



## AGREEMENT

### SOCIAL SERVICE CONTRACTORS INDEMNITY POOL

1. Parties - The parties to this agreement (the "Agreement") are the Social Service Contractors Indemnity Pool, Inc., an Arizona non-profit corporation (the "Pool") and \_\_\_\_\_, a social service contract provider for the State of Arizona (the "Contractor" and the "State" respectively).
2. Recitals - This Agreement is based upon certain understandings and in furtherance of certain purposes:
  - 2.1 The Pool was incorporated for the joint purchase of insurance, the pooling of retention of risks for property, casualty and liability losses, and the payment of property losses or claims of liability made against any member of the Pool. The Pool was initially created through the Department of Administration, pursuant to A.R.S. § 41-621.01. The Pool is operated by a board of trustees (the "Board") elected by the Pool members, at least a majority of which must be elected officials or employees of the State.
  - 2.2 The Contractor desires to enter into an agreement to pool retention of the Contractor's risk for property, liability and casualty losses with that of other similarly licensed contractors, and to provide for the payment of such losses or claims on a cooperative or contract basis.
3. Participation - The specific risks covered by the Pool, the procedure for making claims against the Pool, the means and procedures for defending against such claims, the persons or entities to be indemnified by such Pool, the limitations and exclusions on coverage, and various other matters necessary or appropriate to the functioning of such a Pool are more particularly described in the coverage agreement attached hereto as Appendix A (the "Coverage Agreement"), which is incorporated by reference and made a part of this Agreement. The terms of the Agreement and the Coverage Agreement may be amended by majority vote of the Board, provided, that any amendment to this Agreement or to the Coverage Agreement shall become effective upon a date designated by the Board after first giving the Contractor at least thirty (30) days prior written notice thereof. Notwithstanding the foregoing, the Board may, without prior notice to the Contractor, amend the Coverage Agreement if the amendment does not decrease or materially change the insurance coverage available to the Contractor including, but not limited to, incidental or grammatical amendments that do not decrease insurance coverage available to the Contractor.
  - 3.1 Term and Renewal - This Agreement shall have a one (1) year term commencing on \_\_\_\_\_ (the "Effective Date") and shall be automatically renewed unless terminated pursuant to Sections 3.2, 3.3, 4 and 7.
  - 3.2 Termination by the Board for Cause – The Board may at any time during the term of this Agreement or any extensions thereof suspend or terminate coverage for (i) nonpayment of the Premium or any other breach by the Contractor of the terms of this Agreement; (ii) the failure to satisfy underwriting requirements

established by the Pool; (iii) the termination of all Contractor's written agreements with one or more State agencies or one or more political subdivisions of the State for the purpose of providing social services; or (iv) the termination of all required Contractor's licenses to provide social services in the State and the expiration of all applicable appeal rights. Coverage shall be suspended or terminated pursuant to Section 7 of this Agreement.

- 3.3 Termination Without Cause - This Agreement may be terminated by either party effective as of any anniversary of the Effective Date, by written notice of termination given at least ninety (90) days prior to such anniversary date.
- 3.4 Distribution of Funds on Termination - In the event the Contract terminates this Agreement for any reason or in the event the Board terminates this Agreement for cause as provided for in Section 3.2 of this Agreement, the Contractor shall thereupon forfeit any and all right to the return of any surplus, unearned Premiums or other distributions from or assets of the Pool.
4. Termination of the Pool - The Pool may be terminated at such time as the Board determines that the number of participating contractors or the size of the Pool is too small to indemnify adequately against the risks specified in the Coverage Agreement. Any termination pursuant to this section shall not be effective until the Board shall have given the Contractor at least twelve (12) months advance written notice. Upon termination of the Pool, adequate provision shall be made for all pending and anticipated claims, the assets of the Pool shall be liquidated, the funds provided by Chapter 214, Laws of 1987 (if any) shall be returned to the State general fund, a final accounting shall be made, and the funds thereafter remaining in the Pool shall be distributed among the then-existing members in the Pool in proportion to the Premiums paid to the Pool by each of the then existing members during the preceding sixty (60) months. In the event there are inadequate funds, including the funds provided by Chapter 214, Laws of 1987, to meet all claims and expenses of the Pool, an assessment shall be made pursuant to Section 8 of this Agreement and A.R.S. §§ 41-621.01(K), as amended from time to time.
5. Premium - The Coverage Agreement shall set forth the Contractor's annual fee (the "Premium") for the current year of the Agreement. The Premium shall be based on sound business and underwriting criteria, taking into consideration the recommendations of the Pool's Administrator (as that term is defined in Appendix A). The Contractor shall furnish the Pool all available information requested by the Administrator to determine the exposure and loss experience of the Contractor. The Pool shall notify the Contractor of the amount of the Contractor's Premium on or before the anniversary of the Contractor's Effective Date for each year of this Agreement. The Contractor shall pay its Premium for the whole year to the Pool in cash within thirty (30) days after the anniversary of the Contractor's Effective Date, or by such later date as shall be specified by the Board.
6. Reduction in Premium - Any surplus funds, not including the funds provided by Chapter 214, Laws of 1987, in the Pool over and above those necessary to pay or reserve against the expenses and liabilities of the Pool (collectively, "Available Funds") may be used at the sole discretion of the Board to reduce the amount of the Premium from members in good standing of the Pool pursuant to the procedure set forth in this Section 6. At the end of each fiscal year during the term of this Agreement, the amount of a member's Premium for the following fiscal year may be reduced depending on the amount, if any, of Available Funds and such other factors as the Board may reasonably consider in evaluating how to disperse Available Funds or a portion thereof among

members of the Pool (e.g., member's Premium, member's uninterrupted tenure in the Pool). Any decision by the Board to allocate Available Funds or a portion thereof among members of the Pool for one fiscal year reducing Premiums for the following fiscal year shall not obligate the Board to allocate Available Funds in a similar manner or at all in succeeding fiscal years.

7. **Termination** - In the event the Contractor (i) fails to pay its Premium as specified herein; (ii) fails to comply with any of the other terms of this Agreement; (iii) fails to have a required license to provide social services in the State; (iv) fails to satisfy underwriting requirements established by the Pool; or (v) fails to have a written agreement with one or more State agencies or one or more political subdivisions of the State for the purpose of providing social services, the Board may, if such failure is not cured after ten (10) days' written notice, terminate the Contractor's coverage under this Agreement. The date of such termination shall be referred to as the "**Coverage Termination Date.**" Notwithstanding such termination of coverage, Contractor shall retain its rights to the return of any surplus or other distributions from or assets of the Pool for a ninety (90) day period (the "**Ninety Day Reinstatement Period**") following such notice by the Pool. To retain this right, Contractor must notify the Pool in writing during the Ninety Day Reinstatement Period of the Contractor's election (the "**Reinstatement Election**") to reinstate coverage by delivering to the Pool a payment in an amount equal to the then current annual Premium and otherwise curing the failure giving rise to the termination of coverage. Upon the Pool's receipt of such payment and evidence documenting that the Contractor has cured the failure giving rise to the termination of coverage, together with such underwriting data and other information as the Pool may reasonably request, and provided that the Administrator determines (in the exercise of the Administrator's sole and absolute discretion) that the reinstatement of coverage is appropriate based on sound business, loss control and underwriting criteria, and loss experience during the Ninety Day Reinstatement Period (or applicable portion thereof), coverage under this Agreement and the Coverage Agreement will be reinstated, effective as of the coverage Termination Date. If the Contractor fails to provide the Pool the Reinstatement Election (together with such documentation, data and other information as required pursuant to this Section 7) during the Ninety Day Reinstatement Period, or if the Contractor provides the Reinstatement Election (together with such documentation, data and other information as required pursuant to this Section 7) during the Ninety Day Reinstatement Period and the Contractor's reinstatement is denied pursuant to this Section 7, upon the expiration of the Ninety Day Reinstatement Period, the Contractor shall cease to be a member of the Pool and shall lose all rights as a member of the Pool including (without limitation) the right to return of any surplus or other distributions from or assets of the Pool. In the event of such termination, the Contractor shall be relieved of any liability of ordinary Premiums under Section 5 for fiscal years after the year of the Contractor's termination. The Contractor's liability for additional assessments shall continue to the extent provided in Section 8 below.
8. **Assessment** - If the Pool becomes insolvent or is otherwise unable to discharge its legal liabilities and other obligations, the Contractor may be assessed by the Board pursuant to A.R.S. § 41-621.01(K), as may be amended. The amount of such assessment may not exceed the amount of the Contractor's annual Premium to the Pool for the year in which the assessment is made or (if the Contractor has withdrawn from the Pool) for the last year that the Contractor was a member of the Pool. The amount of the assessment and manner of calculating the same, shall be given to the Contractor in writing (the "Assessment Notice"), and the Contractor shall thereafter have ninety (90) days in which to pay the assessment pursuant to the terms of the Assessment. The Contractor shall

remain liable for such assessments, regardless of the Contractor's withdrawal from participation in the Pool or the termination of this Agreement, for liabilities of the Pool incurred during the Contractor's period of participation. A Contractor is not relieved of its liability incurred during the Contractor's period of membership in the Pool except through the payment of losses by the Pool or by the Contractor as provided in the Coverage Agreement; provided that obligations under this Section 8 shall be no greater than that required by A.R.S. § 41-621.01(G)(4), as may be amended from time to time.

9. Audit - The Pool shall be audited annually at the expense of the Pool by a certified public accountant, and a copy of the report shall be submitted to the Board, the Contractor (upon request) and the Department of Insurance. The Board shall obtain an appropriate actuarial evaluation of the claim reserves of the Pool including an estimate of the incurred but not reported claims and shall maintain claim reserves equal to known incurred losses. The Pool also shall pay the cost of any examination of the Pool and its reserves by the Director of the Arizona Department of Insurance as permitted by A.R.S. § 41-621.01(I), as amended from time to time.
10. Loss Control and Inspection - The Administrator shall be permitted, but shall not be obligated, to inspect the Contractor's business premises and operations at any time for loss control and underwriting purposes. Neither the Administrator's right to make inspections nor the making thereof shall constitute an undertaking on behalf of or for the benefit of the Contractor or others to determine or warrant that such premises or operations are safe or are in compliance with any law or rule. The Administrator will be available to provide to the Contractor professional loss control consulting services to aid in the establishment, implementation, and administration of the loss control program. The Contractor agrees to use its best efforts to implement a program of loss control in conformance with the Loss Control Program Standards for Members, a copy of which is attached hereto as Appendix B and incorporated by this reference (the "Loss Control Standards"). The Contractor acknowledges, understands and agrees (i) that the Loss Control Standards are simply recommendations concerning the minimum standards that should be adopted by each member of the Pool, (ii) that to be effective, a loss control program must be tailored to the specific requirements of each member of the Pool, (iii) that the Pool makes no representation or warranty that the Loss Control Standards are sufficient or adequate to meet the specific requirements of the Contractor, and (iv) that it is the Contractor's sole responsibility to modify the Loss Control Standards to meet the specific requirements of the Contractor.
11. Subrogation - In the event a recovery is obtained against a third party pursuant to the right of subrogation set forth in the Coverage Agreement, such recovery shall first be applied to the costs of recovery, and the balance, if any, shall be apportioned between the Pool and the Contractor in proportion to their respective losses from the occurrence giving rise to such recovery.
12. Conformity with the Law - In the event any term or provision of this Agreement shall be in conflict with the laws and statutes of the State of Arizona as they now exist or are hereafter amended, this Agreement shall be automatically deemed amended to conform to such laws and statutes.
13. Authorized Representative - The Pool and the Contractor shall each designate a representative authorized to act on each of the respective parties' behalf in all matters pertaining to this Agreement. The following representatives shall be the initial representatives:

Administrator:

Southwest Risk Services  
14902 North 73rd Street  
Scottsdale, AZ 85260  
(602) 996-8810

For the Contractor:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Telephone

Such representatives and/or addresses may be changed by either party from time to time by written notice to the other. The Contractor (through its Authorized Representative) shall reply promptly to all correspondence or inquiries from the Pool.

14. Authorizing Action - This Agreement shall become effective only upon: (a) the execution and delivery of this Agreement by the Authorized Representative of the Pool; (b) the execution and delivery of this Agreement by an authorized representative of the Contractor; and (c) the delivery to the Board of a certified copy of a resolution of the action of the governing board (if any) of the Contractor approving the execution of this Agreement.
15. Prior Acts of Parties - All covenants, promises, agreements, conditions and understandings between the Board and the Contractor, and any other acts of the parties undertaken pursuant to A.R.S. §§ 41-621, 41-621.01, 41-622.01 and 11-952.01 are superseded by and merge into this Agreement, and this Agreement and any Appendices hereto set forth all covenants, promises, agreements, conditions and understandings between the Board and Contractor other than herein set forth.
16. Liability - The Pool, the Board and the Administrator shall have (i) no obligation to pay or defend claims except from the funds in the Pool, and (ii) no liability pursuant to this Agreement except to disburse funds in the Pool in accordance with the terms of this Agreement. In the event there are insufficient funds in the Pool for this purpose after paying the expenses and obligations of the Pool as set forth herein and after collecting all assessments from members of the Pool as set forth herein, neither the Pool, the Board nor the Administrator shall have any further obligation to defend or pay claims.
  - 16.1 No contractor indemnified by the Pool, by reasons of this Agreement, has any liability for claims brought by third parties against any other member of the Pool, other than the obligation to contribute certain funds to the Pool as expressly provided herein. The liability for any claim against the Contractor shall remain the sole and exclusive liability of the Contractor; the obligation of the Pool is to

indemnify the Contractor against such loss as provided in the Coverage Agreement (Appendix A) to the extent and under the conditions contained therein, and only to the extent there are funds in the Pool for this purpose.

- 17. Invalidity of a Term - The parties agree that in the event any term, covenant or condition herein contained should be held to be invalid or void by a court or competent jurisdiction, the invalidity of any term, covenant or condition shall in no way affect any other term, covenant or condition of this Agreement.
- 18. Prohibition Against Discrimination - In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order No. 75-5, entitled "Prohibition of Discrimination in State Contracts - Non-discrimination in Employment by Government Contractors and Subcontractors," and any latter similar Executive Order.
- 19. Governing Law and Venue - This Agreement shall be construed under the laws of the State of Arizona. Any arbitration, administrative action or other action arising out of this Agreement, whether for the enforcement thereof or otherwise, shall be brought in Maricopa County.
- 20. Appendices - In addition to Appendices A and B previously referred to herein, and in addition to any other duties and obligations contained in this Agreement or any Appendix hereto, the following Appendix is attached hereto and incorporated herein by this reference as if set forth in full:

C- DUTIES OF THE CONTRACTOR

POOL:  
SOCIAL SERVICE  
CONTRACTORS INDEMNITY POOL

By Richard W. Hill

Its President

THE CONTRACTOR

\_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SOCIAL SERVICE CONTRACTORS INDEMNITY POOL

APPENDIX B

LOSS CONTROL PROGRAM STANDARDS FOR CONTRACTORS

## SOCIAL SERVICE CONTRACTORS INDEMNITY POOL

### LOSS CONTROL PROGRAM STANDARDS FOR CONTRACTORS

#### A. Definitions

The following definitions shall apply for purposes of this Appendix B unless the context otherwise requires:

1. "Contractor" means the person(s) or organization(s) named in Item 1 of the declarations in the Coverage Agreement (Appendix A) and in Section 1 of the Agreement.
2. "Pool" means the Social Service Contractors Indemnity Pool, an Arizona nonprofit corporation.
3. "Board" means the Board of Trustees of the Pool.
4. "Administrator" means the person, persons, or entity procured by the Pool for the day-to-day administration of the Pool.
5. "Health Hazard" means a material for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic effects may occur in exposed employees, clients and other relevant persons. The term Health Hazard includes materials which are radioactive, infectious, carcinogenic, toxic irritants, corrosive, sensitizers and agents which damage the lungs, skin, eyes, mucous membranes and other body organs.
6. "Incident" means an occurrence or event including, but not limited to an injury or illness, fire, theft, damage to the Contractor's property and all accidents involving the Contractor and the public and/or their property.
7. "Material Safety Data Sheet" means written or printed material concerning a hazardous chemical or substance.
8. "Personal Protective Equipment" means clothing or equipment that a person wears to protect against harm to any part of the body.

#### B. Establishment of Loss Control Program

1. Each Contractor shall prepare and issue a written loss control policy statement setting forth the Contractor's commitment to prevent losses and support safety and loss control activities. The policy statement shall be updated annually and made available to the Contractor's employees for review.
2. Each Contractor shall appoint an employee or an employee committee to be responsible for the development and implementation of the a loss control program. The program shall be submitted to the Administrator for review and approval within 1 year of the Effective Date of the Agreement.

3. Each Contractor shall review its loss control program annually and make any necessary changes to improve the overall effectiveness of the program. Any changes shall be immediately submitted to the Administrator.
- C. Loss Control Program Provisions Each loss control program shall include but not limited to the following applicable items:
1. Establish loss control duties and responsibilities for all employees. Conduct appropriate background checks of employees. Conduct performance planning and evaluation reports of employee participation in the loss control program.
  2. A safety and loss control education and training program which shall emphasize training on safe methods and procedures to follow while performing tasks where accidents and losses have occurred or where there is a potential for accidents and losses. Training shall include but is not limited to:
    - a. Identification of risks associated with providing goods and/or services.
    - b. Procedures for working safely and avoiding accidents and losses.
    - c. Accident/Incident reporting procedures.
    - d. Emergency and evacuation procedures.
    - e. Working with special needs clients.
    - f. Procedures for protecting employees and clients in such risk areas as drive-by shootings and violence in the workplace.
    - g. Supervisor and management training in safety and loss control, wrongful termination issues, public relations and reporting, and management skills.
  3. An emergency plan for each Contractor location. The plan shall include procedures to follow in the event of serious injury, fire or other emergencies that can be reasonably foreseen at the specific Contractor location. Provisions shall include but are not limited to:
    - a. Designating person(s) responsible for formulating, implementing, testing and maintaining the emergency plan and interruption of business plan.
    - b. Establishing written procedures for notification of emergency personnel and safe evacuation of general public, client and employees. Evacuation diagrams shall be posted throughout each location.
    - c. Training personnel as to their responsibilities during an emergency (i.e. reporting to the proper authority). Additional training shall be given to those employees assigned to use fire and emergency equipment.
    - d. Providing or arranging for first aid, medical treatment and emergency transportation in the event of a serious injury.

4. Incident reporting procedures shall include but are not limited to:
  - a. Timely and accurate reporting of all incidents to the insurance agent or Administrator as required by the Coverage Agreement.
  - b. Investigations of all incidents in order to gather pertinent information, determine causes and recommend solutions to prevent recurrence of similar incidents.
  - c. Compilation, analysis and evaluation of all incident data to determine the frequency, severity and location of incidents and communication of the information to Contractor's appropriate management personnel.
  - d. Maintenance of records of all incidents.
5. Procedures for routine safety inspections of buildings, grounds, equipment, machinery and work practices. Results of all inspections shall be documented and deficiencies noted and shall be forwarded to the appropriate Contractor management personnel for corrective action. Follow up on inspection recommendations shall be made to ensure action is being taken to remedy any noted deficiencies.
6. Establish health, hazard assessment and abatement procedures that shall include but are not limited to:
  - a. Surveys of Contractor facilities to determine exposures too existing or potential Health Hazards.
  - b. Periodic quality assurance monitoring and abatement of the facilities to quantify exposures to existing or potential Health Hazards affecting both the client and employees.
  - c. Notification to employees, clients and other relevant persons of existing or potential Health Hazards.
  - d. Necessary formal mechanical and universal controls and personal protective equipment to prevent exposure to Health Hazards in excess of applicable standards.
  - e. Maintenance of Material Safety Data Sheets and formal training.
7. Establish and implement maintenance and operational procedures, including but not limited to:
  - a. Preventative maintenance procedures including a written schedule of routine inspection, adjustment, cleaning, lubrication and testing of equipment including, but not limited to, boilers and machinery, fire protection, security and emergency equipment.
  - b. Safety procedures for jobs which subject clients and other relevant persons to an injury including, but not limited to:

- i. Working with hazardous materials, flammables and compressed gas.
    - ii. Operating equipment and machinery.
    - iii. Manufacturing products and/or providing services that may be hazardous.
  - c. Personal Protective Equipment requirements for specific job and areas. This is to include formal written plan, training employees, clients and other relevant persons in the purpose, proper fit, use, care, maintenance, inspection, cleaning and storage of all personal protective equipment.
8. Establish a vehicle safety procedure for the operation of vehicles that shall include but is not limited to:
- a. Standards and formal policies and procedures to ensure that employees who drive vehicles are capable of operating a vehicle in a safe manner.
  - b. Instruction and practical hands-on training regarding safe vehicle operation and defensive driving techniques.
  - c. Mandatory use of seat belts for driver and passenger(s) on those vehicles designed with seat belts.
  - d. Maintenance of all vehicles in a safe operating condition.
  - e. Review of vehicular accidents by an employee or committee appointed by the Contractor.
9. Establish safety and security standards for office, workshops and job sites which shall include but are not limited to:
- a. Site and program-specific safety rules and procedures to deal with the types of risks expected to be encountered in homes, apartments, workshops and facilities.
  - b. Routine inspections of the Contractor's site(s) to ensure compliance with applicable federal, state and local safety laws and regulations.
  - c. Training of employees, clients and other relevant persons in formal, written safe practices and procedures.
  - d. Availability of first aid, medical and emergency equipment and services at the organization's site(s), including arrangements for emergency transportation.
  - e. Security procedures to prevent physical and personal injury, theft, vandalism and other losses at the organization's site(s).
  - f. Procedures for client accessibility to the organization's site(s).

10. Establish systems and procedures to protect the personal security of employees and clients and to prevent loss of property. Systems and procedures shall include but are not limited to:
  - a. Security escorts, exterior lighting, identification badges and electronic access systems for protection of employees, clients and the public.
  - b. Labeling systems, inventory control procedures, property removal procedures and key control systems to prevent loss of the Contractor's property.
  - c. Building and ground security systems such as alarm systems, electronic surveillance, perimeter fencing and security patrol services to prevent theft and vandalism of the Contractor's property.

D. Disclaimer

1. It is the sole responsibility of each Contractor to modify the Loss Control Standards set forth in this Appendix to meet the specific requirements of each Contractor.
2. The Loss Control Standards set forth in this Appendix are simply recommendations concerning the minimum standards that should be adopted by each Contractor.
3. To be effective, a loss control program must be expanded to meet the specific requirements of each Contractor.
4. The Pool makes no representation or warranty that the Loss Control Standards set forth in this Appendix are sufficient or adequate to meet the specific requirements of each Contractor.

## SOCIAL SERVICE CONTRACTOR'S INDEMNITY POOL

### APPENDIX C

#### DUTIES OF THE CONTRACTOR

The Contractor shall:

- A. Designate an employee or employee committee to serve as a liaison between the Contractor and the Pool in connection with the Social Service Contractors Indemnity Pool.
- B. Comply with the Pool's program for loss control and safety as recommended by the Administrator.
- C. Provide timely notice to the agent or Administrator as required by the Coverage Agreement.
- D. Cooperate fully with and assist as necessary the Board, Administrator and/or its designee, including legal representation, in the investigation, settlement or defense of all claims and/or lawsuits.
- E. Notify the insurance agent or Administrator of any change in risk or increase in the hazards.
- F. Respond promptly to all correspondence pertaining to the Pool.
- G. Provide any and all underwriting information deemed necessary by the Board, Administrator, and/or its designee.