

**INDEPENDENT SUBCONTRACTOR AGREEMENT
FOR PROVISION OF EARLY INTERVENTION SERVICES**

THIS AGREEMENT executed on this ____ day of _____, 2023, by and between Intellectual Gift, Inc., a New York corporation having an office at 1854 Hylan Blvd, 2 Floor, Staten Island, NY, 10305 (hereinafter referred as "Intellectual Gift" or "Agency"), and the Independent Subcontractor

(Name)

Company (or Corporate Entity) _____ (hereinafter referred to as "IS") with a mailing address at _____ to provide _____ (PT, OT, SLP/TSHH/TS�D, Special ED, CSW, Nutrition, Physician, etc.) services as defined in the pertinent regulations of the New York State Department of Health ("Department"), Title II-A of Article 25 of the Public Health Law to children and families who have been admitted for services by the Agency.

WHEREAS, Intellectual Gift is a provider of early intervention services to children aged birth to three and their families and has a Provider Agreement with the New York City Department of Health and Mental Hygiene to provide such services;

WHEREAS, IS presents that he/she (if individual)/it (if corporation) is a qualified individual or corporation which is approved to deliver services to the extent authorized by their licensure, certification or registration as defined in the Regulations of the New York State Department of Health, 10 NYCRR Section 69-4.1(a)(1)-(20);

WHEREAS, Intellectual Gift desires to engage IS in providing the above-mentioned services for Intellectual Gift during the term of this Agreement on the terms and conditions set forth herein; and

WHEREAS, IS agrees to provide such services to Intellectual Gift based on all applicable rules and regulations governing NYC Early Intervention Program and hereby outlined in this contract and Intellectual Gift's "Policy and Procedures Manual for Right Start Early Intervention Agency".

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises and agreements contained herein, Intellectual Gift contracts with IS, and IS agrees to provide services for Intellectual Gift on a fee-for service basis under the terms and conditions hereby agreed upon by the parties:

**ARTICLE 1
TERM, AMENDMENTS AND REVISION, TERMINATION**

1.1 Term: The term of this Agreement shall be indefinite from the date hereof, unless sooner terminated pursuant to the "termination" paragraph of this agreement.

1.2 Amendments and Revisions: This Agreement may be amended and/or revised in writing from time to time, based on NYS DOH and NYC EIP new guidelines and regulations.

1.3 Termination: Either party may terminate this Agreement upon provision of a written notice with at least thirty (30) calendar days prior of such termination. However, in all cases of IS's non-compliances with the Laws and Regulations set by the DOH and Policy and Procedure set by the Agency, the Intellectual Gift may terminate the Agreement upon a written notice at any time. The IS understands that submission to the Agency of materially false information about services provided by the IS is fraudulent activity, is punishable

by law, and will result in immediate termination of this Agreement. The IS prior to execution of this Agreement received a copy of the New York False Claim Act and Fraud prevention policy and is obligated to be familiar and comply with this document.

ARTICLE 2 DOCUMENTATION, REQUIREMENTS AND STATUS

2.1 Qualification Documents: The IS assures that he/she is presently qualified to provide _____ services in New York State, and agrees to retain all necessary licenses or registrations during the term of this Agreement. The IS will provide the Agency with copies of his/her professional licenses and registrations, verifications of qualifications, malpractice insurance, State Approval letter and clearance from both the State Central Register and the Lists of Excluded Persons maintained by the Office of the Inspector General of the U.S. Department of Health and Human Services.

2.2 Medical Certification: Prior to the execution of this Agreement, the IS will provide medical certification that he/she is free from any health impairment that is of potential risk to the Agency's patients, their families or the Agency's employees, or that may interfere with the performance of IS's duties. If IS's health condition changes, he/she will promptly notify the Agency of such changes that can put at risk the Agency's patients, their families or the Agency's employees. The IS will provide the Agency with a written record of immunization to Rubella, Rubeola, Hepatitis B and T.B. screening by the method of P.P.D., and clinical tests required by federal, state or local laws.

2.3 Insurances: IS maintains professional liability insurance for a minimum of \$1,000.000 and provides Intellectual Gift with proof of coverage.

2.4 Annual Training Requirements: IS agrees to present certificates for at least two (2) clinical in-service trainings (10 hours total) per year.

ARTICLE 3 REPRESENTATIONS, RESPONSIBILITY, WARRANTIES AND EQUAL EMPLOYMENT OPPORTUNITY

3.1 Representations: IS represents that the information regarding his/her credentials and work experience submitted to Intellectual Gift is current, valid, accurate and in full force and effect. IS authorizes Intellectual Gift to verify any submitted document and investigate the employment history if needed.

3.2 Responsibility: IS is responsible to secure the NYS Department of Health Approval and fully comply with NYS Laws and Regulations governing provision of Early Intervention services. This includes, but is not limited to, compliance with Public Health Law, FEPPRA (Federal Family Education Rights and Privacy Act), Department Memoranda(s) and guidelines and other documents that were received by IS in the package with the State Approval letter and also updates that are posted periodically on NYS DOH website. It is the IS's responsibility to renew all licenses, certifications, insurances, etc. before the expiration date.

3.3 Warranties: IS warrants that he/she will maintain the necessary licensure/certification required to maintain the IS status. IS agrees to provide Intellectual Gift with a proof of renewal, if any, during the term hereof. If IS's license is suspended or revoked, he/she shall notify Intellectual Gift immediately. IS warrants that he/she has never had, nor had ever been engaged in any conduct, which would be a cause to have a license or certification to practice professional services in any state or country, or approval to provide early intervention services, revoked or suspended for any reason. IS further warrants that he/she has never been convicted of a misdemeanor or a felony in any jurisdiction and does not have any pending criminal charges against him/her.

3.4 Equal Employment Opportunity: Intellectual Gift provides Equal Opportunity to all individuals, and does not discriminate on the basis of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation or citizenship status in employment decisions of any type (recruitment, hiring, training, compensation, etc.).

ARTICLE 4

WORK TO BE PERFORMED

4.1 General: IS agrees to provide professional services to children and their families referred to him/her, within the scope of his/her professional license/certification, expertise and NYSDOH letter of approval. IS agrees to log on to the ProviderSoft (Intellectual Gift's Software Vendor) weekly and check for updates. Intellectual Gift will provide the IS with all guidelines regarding the Software operation and will assign the *Username* and *Password* needed to access the ProviderSoft database.

4.2 Compliance: IS will comply with the provisions of the New York City Early Intervention Program (EIP) regulations, the Public Health and Education Law of the State of New York and the standards contained therein and with contractual provisions of the Early Intervention Provider Contract with Intellectual Gift. IS also agrees to comply with the Intellectual Gift "Policy and Procedure Manual", which is included in Orientation Package. IS acknowledges that he/she has read and is familiar with all of the foregoing statutes, rules, and policies including, but not limited to, such issues as Policies on confidentiality; Health, safety, sanitation and infection control; Child abuse reporting; Sexual harassment and Fraud prevention, and will fully abide to them.

4.3 Assignments: Intellectual Gift, Inc. providers will carry a maximum caseload of 30-35 hours a week. This will be attained through a gradual process of assignment. Assignments for cases will be based on the capabilities of the therapist to provide the necessary services as listed in the program regulations. Consideration of a variety of factors will be given prior to assignment, including; reviewing the total authorizations for each therapist and monitoring other employment (working for multiple agencies or teaching school). A Staffing Coordinator will use ProviderSoft software in order to monitor the number of hours assigned to each therapist. Intellectual Gift assigns to IS only "home and community based individual/collateral" services as appropriate. Therapies for twins, triplets and children in the daycare facilities or other community locations must be conducted as authorized individually for each child. Therapeutic activities rendered to two children at the same time and billed for two visits are unacceptable and are considered fraudulent activities. Intellectual Gift does not guarantee any specific number of cases or any cases at all. IS is not obligated to accept the cases that are being referred by the Agency. When IS rejects the case that was previously accepted by him/her, he/she must immediately notify the Agency, so that this case will be reassigned to the Agency's employees or another IS. The child's parents or legal guardians can request reassignment of IS.

Intellectual Gift shall provide the IS with child records and/or information in its possession as may be necessary for the IS to provide services to the child. The IS must agree not to initiate service(s) prior to reviewing the child's IFSP and evaluations. Not in any case the IS can start the services without authorization.

When IS receives an assignment, the *Assignment Form* must be submitted to Intellectual Gift whereas the start date of service delivery is within 14 days of the authorization start date listed in the child's IFSP. Services must start within two weeks from the first date listed in the NYC EIP Service authorization data entry form. It must be a very exceptional reason for delaying the start date of services beyond the 14-day period. If it must happen, the *Delay or Interruption of Services Form* must be submitted within 14 days of the authorization date listed in the child's IFSP.

4.4 Schedule: Days and times of service provision are solely at the discretion of IS and the child's family or legal guardians.

4.5 Provision of Services: IS shall provide services as specified on the Intellectual Gift Case Assignment Form and the child's IFSP at the location (e.g. home, day care, etc.), duration (minutes of service per session) and frequency (times per week) indicated. IS will not provide services after the child's discharge date. IS cannot provide more than one session per day per discipline (doubling-up sessions); provide sessions that have the same service code (e.g. SI/TSHH), provide sessions w/o RX (PT. OT & Feeding services). IS must collaborate and coordinate with other providers in order to insure that not more than 3 sessions a day are provided to the child, unless a waiver is obtained and that FT sessions are provided as authorized (e.g. SI and ST are authorized to provide the FT in alternate weeks, etc.). IS agrees to participate in person in ongoing

IFSP(s) as it is required by EI regulations. IS must recognize the importance of Team Work and agree to communicate and collaborate with the parents, family, other service providers, service coordinators in formulating and implementing the child's service plan and reflect this communication in his/her daily session notes in the corresponding box. It's the IS's responsibility to reflect each scheduled visit in his/her daily session notes as it is listed in the child's IFSP. Timely notification is required when there are changes in the IS's ability to deliver services.

Make-up sessions have to be provided when canceling services (i.e. for illness, emergency, weather, vacation etc.). Notification must be given to parents and agency 2 weeks or more but not less than 5 days prior to any scheduled absences (i.e. vacations, professional activities, etc.). Notification to Intellectual Gift must be given at least 30 days in advance of permanently stopping services for the child and family. Make-up sessions may only be provided within 2 weeks of missed sessions. Make-up sessions may not take place in advance of a missed session and cannot be provided on the same day as the regular session of the same type. Regularly scheduled sessions may not be extended for the purpose of making up a missed session. Scheduling the make-up session can not violate the NYC EIP billing rules: up to 3 visits per day. The 3 visits may include only 1 visit per discipline per day. Please be informed that SI and TSHH (TSLD) services can not be provided on the same day. Make-ups may not be provided for missed sessions that accrue because a service did not start within 2 weeks of the IFSP and are not allowed for sessions missed due to family's vacation. If the IS's vacation exceeds 2 or more weeks, a new provider must be assigned. No make-up sessions can be provided up-front.

4.6 *Documentation of Service Provision:* IS shall maintain and provide Intellectual Gift with all the necessary documents in accordance with the rules and regulations, requirements and guidelines set forth by NYS DOH, NYC EIP, other governmental agencies and the Intellectual Gift "Policies and Procedures Manual". All daily notes and quarterly progress reports must be submitted on a timely basis: notes - from the 1st to the 15th day of the month by the 20th day of the month and from 16th day to the last day of the same month by the 5th day of the next month; reports - by the date determined by Intellectual Gift. IS must document 3 consecutive missed sessions or 10 calendar days (whatever comes first) and report the gap to the Service Coordinator.

The IS agrees that all original documents should be in the possession of the IS with the Agency keeping copies of the documents as it is outlined in the amended agreement between NYC Department of Health and Mental Hygiene and Intellectual Gift and audit standards applied by the NYC and NYS.

The IS shall retain the originals of all records (including supporting documents) for six (6) years from the date that the contractual services were furnished. The IS shall provide all original documents and session notes upon the request of a municipality, the Department or Intellectual Gift for programmatic monitoring and audit purposes.

ARTICLE 5 COMPENSATION

5.1 *General Payment Obligation:* All services rendered by the IS under this Agreement shall be paid by Intellectual Gift on a fee-for- service basis at a rate that is mutually agreed upon by both parties. The *Schedule of Fees for Services* is attached to this Agreement. Agency will provide the IS with Form 1099-MISC by January 30 for the prior year.

5.2 *Timeliness of submitted invoices and payment:* Payments for services will only be made if IS submits an appropriate invoice, daily session notes and quarterly progress reports when due as detailed in Intellectual Gift Policy & Procedure Manual. The session notes submitted to the Agency by IS must be presented on the agency form and contain all elements that are outlined in the Intellectual Gift Policy and Procedure Manual. Intellectual Gift shall pay IS on a monthly basis.

Any Session Notes that are submitted to our agency after the 30th day from the date of service may not go through our billing process on time and as a result will likely be denied by the NYC EIP for late billing. In order to avoid unpaid claims,

Intellectual Gift is implementing a bi-weekly (twice a month) billing cycle. The IS must submit his/her invoices along with the corresponding Session Notes twice a month. The IS has to use current billing

invoices. The IS has to attach a new invoice with each batch of session notes submitted. Intellectual Gift will collect the IS's billing from the 1st to the 15th day of the month by the 20th day of the month. Intellectual Gift will collect the IS's billing from the 16th day to the last day of the same month by the 4th day of the next month. Intellectual Gift will not compensate the IS for any unit's/service(s) which are not authorized in

the child's IFSP. IS agrees that any billable unit's/service(s) that are denied by the administering Municipality because of late billing or because they were not in compliance with the child's IFSP or the regulations detailed in this Agreement, if paid for will be recouped. The provision of this subparagraph shall survive the expiration of termination of this Agreement.

5.3 Withholding and Benefits: Compensation paid pursuant to this Agreement shall not be subject to the customary withholding of income taxes and other employment taxes, such as Social Security or Medicare payments, etc. from any sum paid to IS under this Agreement.

IS shall be solely responsible for reporting and paying any such taxes.

The IS shall not be entitled to sick pay, vacation, holiday, military leave of absence, inclement weather, jury duty, transportation, medical leave, or pension.

5.4 Expenses: The IS shall be responsible for all expenses which he/she may incur hereunder, including but not limited to, expenses for professional licenses and regulations, continuing education classes, training, automobile and any transportation expenses and the cost of all telephone and fax use, tools, supplies, materials, equipment and other expenses that are deemed necessary to perform services hereunder.

ARTICLE 6 INDEPENDENT SUBCONTRACTOR STATUS

IS acknowledges that he/she is an independent subcontractor and is not an agent, partner, or employee of Intellectual Gift. It is intended by both the Agency and the IS that nothing in this Agreement be construed to create an employer/employee relationship between the Agency and IS. IS shall have no authority or otherwise obligate Intellectual Gift in any manner nor shall IS represent to anyone that he/she has a right to do so. In accordance with such status as an IS, the IS further covenants and agrees that nothing contained in this Agreement shall impair the rights of Intellectual Gift, NYC Department of Health and Mental Hygiene or the Eligible and/or Referred Child. The Agency and the IS retain the right to contract with other independent subcontractors or agencies which provide the same or other services. The agency also has the right to provide such services to patients through its employees. The IS shall comply with the terms and conditions required to maintain status as an Independent Subcontractor in accordance with regulations of the US Internal Revenue Service.

ARTICLE 7 INDEMNIFICATION AND RELEASE OF LIABILITY

7.1 Indemnification: Each of the parties (the "indemnifying party") agrees to indemnify, defend, and hold harmless the other (the "indemnified party") and each of its respective officers, directors, employees and assigns from and against any and all claims or demands, and every liability, loss, damage or expense, causes of action, lawsuits, complaints, losses, costs, or any other legal proceeding or relief, including, but not limited to, state or federal income tax actions, complaints, claims, assessments, liens in the course of independent subcontractor's rendering of service(s) under this Agreement.

7.2 Release of liability: IS agrees that nothing included in this Agreement shall impose any liability or duty upon Intellectual Gift, NYC and NYS, or of any department, agency or unit thereof, nor shall an officer or employee of Intellectual Gift, NYC or NYS or of any department, agency or unit thereof, including, but not limited to, taxes or benefits of any nature, such as, Workmen's Compensation coverage, Unemployment Insurance Benefit, disability benefits, retirement credit, Federal Unemployment Tax (FUTA) or Social Security Coverage (FICA).

ARTICLE 8

PROVIDER (IS) AS AN AGENCY

In the event the Independent Subcontractor is a corporate entity contracted for the provision of Early Intervention Services (Corporation, PC, LLC, partnership, etc. formed in the state of New York), Agency agrees to retain services of the IS, and the IS agrees to provide services to the children and families, assigned to the Agency, according to the terms of this Agreement.

For every professional providing services through the IS, the IS shall present to Intellectual Gift the appropriate documentation as detailed in section 3 of this Agreement.

The IS shall ensure that every professional individual providing services through the IS shall abide by all applicable terms of this Agreement, Provider Agreement, and the Intellectual Gift Policy & Procedure Manual. The IS must guarantee Intellectual Gift that all professionals employed or contracted by the IS to perform work under this contract are not employees of Intellectual Gift and that the IS is responsible for their own work, performance, compensation, and personal conduct while engaged under this Agreement. It is the responsibility of the IS to secure the NYS Department of Health approval, by being in full compliance with the NYS Laws and Regulations governing the provision of Early Intervention services. This includes, but is not limited to; complying with Public Health Law, FEPPRA, Department's Memoranda's, guidance's etc. These documents were received by the IS in the package with the NYS Approval Letter and updates have been posted on NYS DOH website. Nothing included in this Agreement shall impose any liability or duty upon Intellectual Gift, City or State of New York, or of any department, agency, or unit thereof, for the acts, omissions, liabilities or obligations of the IS or any person, firm, company, agency, association, corporation or organization engaged by the IS as a consultant, independent subcontractor, trainee, employee, or agent. It is the responsibility of the IS. No claims whatsoever shall be made by the IS against the Agency, any agency's officer or employee for, or on account of, anything done or omitted in connection with this contract.

ARTICLE 9 RESTRICTIVE COVENANT

9.1 No Competition: IS agrees for a period of five (5) years following the date of termination of this agreement by retirement and /or expulsion or otherwise (the "Non-Compete Period") that he or she shall not directly or indirectly, either individually or with others, engage or have any interest, as an owner, employee, representative, agent, consultant or otherwise, in activity that is competitive with the business or the Intellectual Gift within the entire five borough of the City of New York, State of NY. These covenants shall be deemed separate covenants for each and every state, county and any other governmental entity covered by the non-compete obligation and in the event the covenant for one or more such jurisdictions is determined to be unenforceable the remaining covenants shall remain in effect.

These covenants are not intended to prevent any IS from using his/her general knowledge, expertise, skill and know-how in a manner that is not competitive, provided the IS does not use, disclose, divulge or communicate any Confidential information (as hereinafter defined).

9.2 No Hiring of Others: Further, each departing IS agrees that during such Non-Compete Period, he or she shall not solicit nor employ any person who is employed by the Intellectual Gift during the Non Compete period.

9.3 No Solicitation: Each IS further agrees that during such Non-Compete Period he/she shall not solicit the Intellectual Gift's clients on behalf of her or any other business or entity in competition with the business then conducted by the Intellectual Gift.

9.4 Confidential Information: For purposes of this Paragraph, the term "Confidential Information" means, in addition to its meaning under applicable law, information which is not generally known in this Company's industry, which has been proprietary to Intellectual Gift and which has been subject to efforts by the Intellectual Gift to programs, codes, scripts, business plans, trade secrets, lists of customers and business partners and any information about them, technical data, developments, intellectual and/or non-intellectual properties, systems, procedures, services, methods, designs, equipment, plans, marketing techniques or

business practices of this Company and/or its clients, costs or uses or purchasers or suppliers of the Intellectual Gift and/or its clients products and services, databases containing any information, manuals, plans, strategies, prices, inventions, discoveries and any other confidential information matters which is generally not available to public and maintained as confidential by Intellectual Gift and its clients, acquired in any capacity by the IS during the term of contracting the Company. Without limitation of the foregoing, all information which any party has a reasonable basis to consider Confidential Information or which has been treated by the Intellectual Gift as being Confidential Information shall be presumed to be Confidential Information whether originated by active, retiring and /or expelled US or by others, and without regard to the manner in which a retiring and/or expelled IS obtains access to such information.

9.5 No Disclosure: No IS shall at any time during Non-Compete Period, use or disclose any Confidential Information to any person not employed by the Intellectual Gift without the prior written authorization of the company except as required by law, court order or governmental demand, provided that the retiring and/or terminated IS has given the Company prompt, written notice that he/she believes he/she is required to disclose same so that the IS has had reasonable opportunity to seek a protective order or other appropriate remedy. IS shall exercise prudence and the highest degree of care to safeguard and protect, and to prevent the unauthorized disclosure of, all such Confidential Information. The parties hereto stipulate that all substantial effort and is and will be important and material and does and will contribute significantly to the successful conduct of the Company's business and to its goodwill.

Information should not be considered Confidential to the extent, but only to the extent, that such information is: (a) already known to the receiving party free of any restrictions at the time it is obtained from the other party; (b) subsequently learned from an independent third party free of any restrictions and without breach of this Agreement; (c) is or becomes publicly available through no wrongful act of any party; (d) is independently delivered by one party without reference to any Confidential Information of any other party or (e) required to be disclosed pursuant to a requirement of a governmental agency or law so long as the parties provide each other with timely written prior notice of such requirements.

9.6 Return of Documents and Materials: IS further agrees to promptly deliver to the Intellectual Gift, upon request by the Company, all documents and materials made, composed and/or received by IS during her/his tenure in the Company that are in possession or custody or control of IS. The term Documents and Materials refers to any piece of information on any form of media and may include, without limitation, any correspondence, e-mails or any form of communication, memoranda, notes, records (paper and electronics), drawings, design documents, specifications, program/codes, sketches, plans, diagrams, graphs, charts, reports, confidential information, computer storage media, video tapes, films, photographs, print outs and copies of thereof. IS grants Intellectual Gift all rights, title and interest in and to, including without limitations, right to possess, copy, use, sell or otherwise dispose of any or all such Documents and Material. IS acknowledges that all documents and Materials produced by IS while performing services for the Company, are the works made for hire and the Company is the sole owner of all such Documents and Materials, its legal copyrights and intellectual property rights.

IS agree to assist the Company in completing all writings and any other assignments required to vest ownership of all such Documents and Materials, its legal copyrights and intellectual property rights in the Company.

9.7 Remedies: IS agrees that his/her relationship with the Intellectual Gift is unique and special; that in the event of any material breach of this Agreement or any of its provisions, money damages alone would be an inadequate remedy; that any breach by an IS of the provisions, money damages alone would be an inadequate remedy; that any breach by IS of the provisions contained in this Paragraph would cause immediate and irreparable harm to the Company, that in the event of any breach of this Agreement by a Member, in addition to any remedies the Intellectual Gift may have at law, shall have the right to equitable relief, including injunctive relief, against the breaching IS without posting bond.

9.8 Third party Beneficiaries: Both parties acknowledge and agree that the covenants contained in this Paragraph are expressly intended to benefit the Company and all its affiliates, and that for purposes of such Paragraph the term "Company" shall include all of the company's Affiliates. The term "Affiliate" shall mean

any entity that directly or indirectly through one or more intermediaries controls, is controlled by or under common control with the Company. The term “control” means the power, direct or indirect, to direct or cause the direction of management and policies, whether through ownership of voting securities, by contract or otherwise.

ARTICLE 10 MISCELLANEOUS PROVISIONS

The provisions of this Agreement shall be binding upon and insured to the benefits of the heirs, personal representatives, successors, and assigns of the parties. In the event of a default under this Agreement, the defaulted party shall reimburse the non-defaulting party or parties for all costs and expenses reasonably incurred by the non-defaulting party or parties in connection with the default, including without limitation, attorney fees. Additionally, in the event a suit or action is filed to enforce this Agreement or with respect to this Agreement, the prevailing party or parties shall be reimbursed by the other party for all costs and expenses incurred in connection with the suit or action, including without limitation, reasonable attorney fees at the trial level and on appeal.

This Agreement shall be governed by and shall be constructed in accordance with NYS and NYC Laws and Regulations governing the provision of Early Intervention services and FEPPRA (the Family Educational Rights and Privacy Act of 1974).

EMPLOYEE:

INTELLECTUAL GIFT, INC.:

Interventionist's name

Name

Specialty

Title

Date

Date

Signature

Signature