

**PRESCHOOL EDUCATION PROGRAM CONTRACT**  
**School Year 2008-2009**

This AGREEMENT is made and entered into this first day of July 2008 by and between the {School District}, with principal offices located at {Address}, {City}, New Jersey {Zip code} (hereinafter referred to as the "District"), and \_\_\_\_\_, with its principal offices located at \_\_\_\_\_ (hereinafter referred to as the "private provider" or "local Head Start Agency," as applicable or Provider.)

**WHEREAS**, the School Funding Reform Act, P.L. 2007, c.260 (SFRA), adopted in January of 2008 provides for the expansion of a high quality preschool program to all age- and income-eligible at-risk preschool children in New Jersey; and

**WHEREAS**, specific provisions are included in the SFRA for districts to plan for expansion during the 2008-2009 school year and begin expansion in the 2009-2010 school year in order to reach 90 (ninety) percent of their universe of eligible at-risk preschool children by the 2013-2014 school year; and

**WHEREAS**, other eligible districts had the opportunity to make application to begin expansion during the 2008-2009 school year; and

**WHEREAS**, this Agreement seeks to ensure that pursuant to the SFRA, the high quality preschool program offered by the Provider contracting with the District shall meet the educational needs of the eligible three- and four-year-old preschool children of the District through the coordination of all federal, state and local public and private community resources; and

**WHEREAS**, the District was previously governed by N.J.A.C. 6A:10A et seq. and pursuant to the SFRA now is governed by the Department of Education's preschool plan decision of January 2008 and thus is required to continue to offer a high quality preschool program and has determined to do so by contracting with a qualified Provider that complies with the Manual of Requirements for Child Care Centers, N.J.A.C. 10:122-1.1; and meets the Elements of High Quality Preschool Programs, N.J.A.C. 6A:13A.

**WHEREAS**, the Provider is a private provider or local Head Start Agency and is licensed by the New Jersey Department of Children and Families that offers services in accordance with the applicable statutory and regulatory provisions and agrees to be bound by the Manual of Requirements for Child Care Centers, N.J.A.C. 10:122-1.1; Elements of High Quality Preschool Programs, N.J.A.C. 6A:13A et seq. and N.J.A.C. 6A:10-2.1(e), and

**WHEREAS**, it is the intent of the parties that through this Agreement, each party shall be in compliance with all applicable federal and State statutes and regulations, the parties recognize that in the event that there are statutory or regulatory amendments there will be a need to amend this Agreement during its term to comply with any such changes;

NOW, THEREFORE, the parties hereby acknowledge and agree to the following:

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I PURPOSE OF THE AGREEMENT

- A. This Agreement provides funding for the 6-hour comprehensive preschool educational program (Program) for \_\_\_\_ school calendar days during the 2008-2009 school year. [The number entered should equal the number of student contact days plus the number of teacher professional development days on the District school calendar exclusive of any extended year or summer programming. Also insert this number in Section III(B), first paragraph.]
- B. The Provider shall offer a Program that shall meet the educational needs of the eligible three- and four-year-old preschool children of the District as set forth in this agreement and in accordance with the applicable requirements of the Elements of High Quality Preschool Programs (N.J.A.C. 6A:13A et seq.), and the Manual of Requirements for Childcare Centers (N.J.A.C. 10:122-1.1) and the requirements of this Agreement.
- C. The District shall work with the Provider to meet the requirements of the Elements of High Quality Preschool Programs (N.J.A.C. 6A:13A et seq.), and the Manual of Requirements for Childcare Centers (N.J.A.C. 10:122-1.1) and shall compensate the Provider in accordance with this Agreement.

II DEFINITIONS

- A. All terms within this contract have the same meaning as defined in N.J.A.C. 6A:13A, as supplemented below.
  - 1. For purposes of this Agreement, the term “six-hour comprehensive educational program day” means a full-day preschool program in accordance with the school district’s grade one through twelve daily school calendar and not exceeding the ten-month academic period.
  - 2. For purposes of this Agreement, the term "Appropriately Certified Teacher" means an individual meeting the requirements set forth in Section II (E)(1), (2), (3) and (4) of this Agreement.
  - 3. For purposes of this Agreement, the term "Appropriately Qualified Teacher Assistant" means an individual meeting the requirements set forth in Section III (E) (5) of this Agreement and N.J.A.C.6A:13A-4.3.
  - 4. For the purposes of this Agreement, the term “Quarterly Expenditure Report” means a report of all actual, approvable, reasonable and customary expenditures with supporting documentation and receipts available for inspection at any time by District

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or Department designee, for each quarter following the payment and report schedule provided in Section VII, Compensation, for all approved budget lines for the 2008-2009 school year. This includes reporting all approved salaries, benefits, payroll taxes, substitute stipends, classroom materials and supplies, start-up classroom materials/supplies and technology supplements, if applicable, field trips and transportation, space costs, food costs, administrative and indirect costs, special requests, and summer enrichment costs, if applicable, on the expenditure report.

5. For the purposes of this Agreement, the terms “absent without excuse” and “unexcused absence” mean any absence not due to sickness or medical condition documented by a licensed medical professional or documented family emergency.

### III PROVIDER REQUIREMENTS

#### A. GENERAL

The Provider shall at all times:

1. Be a private provider within the meaning of N.J.A.C. 6A:13A-1.2 or a local Head Start agency;
2. Be a licensed by the Department of Children and Families, Office of Licensing as a Child Care Program pursuant to [N.J.S.A. 30:5B-1](#) et seq.
3. Operate pursuant to the requirements set forth in the Elements of High Quality Preschool Programs (N.J.A.C. 6A:13A et seq)., and the Manual of Requirements for Childcare Centers (N.J.A.C. 10:122-1.1) and the terms of this Agreement.

#### B. COMPREHENSIVE EDUCATION PROGRAM REQUIREMENTS

The Provider shall offer a Program for \_\_\_\_ school calendar days during the 2008-2009 school year. [The number entered should equal the number of student contact days plus the number of teacher professional development days on the District school calendar exclusive of any extended year or summer programming. Insert number from Section I(A)] during the period July 1, 2008 through June 30, 2009.

1. The length of the school day shall be at least 6 hours and shall conform to the length of the school day of the District subject to the provisions of Section V (D).
2. The Program shall consist of the comprehensive curriculum articulated in the District’s preschool plan or updates, as approved by the Department and at a minimum shall include the following components:

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- a. A comprehensive curriculum supported by research, aligned with the *New Jersey Teaching and Learning Expectations: Standards of Quality (Expectations)*, and linked to the *New Jersey Core Curriculum Content Standards (CCCS)* that is approved by the Department as part of the District's plan and annual updates;
  - b. Professional Development;
  - c. Health and Social Service Coordination; and
  - d. Parent Involvement Activities.
3. Secular Program  
The Program offered by the Provider shall comply with all federal, state and local laws and regulations regarding the secular nature of programs receiving public funding. It is understood that violation of this provision shall be deemed a breach of this Agreement and shall be the basis for immediate termination pursuant to Section XI of this Agreement.

C. FREE PROVISION OF PROGRAM

The Provider shall not require parents or families of children in the program to pay any registration or other fees to participate in the Program, if the children are eligible for the program, free of charge.

D. DIRECTOR QUALIFICATIONS

The Provider shall have a director meeting the qualifications set forth in the Manual of Requirements for Child Care Centers and the Elements of High Quality Preschool Programs. The Director shall be responsible for the development and implementation of the overall program and shall work on-site at the child care center for a minimum of five of the six hours of the comprehensive educational program day.

1. The director shall not serve in any other position including, but not limited to, instructional staff member or family worker, during the same hours as he/she is serving in the capacity of center director.
2. If the director is required to be off-site, he/she shall assign an on-site designee, pursuant the Manual of Requirements for Childcare Centers, N.J.A.C. 10:122-1.1. The designee shall not be a classroom teacher or teacher assistant.

E. STAFF QUALIFICATIONS

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The Provider's staff shall have the following qualifications:

1. All preschool classroom teachers, in school districts receiving preschool expansion aid or education opportunity aid in 2007-2008, shall hold a Bachelor's Degree and, at a minimum, a certificate of eligibility or certificate of eligibility with advanced standing for Preschool through Grade Three or other equivalent preschool certification, as set forth in N.J.A.C. 6A:9.
2. All teachers, currently teaching in preschool classrooms, in school districts not receiving preschool expansion aid or educational opportunity aid in 2007-2008 who do not hold the appropriate degree and certification shall submit an initial application and annual updates to the school district signed by the teacher's college advisor verifying that the teacher is complying with the following requirements:
  - a. Is working toward completing the Preschool through Grade Three certification by the commencement of the 2012-2013 school year;
  - b. Is a student in good standing;
  - c. Has a minimum GPA of 2.75 when 4.0 equals an A;
  - d. Has a detailed and feasible plan for attaining Preschool through Grade Three certification within the timeframe described above; and
3. The Provider shall submit to the District for District board of education review each initial application and any subsequent revisions so that prior to the start of the school year the District board of education may review the accuracy and completeness thereof and approve or deny each individual applicant. In no case shall a teacher who has not completed the requirements listed above remain as a classroom teacher beyond the commencement of the 2012-2013 school year.
4. All preschool classroom teachers hired in private provider and local Head Start Agencies subsequent to the initial year of the school district's implementation of a preschool program shall hold a Bachelor's Degree and, at a minimum, a certificate of eligibility or certificate of eligibility with advanced standing for Preschool through Grade Three certification or other equivalent preschool certification, as set forth in N.J.A.C. 6A:9.
5. The Provider shall require all teacher assistants, both new hires and existing staff, to have a high school diploma.

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6. The Provider shall conduct annual evaluations of all teachers to determine whether they are making progress to meet the requirements set forth above in Section III(E)(1),(2)&(3) and report teacher progress toward certification to the District. This information shall include, but not be limited to, the teacher's date of hire, the name of the college or university the teacher is attending, and the number of credits earned toward certification to date. All evaluations conducted and all information so obtained, shall be maintained with the same confidential protection as the District observes with respect to its own employees.
7. The Provider shall notify the District in writing, within ten days, of any termination of employment of teachers or teacher assistants serving children in preschool classrooms and when the employment of new personnel takes place.

F. STAFFING STANDARDS

The Provider shall comply with the following staffing standards for the six-hour comprehensive educational program:

1. Class Size  
Contracted class size shall not be greater than 15 children with one appropriately qualified teacher and one teacher assistant, pursuant to N.J.A.C 6A:13A-4.3.
2. Line of Sight  
The teacher and/or teacher assistant must maintain a line of sight of the children during the six-hour educational program day.
3. Teacher Absences  
A substitute teacher and/or substitute teacher assistant shall be present and working in the preschool classroom for each day that a teacher and/or teacher assistant is absent, whether due to illness, required training, or approved personal leave. The credential of the substitute shall, at a minimum, meet county substitute credential requirements. Long-term substitute teachers for maternity or extended leave longer than three (3) weeks should have, at a minimum, a credential equivalent to the original classroom teacher.

G. FAMILY WORKERS

The Provider shall have one full time family worker in place for every 45 children being served by the Provider who shall;

1. Collaborate with the school district staff to ensure that activities for family involvement and social services occur.

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2. Coordinate participation in health and social services designated by the District to serve the needs of the children and their families.
3. Provide all requested data to the District.
4. Report to the director and collaborate with appropriate District social services staff.
5. Complete a minimum of three (3) visits with each family in each school year.
6. Not serve as teacher, secretary, substitute, or in any other capacity during the same hours as they are serving as the family worker consistent with Section I (A).

#### H. CRIMINAL HISTORY BACKGROUND CHECKS

The Provider, pursuant to the Manual of Requirements for Child Care Centers, N.J.A.C. 10:122-4.10, shall ensure that a Criminal History Record Information (CHRI) fingerprint background check is completed for all staff members at least 18 years of age who are or will be working at the center on a regularly scheduled basis, to determine whether any such person has been convicted of a crime, as specified in P.L. 2000, c. 77 and that said check indicates that no criminal history record information exists on file in either the Identification Division of the Federal Bureau of Investigation or the State Bureau of Identification which would disqualify said employee from employment pursuant to law or that the check reveals a disqualifying offense and the individual has demonstrated rehabilitation.

1. Within two weeks after a new staff member begins working at the center, the Provider shall ensure that the new staff member completes the CHRI fingerprinting process.
2. Until the center receives the results of the CHRI background check from the Division for a new staff member, the center shall ensure that a current staff member is present whenever the new staff member is caring for children at the center.
3. The Provider shall provide proof to the District that all procedures are followed for the center and each qualifying staff member as established by DCF pursuant to the Manual of Requirements for Child Care Centers, N.J.A.C. 10:122-4.10.
4. If it is discovered during the course of the Agreement that either a) an employee with disqualifying criminal history record information on file that has not demonstrated rehabilitation, or b) an employee who has not had a criminal history background

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check is working at a school location, said employee shall be immediately removed by the Provider.

5. Failure by the Provider to comply with DCF regulations regarding CHRI background check procedures and/or failure to remove said staff member immediately either upon notification by the District or discovery by the Provider shall be deemed a breach of this Agreement by the Provider and shall be a basis for non-renewal pursuant to Section X or termination pursuant to Section XI of this Agreement.

I. CHILD ABUSE RECORD INFORMATION CHECKS

The Provider, pursuant to the Manual of Requirements for Child Care Centers, N.J.A.C.10:122-4.9, shall obtain from all staff members who are or will be working at the center on a regularly scheduled basis, written consent for the Division to conduct a Child Abuse Record Information (CARI) background check to determine whether an incident of child abuse and/or neglect has been substantiated against any such person.

1. Within two weeks after a new staff member begins working at the center, the Provider shall submit to the DCF Office of Licensing a completed CARI consent form for the new staff member.
2. Until the results of the CARI background check of a new staff member have been received from the Division, the Provider shall ensure that a current staff member is present whenever the new staff member is caring for children.
3. The Provider shall provide proof to the District that all procedures required pursuant to the Manual of Requirements for Child Care Centers, N.J.A.C.10:122-4.9, are followed for each staff member.
4. If it is discovered during the course of this Agreement that a CARI background check reveals that an incident of child abuse and/or neglect has been substantiated against a staff member, said staff member shall be immediately removed by the Provider.
5. Failure by the Provider to comply with DCF regulations regarding child abuse record information background check procedures and/or failure to remove said staff member immediately either upon notification by the District or discovery by the Provider shall be deemed a breach of this Agreement by the Provider and shall be a basis for non-renewal pursuant to Section X or termination pursuant to Section XI of this Agreement.

J. NONDISCRIMINATION

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The Provider shall be fully responsible for the recruitment and hiring of staff necessary to perform this Agreement. The Provider shall not discriminate in the recruitment, selection, hiring, promotion or demotion of staff or the selection of services provided to children on the basis of race, creed, color, age, sex, national origin, ancestry, marital status, or sexual orientation, or familial status and shall operate in conformity with the provisions of all federal and state anti-discrimination statutes and directives, including Executive Order 1112462, the Civil Rights Act and the New Jersey Law Against Discrimination. Private providers and local Head Start Agencies must adhere to contracting requirements for affirmative action and affirmative action supplements. Forms can be accessed at <http://www.state.nj.us/treasury/purchase/forms.htm>.

**K. CONFIDENTIALITY OF PUPIL RECORDS**

The Provider shall keep all pupil records in strictest confidence. During the term of this Agreement and at all times thereafter, the Provider shall not publish, disclose or use pupil records without prior written consent of the District or as otherwise provided by law in strict accordance with N.J.A.C. 10:122-1.1 et seq., N.J.A.C. 6A:32-7.1 et seq., and the Federal Family Education Rights and Privacy Act.

**L. ATTENDANCE RECORDS**

The Provider shall collect and report daily attendance information on each enrolled child in the following manner:

1. If any enrolled child is absent without excuse for up to ten (10) consecutive days of school, the District and Provider shall make every effort to contact the family and get the child to school. The District and Provider may begin attempts to contact the family prior to ten (10) consecutive unexcused absences.
2. If these attempts fail and the child is absent without excuse for fifteen (15) consecutive days of school, the child shall no longer be enrolled and the District/Provider may fill the slot with another child.
3. Daily attendance reports shall be provided to the District on a monthly basis.

**M. FINANCIAL MANAGEMENT SYSTEM**

The Provider shall implement sound fiscal practices that include but are not limited to:

1. Maintaining a financial management system that provides timely, accurate, current and complete disclosure of all financial activities related to the Agreement, in accordance with Generally Accepted Accounting Principles (GAAP).

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2. Making expenditures in strict accordance with the Department's 2008-2009 Private Provider Budget and Expenditure Guidance, found at:  
<http://www.nj.gov/education/ece/abbott/ppbeg.pdf>;
3. Amending the approved budget with approval by the board of education and the Department.
4. Timely submitting all financial requirements and the submission of all financial reports in Section XIII of this Agreement.

IV DISTRICT/ PROVIDER COORDINATION, COOPERATION

- A. The Provider and the District shall ensure that the high quality elements required by the New Jersey Preschool Program Implementation Guidelines are met.
- B. The District shall at a minimum, shall provide a Master Teacher for every 20 preschool classrooms to address special needs including, but not limited to, providing additional assistance to uncertified or inexperienced teachers and professional development that supports English language learners and children in inclusive classroom settings. Master Teachers will provide coaching and classroom support for classroom teachers. The Provider agrees to allow the Master Teachers to provide professional development services in the Provider's contracted classrooms. The District, with the center director and the teaching staff, shall develop a professional development plan that describes the role and activities of the Master Teacher for the school year.
- C. The District shall make available to the Provider appropriate in-service training and systematic professional development activities.
- D. The District shall include the Provider's teachers in all professional development experiences offered by the district for the preschool teaching staff. The Provider's teachers must attend a minimum of {insert number} professional development in-service/trainings/workshops offered by the District.
- E. The District shall make available the District's substitute teacher list to the Provider.
- F. The District shall verify the credentials and progress toward obtaining the appropriate certification or credentials, where applicable, of all preschool teaching staff in a Provider and shall verify that all required background and criminal checks on all employees have been conducted.

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- G. The District and the Provider shall articulate plans and activities for children and parents who are making the transition to elementary schools.
- H. The District shall make available health and social service resources to the Provider.
- I. The District and Provider are jointly responsible for recruitment of children.
- J. The District is responsible for ensuring that each preschool child is screened at school entry using a developmentally-based early childhood screening assessment approved by the Department.
- K. The Provider shall attain and maintain a district-determined minimum reliable score of {insert number} on a classroom quality assessment instrument that is based on district average scores and historical trends. The following instruments may be used for classroom observation: Early Childhood Environment Rating Scale-Revised (ECERS), Program Quality Assessment (PQA). Other classroom quality assessment instruments may be used with the approval of the District and the Department.
- L. The Provider shall allow District or Department designees access necessary to conduct needs assessments and data collection.
- M. The District shall provide financial management assistance to the Provider in the development and monitoring of the Provider's annual budget and implementation of the preschool program.
- N. The District shall provide a copy of its work schedule for all teaching staff to the Provider to allow the Provider to ensure that the work schedule established for the staff teaching in the preschool classrooms is comparable to the work schedule provided by the District for both teaching staff contract hours and teaching staff student contact hours and is made available to all affected teaching staff.
- O. The District shall share with the Provider the plan for transition initiatives from program entry to kindergarten through grade three.
- P. The Provider shall submit a copy of their lease agreement or any written agreement for space, rent, or mortgage to the District for the school year, in every instance when the Provider is bound by such an agreement.
- Q. The Provider shall receive written approval from the District, and the Department of Education, consistent with N.J.A.C. 6A:13A 7.1(c) prior to any change affecting physical space or location of classrooms.

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V MONITORING OF PROGRAM PERFORMANCE

- A. The District and the Department of Education are responsible for monitoring the Provider on a regular basis to ensure that the Provider is delivering quality programs. The Provider shall provide the District, the Department of Education and the Department of Human Services access to its site and program records for purposes of monitoring and ensuring that the Provider is complying with all aspects of this Agreement.
- B. The Provider shall inform the District in writing of all conditions that may negatively affect or are negatively affecting performance of services as soon as they are known. The disclosure shall be accompanied by a statement of the action taken or contemplated by the Provider to correct the problems and when corrective action will be taken.
- C. The District may, at any reasonable time, make site visits to inspect the program, facility, books, records and equipment relating to the provision of the early childhood education services, review program accomplishments and management and financial control systems, as well as interview any officials and/or employees whose work involves the performance of this Agreement or compliance with its terms.
- D. The District shall conduct on-site monitoring at least twice in each contract year to assess compliance and shall ensure that the Provider is complying with the contract requirements of this Agreement.
- E. The District shall assess classroom quality and create action plans for teaching staff using the following steps:
  - 1. The District shall score program quality on a graduated scale in all preschool classrooms.
  - 2. An action plan shall be developed and implemented by the District and Provider if any classroom falls below the minimum acceptable score. Development of the action plan shall involve participation of the school district and the Provider in joint discussions to determine the classroom quality improvements that are necessary based upon the results of the observation instrument and establishment of a timeframe for making the required changes. The master teacher shall provide technical assistance to the classroom teacher based upon the action plan.
  - 3. If the District deems that improvements have not been made according to the established plan and schedule, the District or Provider may request that the classroom or program be evaluated by a reliable independent observer approved by the Department. If the reliable independent observer verifies that the action plan is not being satisfied, steps shall be taken to remove the Provider teacher from the

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classroom or not renew or terminate the preschool program contract pursuant to the provisions for non-renewal pursuant to Section X or termination pursuant to Section XI of this Agreement.

VI RECORDS, MAINTENANCE AND RETENTION OF RECORDS

- A. Any and all records concerning the operation of the program shall be retained in accordance with The School District Records Retention Schedule (attached to this Agreement as attachment A and incorporated herein). Such records shall be made available to the representatives of the District and the Department of Education upon request. Such records shall also be available to the public to the same extent that the District records are available for public inspection.
- B. Where not otherwise specified in the School District Records Retention Schedule, the retention period starts on July 1 for records created by or filed with the Provider during the prior school year.
- C. The Provider shall transfer to the custody of the District any records no longer necessary to maintain under the School District Records Retention Schedule that the District identifies in writing if the Provider intends to destroy such records pursuant to the retention schedule.
- D. The Provider shall cause all Subcontractors to comply with the terms of this Section.
- E. The Provider shall maintain and have available for audit and/or inspection all books and records that may be requested by the District, Department of Education and/or DCF. A copy of said documents shall be provided to the District, the Department of Education and/or DCF upon request.
- F. The Provider shall submit to the District, in a timely manner, monthly student enrollment and attendance reports, and such other reports or data as may be required by this Agreement, statute or regulation. The District, Department of Education, and federal agencies shall provide reasonable notice of audits and/or inspections.
- G. The Provider shall provide, in a timely manner, copies of all work papers produced in connection with audits made by the Provider to the District and the Department of Education, upon written request therefore.

VII COMPENSATION

- A. The maximum number of children for which the Provider will be compensated is {insert number of contract slots} for the 2008-2009 school year. The District shall pay monthly

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to the Provider one-tenth (1/10) of the provider's approved 2008-2009 annual budget subject to revisions pursuant to Subsection VIII(C) & (F).

- B. From October through June, in the event the average daily enrollment for the month is greater than or equal to fourteen-fifteenths (14/15) of the number of contract slots in A above, then the amount due the following month under the contract shall equal the monthly amount in Subsection VII (A).
- C. From October through June, in the event the average daily enrollment for the month is less than fourteen-fifteenths (14/15) of the number of contract slots, the amount due the following month under the contract shall equal the monthly amount multiplied by the average daily enrollment for the month, divided by the number of contract slots.
- D. For the month of October, the amount due under the contract shall not be subject to adjustment due to September enrollment for each contracted classroom that is open to receive children by September 1.
- E. The Provider shall collect and report daily attendance information on each enrolled child in the manner set forth in Section III (L) (3)
- F. In Districts previously subject to N.J.A.C. 6A:10A, the District shall make ten (10) monthly payments to the Provider in the sum of one-tenth (1/10) of the revenues provided under the provider's approved 2008-2009 annual budget as set forth in Section VIII (A) of this Agreement.
- G. Except for September 1, payment shall be made each month following receipt and verification of the Provider's enrollment for the previous month. The enrollment report is to be submitted to the District on the last business day of each month. Monthly payments will not be made until the enrollment report is received and reviewed by the District. The District will review the enrollment report within one week of receiving the report. In addition, the final payment, which is to be adjusted in accordance with Section VII (C) and (F) of this Agreement based on the Provider's enrollment reports for May and June and quarterly expenditure reports including receipts and supporting documentation, pursuant to Section VII(H) of this Agreement, shall be issued on or before August 1, 2009.
- H. The Provider agrees to submit to the District a quarterly expenditure report, as defined in Section II (A)(4), of actual, approvable, reasonable and customary expenditures signed and certified by the director and officer of the corporation (if the director is not an officer), if incorporated, and understands that the District will recoup any unexpended or misspent funds based on the quarterly expenditure reports, enrollment records and

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monthly payments made by the District. Based on its review of the quarterly expenditure report, the District shall make prorated adjustments to subsequent monthly payments.

1. If the provision for receipt and verification of the private provider and local Head Start Agency enrollment as described in VIII (G) are met, monthly payments shall be made on: September 1, October 15, November 15, December 15, January 15, February 15, March 15, April 15, and May 15. One final payment shall be issued on or before August 1, 2009.
  2. Quarterly expenditure reports (for quarters ending September 30, December 31, March 31, and June 30) shall be submitted to the District no later than: October 15, January 15, April 15, and June 30, respectively.
- I. The District may make a monthly payment adjustment at any time during the contract to reimburse the Provider for large expenditures related to approved budget items including, but not limited to, playground equipment and classroom start-up equipment.
1. Start-up classrooms are defined as newly contracted classrooms for 2008-2009 that expand the total DOE-approved district preschool enrollment and are not currently equipped for preschool children. All startup classrooms must be designated by the school district and approved by the DOE to be eligible for funds for start-up equipment. For districts approved for funds for start-up equipment, the budget guidance provides \$12,000 in additional funding for classroom materials and supplies and \$2,450 in additional funding for classroom technology, supplementing amounts normally allocated for materials and technology. Startup funding is provided for purchase of the essential supplies, furniture, technology, etc. needed to set up a brand new classroom. The district may pay start-up funds to the provider outside of the monthly schedule. Start-up funding expenditures are tracked in the quarterly expenditure reports submitted to the District by the Provider.

#### VIII AVAILABILITY OF FUNDS

The parties recognize that payments by the District to the Provider under this Agreement are expressly dependent upon, and subject to the availability to the District of State funds. The Provider is aware that the District's receipt of State funds is expressly conditional upon allocation, review and approval by the New Jersey State Department of Education. If a District, for any reason, does not receive sufficient State funds to make the required payments under this contract, it shall not be considered a Breach of the Agreement by the District and the Parties shall immediately begin negotiations to modify this contract taking into account the availability of funds.

#### IX TERM OF AGREEMENT

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The term of this Agreement shall be July 1, 2008 to June 30, 2009.

**X RENEWAL OR NON-RENEWAL OF A PRESCHOOL PROGRAM CONTRACT**

A. The district board of education and Provider and Department shall use the following process for renewal or non-renewal of a Provider preschool program contract:

1. For all Provider contract renewals or non-renewals:

- a. The District shall notify the Provider, the DOE, Division of Early Childhood Education and the DCF, Office of Licensing in writing on or before May 1 of each contract year of its intent to renew or not renew the Program Agreement for an additional one year term. Any District notification of non-renewal shall include the reason(s) for non-renewal of the Program Agreement.
- b. The Provider shall notify the District in writing within thirty (30) days of a receipt of a renewal notice from the District of its acceptance or rejection of the offer to renew the Program Agreement for one year.
- c. The Provider may dispute the non-renewal of the preschool program contract received in writing from the District by notifying the school district and the DOE in writing within ten (10) business days of receipt of the notice of non-renewal. The DOE may request additional information from either party.
- d. The DOE shall affirm or deny the appropriateness of the non-renewal decision in writing to the District and the Provider.
- e. The non-renewal decision may be appealed to the Commissioner of the Department of Education (“Commissioner”) pursuant to N.J.A.C. 6A:3, Controversies and Disputes.
- f. Upon non-renewal, the District shall recover from the Provider all playground materials, playground equipment both installed and uninstalled, start-up classroom materials and start-up classroom technology or the monetary equivalent thereof. The amount to be recovered shall be at least equal to the amount approved for the initial start-up costs.

**XI TERMINATION OF A PRESCHOOL PROGRAM CONTRACT**

A. The school district shall have the right to terminate this Agreement immediately upon:

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1. Notice of revocation of the Provider's license;
  2. Provider's breach of any of the following provisions of this Agreement;
    - a. Failure to conduct criminal history background checks as set forth in Provider Requirements, Criminal History Background Checks, Section III(H);
    - b. Failure to conduct Child Abuse Registry Information checks as set forth in Provider Requirements, Child Abuse Registry Information Checks, Section III(I);  
or
    - c. Violation of any federal, state or local law or regulation regarding the secular nature of programs receiving public funding by providing a secular program as set forth in Provider Requirements, Program Requirements, Secular Program, Section III (B)(3).
  3. Provider's action(s) or inaction(s) that placed children in the Program at serious risk of harm.
- B. For any breach of contract, except those that trigger the right to immediate termination defined in Section XI(A), the District shall have the right to terminate this Agreement as follows:
1. If a Provider fails to comply with any of terms of this Agreement or applicable Federal, State or local requirements, the District shall notify the Provider and the Department, Division of Early Childhood Education of the deficiency in writing.
  2. If the Provider fails to resolve the deficiency within thirty days, the District may initiate termination of this Agreement upon written notice to the Provider and Department, Division of Early Childhood Education. Termination of the contract shall be subject to written approval by the Department to the District and Provider.
- C. The Provider shall have the right to appeal to the Commissioner a District's decision to terminate this Agreement pursuant to N.J.A.C. 6A:3, Controversies and Disputes. The filing of an appeal under N.J.A.C. 6A:3 shall not prevent the termination from becoming effective on the date specified unless the appealing party seeks and is granted a stay pending decision by the Commissioner.
- D. The District and the Provider may terminate this Agreement by mutual agreement, in writing, upon notice to and receipt of written approval from the Department.

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1. In the event of termination under this Section XI(D), said termination shall take effect upon the thirtieth day from the date the District and the Provider receive written approval from the Department to terminate this Agreement.
  
- E. Upon termination, the District shall recover from the Provider all playground materials, playground equipment both installed and uninstalled, start-up classroom materials and start-up classroom technology or the monetary equivalent thereof. The amount to be recovered shall be at least equal to the amount approved for the initial start-up costs.
  
- F. In the event of non-renewal of this Agreement pursuant to Section X, Renewal or Non-Renewal of a Preschool Program Contract or Termination of this agreement by the school district or the Provider pursuant to Section XI, Termination of a Preschool Program Contract, other than contract termination under the provisions set forth in XI (A) 1, 2 and 3, the Provider shall continue the service until the District has found an appropriate placement for all children. At no time shall the Provider be required to continue the service for more than ninety (90) days beyond the expiration or termination date of the existing Agreement. The Provider will be reimbursed for this continued service at the funding level established in Section VII, Compensation.

**XII INFORMAL DISPUTE RESOLUTION PROCESS**

- A. The District and Provider shall attempt to resolve any dispute that may arise under this Agreement. If the dispute cannot be resolved locally, an appeal may be made to the Commissioner pursuant to N.J.A.C. 6A:3, Controversies and Disputes.

**XIII SUBCONTRACTING AND ASSIGNMENT**

- A. The Provider shall not subcontract and/or assign services to be provided pursuant to Section I, Program Components of this Agreement without written approval from the District and the Commissioner.
  
- B. The Provider agrees to make all records of any subcontractor available to the District, the Department of Education, the Department of Children and Families and any federal agency whose funds are expended in the course of this Agreement for the purpose of review. All subcontracts entered into by the Provider shall include a provision whereby the Subcontractor acknowledges its obligation to make all pertinent records available to the School District, the Department of Education, the Department of Children and Families and any federal agency whose funds are expended in the course of this Agreement.

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XIV INDEMNIFICATION

- A. The Provider shall assume all risk of and responsibility for, and agrees to indemnify, defend and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs, and expenses in connection therewith on account of the loss of life, property or injury or damages to the person, body or property of any person or persons, whatsoever, which shall arise from or result directly or indirectly from (1) the work, service or materials provided under this Agreement; or (2) any failure to perform the private provider or local Head Start Agency's obligations under this Agreement or any improper or deficient performance of the private provider or local Head Start Agency's obligations under this Agreement. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this Agreement. Furthermore, the provisions of this indemnification clause shall in no way limit the obligations assumed by the Provider under this Agreement, nor shall they be construed to neither relieve the Provider from any liability nor preclude the State from taking other actions available to it under any other provision of this Agreement or at law.
- B. The Provider shall assume all risk of and responsibility for, and agrees to indemnify, defend and save harmless the District and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs, and expenses in connection therewith on account of the loss of life, property or injury or damages to the person, body or property of any person or persons, whatsoever, which shall arise from or result directly or indirectly from (1) the work, service or materials provided under this Agreement; or (2) any failure to perform the private provider or local Head Start Agency's obligations under this Agreement or any improper or deficient performance of the private provider or local Head Start Agency's obligations under this Agreement. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this Agreement. Furthermore, the provisions of this indemnification clause shall in no way limit the obligations assumed by the Provider under this Agreement, nor shall they be construed to relieve the Provider from any liability nor preclude the District from taking other actions available to it under any other provision of this Agreement or at law.
- C. The Provider shall immediately notify the District and the Department of Education in writing of any action or suit pending or filed or any claim which may result in litigation against the District and/or the State of New Jersey by any person, organization or other entity.

XV INSURANCE

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A. The Provider shall procure and maintain at its own expense, until at least two years after the completion of all services performed under this Agreement and any modification hereto, liability insurance for damages imposed by law and assumed under this Agreement, of the kinds and in the amounts hereinafter provided, from insurance companies admitted or approved to do business in the State of New Jersey. The Provider expressly understands and agrees that any insurance protection required by this Agreement shall in no way limit the private provider or local Head Start Agency's obligations assumed in this Agreement, and shall not be construed to relieve the Provider from liability in excess of such coverage, nor shall it preclude the State from taking such other actions as are available to it under any other provisions of this Agreement or otherwise in law.

1. The types and minimum amount of insurance shall be as follows:

a. General Liability Insurance

i. The minimum limits of liability for this insurance shall be as follows:

(A) Bodily Injury Liability

Each Occurrence: \$1,000,000.00

Aggregate: \$3,000,000.00

(B) Property Damage Liability

Each Occurrence: \$1,000,000.00

Aggregate: \$3,000,000.00

ii. The above required General Liability Insurance shall name the State of New Jersey as an additional insured. The above required General Liability Insurance shall also name the District as an additional insured. The coverage to be provided under this policy shall include contractual liability coverage. The aggregate limits may be increased by the parties, upon mutual agreement, in order to provide adequate protection to the State and the District.

b. Comprehensive Automobile Liability Insurance

The Comprehensive Automobile Liability policy shall cover owned, non-owned and hired vehicles and/or buses for the approved transport of children with minimum limits as follows:

iii. Bodily Injury Liability: \$2,000,000.00 each occurrence; and

iv. Property Damage Liability: \$2,000,000.00 each occurrence:

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v. The above required Comprehensive Automobile Liability Insurance shall name the State of New Jersey as an additional insured. The above required Comprehensive Automobile Liability Insurance shall also name the District as an additional insured. The Provider shall equip any vehicle and/or bus used in the transportation of children with "children's seats."

c. Workers' Compensation Insurance

Workers' Compensation Insurance shall be provided in accordance with the requirements of the laws of this State and shall include an endorsement to extend coverage to any State which may be interpreted to have legal jurisdiction.

d. Employer's Liability Insurance

Employer's Liability Insurance with limits not less than:

- (1) \$1,000,000 Bodily Injury, each occurrence;
- (2) \$1,000,000 Disease each employee;
- (3) \$1,000,000 Disease aggregate limit.

e. Employee Fidelity Bond

Employee Fidelity Bond on all employees of the Provider insuring against loss from employee's dishonest acts. The Bond shall be in the amount of a percentage of the current year's budget set forth in the schedule below:

<b>Total Budget</b>	<b>Minimum Bond Amount</b>
Up to \$100,000.00	20 percent of budget (Minimum \$10,000)
\$100,000.01 to \$250,000	\$20,000 plus 15 percent of all over \$100,000
\$250,000.01 to \$500,000.00	\$42,500 plus 13 percent of all over \$250,000
\$500,000.01 to \$750,000.00	\$75,000 plus 8 percent of all over \$500,000
\$750,000.01 to \$1,000,000.00	\$95,000 plus 4 percent of all over \$750,000
\$1,000,000.01 to \$2,000,000.00	\$105,000 plus 2 percent of all over \$1,000,000
\$2,000,000.01 to \$5,000,000.00	\$125,000 plus 1 percent of all over \$2,000,000
\$5,000,000.01 to \$10,000,000	\$155,000 plus 1/2 percent of all

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	over \$5,000,000
10,000,000.01 and upwards	\$180,000 plus 1/4 percent of all over \$10,000,000

In fixing such minimum bond, round to the nearest \$1,000.

2. Provider shall, prior to the commencement of services required under this Agreement, provide the District with valid Certificates of Insurance as evidence of the private provider or local Head Start Agency's insurance coverage in accordance with the foregoing provisions. Such certificates of insurance shall specify that the insurance provided is of the types and is in the amounts required in subsection A(1)(a), (b), (c), (d) and (e) above.
3. Standard exclusions will be allowed provided they are not inconsistent with the requirements set forth subsection A(1)(a), (b), (c), (d) and (e) above. Allowance of any additional exclusions will be in the discretion of the State. Regardless of the allowance of exclusions or deductions by the State, the Provider shall be responsible for the deductible limit of the policy and all exclusions consistent with the risks the private provider or local Head Start assumes under this Agreement and as imposed by law.
4. The Certificates shall provide for thirty (30) days notice in writing to the District prior to any cancellation, expiration, or non-renewal during the term the insurance is required in accordance with this Agreement. The Provider shall also, upon request, provide the Department of Education with valid Certificates of Insurance and copies of each policy required under this Agreement certified by the agent or underwriter to be true copies of the policies provided to the private provider or local Head Start Agency.

In the event that the Provider provides evidence of insurance in the form of certificates of insurance valid for a period of time less than the period during which the Provider is required by the terms of this Agreement to maintain insurance, said certificates shall be acceptable, but the Provider shall be obligated to renew its insurance policies as necessary and to provide new certificates of insurance from time to time, so that the District is continuously in possession of evidence of the private provider or local Head Start Agency's insurance in accordance with the foregoing provisions.

5. In the event the Provider fails or refuses to renew any of its insurance policies, or any policy is canceled, terminated, or modified so that the insurance does not meet the requirements of this Agreement, the District may refuse to make payment of any further monies due under this Agreement until such time as the Provider reinstates the insurance, consistent with the requirements of this Agreement. Upon reinstatement, the District will promptly pay the Provider all money withheld in accordance with this provision. If the Provider does not reinstate the insurance within 30 days of notice by the District of the

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insurance lapse, the District may, upon approval of the Commissioner, terminate this Agreement.

6. The Provider shall immediately notify the District and the Department of Education in writing of any action or suit pending or filed or any claim which may result in litigation against the District and/or the State of New Jersey by any person, organization or other entity.

XIV. NOTICES

Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given to the party to whom intended if a) delivered by registered and certified mail, return receipt requested or b) delivered by hand. Until changed by notice in the manner specified above, the addresses of the parties to this Agreement shall be:

For the District:

District Contact Name, Title and Address

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With a copy to:

General Counsel Name and Address

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For the Provider:

Provider Contact Name, Title and Address

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XV. ANTI-COLLUSION

The Provider warrants and represents that this Agreement has not been solicited, secured or procured directly or indirectly in a manner contrary to the laws of the State of New Jersey and that the federal, state and local laws and regulations have not been violated and shall not be

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violated as they relate to the procurement or the performance of the Agreement by any conduct, including the paying or giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any state or district employee, officer or official.

XVI. INDEPENDENT CONTRACTOR

The relationship of the Provider to the District is that of an Independent Contractor. The Provider, its agents and employees shall act in an independent capacity in the performance of this Agreement and shall not be considered employees of the District or the State of New Jersey and shall not have the right to bind or obligate the District or State in any manner.

XVII. BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the Provider must provide a copy of its business registration certificate to the District prior to execution of the contract.

XVIII. PAY TO PLAY PROVISIONS

A. Pay to Play Bar

Pursuant to N.J.A.C. 6A:10-2.1(e), and consistent with the definitions of N.J.S.A. 19:44A-1 et seq., each contracting for-profit private provider shall provide the requisite vendor certification(s) of reportable contributions to the District in advance of execution of the contract so that the District may determine whether there has been any contribution that would bar the entry of the contract between the District and the for-profit private provider.

B. Pay to Play Disclosure

Pursuant to N.J.S.A. 19:44A-20.26 (P.L. 2005, c. 271), each contracting for-profit private provider shall submit the requisite disclosure(s) to the District at least (10) days prior to entering into this contract.

C. Disclosure of Contributions to ELEC

Pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271), each contracting for-profit private provider shall file an annual disclosure statement on political contribution with the New Jersey Election Law Enforcement Commission if the for-profit private provider receives contracts in excess of \$50,000 from public entities in a calendar year. It is the for-profit private provider's responsibility to determine if filing is necessary.

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XIX. MISCELLANEOUS

A. Compliance with Laws

The Provider covenants that it is familiar with and shall comply with the provisions of all statutes and regulations of the New Jersey State Department of Human Services, Division of Youth and Family Services, and the New Jersey State Department of Education, as well as other federal, state and local statutes and regulations which are, or may become, applicable to the provision of child care services and early childhood education provided under this Agreement. This includes, but is not limited to, the Provider's obligation immediately to report to the Division of Youth and Family Services any suspected incident of child abuse or neglect. The Provider agrees it shall maintain, throughout the term of this Agreement, a current Child Care Center License as issued by the New Jersey Department of Children and Families Office of Licensing.

B. Applicable Law

The Parties agree that this Agreement shall be construed and enforced under the laws of the State of New Jersey.

C. Entire Agreement

This Agreement, together with all Attachments referred to herein, constitutes the entire Agreement between the parties and supersedes all oral and written Agreements, if any, between the parties. No amendment or modification changing the Agreement's scope or terms shall have any force and effect unless it is made in writing and signed by both parties.

D. Headings

Section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

E. Severability

If any of the provisions of this Agreement are determined to be invalid, such invalidity shall not affect or impair the validity of the other provisions, which shall be considered severable and shall remain in full force and effect.

F. Waiver

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No term or provision hereof shall be deemed waived and no breach excused by the parties unless such waiver or consent shall be in writing and signed by the appropriate officers of the parties.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year above set forth.

\_\_\_\_\_  
Name of School District

By:

\_\_\_\_\_  
District Superintendent Signature                      Date:\_\_\_\_\_

Approved as to Legal Form:

By:

\_\_\_\_\_  
General Counsel Signature

\_\_\_\_\_  
Name of Private Provider's Center/ Agency or local Head Start Agency

By:

\_\_\_\_\_  
Authorized Private Provider or local Head Start Agency Signature and Title

Date:\_\_\_\_\_