNTY.
 6. The fourth quarter report will also include a description of:
 - a. Agency and program objectives for that year;
 - b. Achievement of or progress toward those objectives;
 - c. Problems encountered in meeting the objectives.
 7. Reports on services provided in specific geographical areas as identified to PROVIDER by COUNTY.
- J. **Reimbursable Expenses.** The Wisconsin Allowable Cost Policy Manual shall determine eligible reimbursable expenses.
- K. **Timeliness.** PROVIDER understands that time is of the essence with respect to all reports and agrees to make all reports in a timely manner as provided below, and agrees that if PROVIDER fails to timely submit any report due under the terms of this Agreement, COUNTY may withhold payment until such report is provided, including payment due from either a previous year or the current year.
- L. **Provider** understands and acknowledges that all reporting requirements survive the expiration date of this Agreement.

XXVI. REVIEWS BY COUNTY.

- A. **Contract Reviews.** Unless a violation of State, Federal or local law is alleged, COUNTY will give no less than ten (10) working days notice before a review or monitoring procedure. COUNTY's review and monitoring responsibilities under the terms of this Agreement may include, but are not limited to: Agreement compliance, certification status, financial expenditures, reporting requirements, units of service provided, Affirmative Action Plan, Civil Rights Compliance Plan, American Disability Act Compliance, on-site visits by COUNTY staff and/or county board member, or both, interviews with program consumers, families and guardians, interviews with direct service and management personnel. The State and/or Federal government may also conduct program reviews in connection with their financial oversight functions. PROVIDER agrees to cooperate with COUNTY, State and Federal governments in these reviews.
- B. **Program Review.** PROVIDER will measure consumer satisfaction at least biennially in the following way:
1. The survey instrument must address issues pertinent to PROVIDER program(s).

2. The survey instrument must be approved in writing by COUNTY POS manager before it is used, and again before any modifications are made.
3. Proposed new or modified survey instruments to be used in this Agreement year shall be submitted to COUNTY's POS manager by May 1.
4. PROVIDER will make arrangements for the survey to be administered by person(s) not employed by the program(s) and for whom there would be no conflict of interest.
5. The final report shall be tabulated, analyzed, and summarized by PROVIDER. That management data with a statement of what PROVIDER believes the data shows shall be submitted to COUNTY's POS manager no later than October 1 in each year the survey is done. PROVIDER will retain the individual questionnaires for one year after they were filled out, and COUNTY shall have access to the individual questionnaires upon request.

IN WITNESS WHEREOF, COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR PROVIDER:

Date Signed: _____

Print Name and Title: _____

Date Signed: _____

Print Name and Title: _____

FOR COUNTY:

Date Signed: _____

 LYNN M. GREEN, Director of Human Services
 (when applicable)

Date Signed: _____

 KATHLEEN M. FALK, County Executive
 (when applicable)

Date Signed: _____

 ROBERT OHLSEN, County Clerk
 (when applicable)

rev. 03/03; 6/18/03; 7/29/03; 8/19/03; 8/21/03; 10/15/03; 9/22/04; 3/21/05; 10/05/05; 10/31/06, 9/27/07, 10/03/08

SCHEDULE A
PROGRAM DESCRIPTION

[One of five prepared by Dan R.:

- 1. Self-Directed Day Services*
- 2. Self-Directed Community-Based Work Services*
- 3. Self-Directed Facility-Based Work Services*
- 4. Self-Directed Supported Living Arrangement Services*
- 5. Self-Directed Daily Living Skill Training*

SELF-DIRECTED SUPPORT PROGRAM
SCHEDULE B – FISCAL – ALL PROGRAMS
METHOD OF PAYMENT
FINANCIAL TERMS

A. Program Description

The Self-Directed Support Program (SDS) is intended to provide Participants a flexible array of services through a process that includes:

1. Support and assistance for Participants by identifying each Participant's goals; and selecting services designed to support those goals and to reflect each Participant's preferences.
2. Developing an individual budget for each Participant based on the typical service costs for those with similar needs while fairly allocating available funds; and selecting support services within the limits of each Participant's individual budget.
3. Creating individual service plans that emphasize the identification and strengthening of informal support networks and community resources to the greatest extent possible.
4. Payment for services selected by Participants according to individual service plans, rather than contracting for pre-selected services with predetermined units of service.
5. A selection and service delivery process that meets requirements set by COUNTY and the Wisconsin Department of Health and Family Services.

B. Definitions/Modifications of Agreement Terms

1. "Participant" is the person identified by COUNTY to receive services under the Self-Directed Support Program. The Participant shall be an adult resident of Dane County with a developmental disability, as defined in section 51.01(5)(a) of the Wisconsin Statutes. The term "client" elsewhere in this Agreement means "participant."
2. "Service team" is the group of persons who assist the Participant to develop a service plan and to negotiate Support and Services Agreement and Vouchers with Providers. The "service team" will consist of the Participant's broker, guardian and other selected persons the Participant considers to be of high significance. PROVIDER will recognize the authority of the broker and guardian to act on the Participant's behalf.
3. The COUNTY's "fiscal agent" shall refer to Fiscal Assistance of Dane County, Inc., unless PROVIDER is specifically directed by COUNTY to use another selected fiscal agent.
4. The "Program Summary" document referred to in Section II.B. of the Agreement describes the anticipated projected use of Provider's services rather than contractual performance and productivity requirements.
5. PROVIDER may not assign or transfer any interest or obligation in this Agreement without the prior written consent of COUNTY. This section replaces Section B, term IX. of the Agreement.
6. Because COUNTY is not purchasing a predetermined number of units of service under this Agreement, those provisions of Section B, term XXI. regarding renegotiations affecting the volume of services, or number of units of service, do not apply.
7. The civil rights and affirmative action compliance requirements set forth in Section A, term IV. and VII. apply when PROVIDER has 20 or more employees, and the total aggregate sum of all individual service agreements PROVIDER holds for COUNTY's Participants under the SDS Program and all other annual contracts equal or exceed \$20,000.
8. The terms "annual Agreement amount," as provided in Section C, term XXIV. and the "Maximum Cost," both refer to the total aggregate sum of all individual service agreements PROVIDER holds for COUNTY's Participants under the SDS Program.
9. The "Support and Services Agreement and Voucher," also known as the individual service agreement, is the Participant's agreement with Provider reflecting the Participant's individual support and service plan.

C. Process

1. COUNTY selects qualified Participants and sets an annual budget for each Participant based on each Participant's needs and the projected costs for meeting those needs, in comparison to like participants in like situations, and subject to available state and federal funds, and county matching funds.
2. The Participant's support team will develop the Participant's support and service plan reflecting the Participant's needs, goals and preferences, and itemizing all services required to support the plan. Services may not be duplicated.
3. The Participant and his or her support team will select those Providers and negotiate rates for services that are effective, cost efficient and compatible with the Participant's support and service plan. Participants may only select those Providers whose practices comport with state and federal regulations, and with COUNTY policies and contract requirements.
4. Selected Providers shall be paid according to the terms of the Support and Services Agreement and Voucher through COUNTY's fiscal agent. PROVIDER will use forms provided by, and will comply with procedures directed by COUNTY.
5. The Support and Services Agreement and Voucher must contain the following information to be valid:
 - a. Adequate identification of the Participant and broker.
 - b. Broker, county manager and provider authorization.
 - c. A description of the services to be provided.
 - d. The rate of pay for the services, quantifying the amount of services to be received for the amount paid.
 - e. The maximum amount of compensation to PROVIDER authorized under the agreement.
6. PROVIDER will be paid according to each Support and Services Agreement and Voucher on a per month basis. A voucher may cover more than one month, but no more than twelve months. The Voucher shall be forwarded to COUNTY's fiscal agent.
 - a. When payments are variable, PROVIDER will send an invoice to the support broker at least monthly and PROVIDER will be reimbursed for the amount of the voucher.
 - b. When payments are fixed on a per month rate, PROVIDER will be paid for one month's service as provided in the Support and Services Agreement and Voucher.
 - c. COUNTY's fiscal agent will pay PROVIDER for past services rendered, or by the 5th working day of the month in which services are to be provided.
7. In negotiating rates for individual participants, PROVIDER shall adhere to the terms of this agreement, including requirements for administrative cost containment.
8. The Support and Services Agreement and Voucher may be amended by the parties as they may agree within the constraints of this Agreement. Amended agreements shall be reduced to writing.
9. PROVIDER will not be paid for services for an individual Participant until the Support and Services Agreement and Voucher is completed, nor may an increase in the level of services or increase in rate be implemented unless a revision of the Support and Services Agreement and Voucher is completed, except as follows:
 - a. If immediate services are required, the broker may initiate services with PROVIDER. However, a Support and Services Agreement and Voucher must be completed no later than thirty days after services are provided.
 - b. If there is an emergency requiring the immediate increase in services, PROVIDER may provide the necessary additional support services for up to three business days without a revision of the Support and Services Agreement and Voucher. If the Participant lacks sufficient support funds, payment for additional emergency services provided in good faith will be reimbursed directly by COUNTY. PROVIDER must contact the Participant's broker as soon as possible to renegotiate the Support and Services Agreement.

D. Goals and Performance Indicators

1. The SDS Program is structured to achieve the following goals: a) high participant satisfaction; b) a responsive services delivery system sensitive to the changing needs of the population of eligible Participants; c) program efficiencies that maximize the delivery of services and reduce administrative costs.
2. Participant satisfaction will be determined through direct feedback and through monitoring the nature and number of grievances and complaints.
3. The responsiveness of the services delivery system will be monitored over time by review of the Participants' individual support and service plans.
4. Program efficiency will be evaluated by comparing the costs of purchased services, over time and across the Participant population.

E. Termination of Individual Service Agreements by Participants and Providers

1. Either Participant or PROVIDER may terminate a Participant's Support and Services Agreement and Voucher for good cause upon 30 days notice. The original notice is effective when given verbally, but it shall also be reduced to writing.
2. Good cause may include, but is not limited to, the following:
 - a. The support provided fails to ensure the health and safety of the Participant or others.
 - b. Either the Participant or PROVIDER fails to comply with the written plan of support.
 - c. The Participant moves outside of Dane County.
 - d. The Participant is no longer eligible for community supports because of long-term nursing home or institutional placement, or any other reason.
 - e. The Participant incurs a significant or substantial medical issue, or dies.
3. Either PROVIDER or the Participant may terminate a Support and Services Agreement and Voucher for any reason or for no reason stated, upon 90 days written notice. PROVIDER's notice to the Participant must be directed to the Participant, and the Participant's guardian and broker as applicable.
4. Notices of Termination must be provided to COUNTY and to COUNTY's fiscal agent.
5. In anticipation of the termination or expiration of the Participant's individual service agreement, PROVIDER will work with the Participant's service team to develop a mutually agreed upon termination plan, including start and end dates, and ensuring the complete transfer of relevant current and historic information, behavior support plans, medical and other information necessary to providing a continuity of services to the Participant. COUNTY may exercise rights stated in Section B, term XX. C. of this Agreement with regard to records affecting individual Participants in order to facilitate the provision of services.
6. Either the Participant or PROVIDER may appeal termination of an individual service agreement as follows:
 - a. PROVIDER and the Participant's service team will work together to attempt to resolve disputes amicably while respecting the Participant's preferences.
 - b. If the service team and PROVIDER cannot develop a mutually agreeable termination plan, any party to the decision may appeal to the County's Program Manger for review.
 - c. If review by the Program Manger fails to resolve the dispute, any party to the decision may appeal to the County's Adult Community Services Division Administrator. The decision of the Division Administrator shall be final.
 - d. COUNTY reserves the right to negate a Participant's notice to terminate a Support and Services Agreement and Voucher that is given for an unlawful or unsound reason.
7. If the Participant is subject to court jurisdiction under a guardianship or protective placement order, and there is disagreement within the service team as to the appropriateness of services provided, COUNTY may, at its option, suspend a Participant's ability to terminate services. PROVIDER will cooperate with COUNTY in resolving any disputes, including preparing any reports or participating in any court hearings requested.

F. Termination/Modification of Agreement Between COUNTY and PROVIDER

1. If COUNTY or PROVIDER elects to let this Agreement expire without entering into an Agreement for the following year, or elects to terminate this Agreement pursuant to Section B, term XXII., all Support and Services Agreement and Vouchers affected thereby will expire or terminate at the same time with regard to affected services, regardless of the stated term of any affected Support and Services Agreement and Voucher. Notices provided to PROVIDER under Section B, term XXII. of this Agreement shall have the effect of terminating all Support and Service Agreements entered into between PROVIDER and all Participants in the SDS Program. If no notice is required under section XXII. of this Agreement, COUNTY shall terminate all affected Support and Services Agreements and Vouchers by general declaration.
2. Notwithstanding the terms of the Support and Services Agreement and Voucher negotiated between PROVIDER and the Participant, COUNTY reserves the right to decrease any amounts authorized resulting from the failure of the Dane County Board of Supervisors, the State or Federal Governments to appropriate sufficient funds to support the agreement. Similarly, COUNTY reserves the right to increase any amounts authorized to comply with COUNTY's Living Wage requirements or to terminate the Support and Services Agreement and Voucher according to the terms of Section B, term XXII. of this Agreement.

G. Budget and Audit Requirements

1. COUNTY may withhold payment provided under any Support and Services Agreement and Voucher that is permitted by Section B, term XIX. of the Agreement. PROVIDER will promptly address the cause of the payment withholding, without decreasing the level or quality of services provided to Participants under Individual Support and Services Agreements.
2. If PROVIDER is a for profit organization, profit shall be budgeted as a separate account category within each program budget of this Agreement and shall be limited to 4% of gross expenses. For final settlement COUNTY will pay the lesser of a) the annual Agreement amount or b) audited expenses plus 4% and minus any related revenue.
3. If PROVIDER is a nonprofit organization, it may not keep excess revenue over the approved program budget described in Section C, term XXIV, G.2. and in number 4. below.
4. In addition to providing a program budget and supporting personnel schedule within 56 days after entering this agreement, PROVIDER will also provide by January 25 of the year following, a revised budget and supporting personnel schedule if, during the year, there are variances in any program account category (categories are: Personnel, Operating, Space, Special Costs, and other Expense) in excess of \$5,000.00 or 10%, whichever is less. Further, PROVIDER will provide COUNTY an updated program budget and supporting personnel schedule within 14 days of demand. COUNTY must approve all submitted original and revised program budgets and supporting personnel schedules, and reserves the right to disallow payment for expenses based upon unapproved budgets and personnel schedules. PROVIDER may at its option provide a revised budget and supporting personnel schedule for advance COUNTY approval. PROVIDER is exempt from Section C, terms XXIV. G. 3., 5. and 6. of this agreement, however:
 - a. Variances from the last submitted and COUNTY approved program budget and supporting personnel schedule shall reasonably relate to the increase and/or decrease in the number of Participants served and resulting service needs throughout the year; and
 - b. If PROVIDER's service demands remain constant throughout the contract year, there shall be no variances in program account category in excess of \$5,000 or 10%, whichever is less and PROVIDER shall not exceed either the approved program budget or the staffing level indicated in the approved personnel schedule without approval from COUNTY.
5. Requests for reimbursement for overpayment by COUNTY shall not cause PROVIDER to decrease the level or quality of services provided to Participants, nor shall PROVIDER charge back to Participants the amount of reimbursement determined due to COUNTY.
6. PROVIDER will use funds under this contract only for COUNTY authorized Participants in the Self-Directed Support Program.