

# Confidentiality and Non-Disclosure Agreement (“NDA”)

Project Title: <Enter Project Title>

\_\_\_\_\_ (“Vendor”) wishes to submit a bid to Child Care Resource Center, Inc. (“CCRC”) in response to a Request for Submissions (the “request” of “RFB”). In order to receive a copy of the RFB, CCRC has requested that Vendor agree to maintain the confidentiality of all information and materials received by Vendor relating to the request. Accordingly, Vendor enters into this Confidentiality and Non-Disclosure Agreement (the “Agreement”) in favor of CCRC effective as of \_\_\_\_\_, 20\_\_\_\_, (the “Effective Date”). CCRC and Vendor are sometimes referred to as the “Parties” and individually as a “Party”.

NOW, THEREFORE, in consideration of the opportunity to receive materials and information related to the request, Vendor agrees as follows:

## **(A) Definition of “Confidential Information”**

As used in this Agreement, “Confidential Information” means all information disclosed or revealed by CCRC to the Vendor in connection with the request, whether orally, in writing, visual, electronic, or other tangible or intangible form, whether or not marked or designated as “confidential,” including without limitation, information concerning engineering, designs, concepts, specifications, drawings, plans, financial information, budgets, pricing, system engineering and design methodologies, project management techniques, installation methodologies, system logic, implementation techniques, services, trade secrets, techniques, project specifics, customer information, contacts, software, software applications, source code, computer techniques, computer programs, processes, equipment selection, operations, technological developments, product or ordering specifications, know how, product processing information, inventions, discoveries, marketing plans and materials, analyses, strategies, forecasts, concepts, ideas, data, technical know-how, locations, facilities, CCRC protocols, security and testing methodologies, customers, employees, Vendors, suppliers of CCRC.

## **(B) Permitted Use of Confidential Information**

The Confidential Information received by Vendor from CCRC shall be used for the sole purpose of responding to the request and working with CCRC regarding the request (“Permitted Use”). Confidential Information shall only be used by Vendor as is expressly

CCRC cultivates child, family and community well-being.

permitted in this Agreement and must not be disclosed or revealed by Vendor to any third party without the express and prior written consent of CCRC.

### **(C) Prohibited Uses**

Vendor shall not:

- (1) Use or take advantage of any of CCRC's Confidential Information except as expressly provided for in this Agreement.
- (2) Disclose or reveal to any third party, without the express and prior written consent of CCRC, any Confidential Information.

### **(D) Maintaining Confidentiality**

Vendor agrees that it will keep the Confidential Information of CCRC strictly confidential, and will disclose such Confidential Information only to their respective employees who are directly involved in a Permitted Use. Any such employee must agree to be bound to this Agreement in writing, as though they were Vendor, or to Confidential Information non-disclosure agreements no less restrictive than this Agreement. Vendor shall be responsible for any disclosures or use of CCRC's Confidential Information made by its employees. Vendor will advise CCRC promptly of any information known to Vendor prior to the Effective Date of this Agreement which could be included as Confidential Information which Vendor considers to be excluded from the provisions of this Agreement.

### **(E) Termination of Use**

Upon written demand made by CCRC, Vendor and all persons to whom Vendor disclosed Confidential Information shall immediately cease using the Confidential Information and return all such Confidential Information to CCRC within five (5) business days from the receipt of such written demand. Alternatively, CCRC may request that Vendor destroy all Confidential Information in its possession, custody or control and certify in writing to CCRC the destruction of such Confidential Information.

### **(F) No Rights Acquired**

Vendor shall not acquire any rights, title or interest, legal or otherwise, in the Confidential Information it receives in accordance with this Agreement. The disclosure of Confidential Information to Vendor shall not constitute an offer to award any contracts to Vendor or do business with Vendor.

### **(G) Irreparable Harm**

Vendor acknowledges that any breach of this Agreement will result in irreparable harm for which damages would be an inadequate remedy; and, therefore, in the event of such breach, in addition to the rights and remedies otherwise available at law, CCRC shall be entitled to injunctive relief to prevent Vendor from using any Confidential Information in violation of this Agreement or otherwise violating this Agreement.

### **(H) Indemnifications**

Vendor shall indemnify, defend and hold CCRC harmless, along with the CCRC's shareholder, directors, officers, employees and agents, from and against any and all damages, losses, costs and expenses (including, without limitation, attorneys' fees and litigation costs) suffered by CCRC as a result of a breach of this Agreement by Vendor or persons or entities for whom Vendor is responsible or arising from any acts or omissions of Vendor (or persons or entities for whom Vendor is responsible) which constitute active negligence, passive negligence, gross negligence or intentional conduct.

### **(I) No Warranty**

Vendor acknowledges and agrees that the Confidential Information is provided on an "AS IS" basis. CCRC MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONFIDENTIAL INFORMATION AND HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL CCRC BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OR USE OF ANY PORTION OF THE CONFIDENTIAL INFORMATION. CCRC does not represent or warrant that any Confidential Information or business plans disclosed to Vendor will be carried out as disclosed, or at all. Any actions taken by Vendor in response to the disclosure of the Confidential Information shall be solely at the risk of Vendor.

### **(J) Invalidity of Provisions**

The invalidity of all or any part of any provision of this Agreement shall not render invalid the remainder of such provision or any other provision of this Agreement.

### **(K) Disputes**

Any and all disputes arising out of or in any way relating to this Agreement shall be filed in the State of California, County of Los Angeles and shall be governed by California law without regard to the conflicts of law doctrine. The prevailing party in such a dispute which is based on, related to or in any way arising from this Agreement shall receive all

reasonable attorney's fees and statutory costs associated with the dispute including those incurred before the filing of any action or proceeding.

### **(L) Binding Nature of Provisions**

This Agreement shall be binding upon Vendor and its successors and assigns and inure to the benefit of and be enforceable by CCRC and its respective successors and assigns.

### **(M) Amendment**

This Agreement may only be amended, modified, superseded or canceled in a writing executed by CCRC.

### **(N) Severability**

The provisions of this Agreement are severable and, in the event that any court of competent jurisdiction shall determine that any one or more of the provisions or part of a provision contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement; but this Agreement shall be reformed and construed as if such invalid or illegal or unenforceable provision, or part of a provision, had never been contained herein, and such provisions or part reformed so that it would be valid, legal and enforceable to the maximum extent possible.

### **(O) Expiration**

Vendor's obligation to maintain the confidentiality of Confidential Information under this Agreement shall expire two (2) years after the award of the contract which is the subject of the request; provided that with respect to Confidential Information that is a trade secret under the laws of any jurisdiction, such rights and obligations will survive such expiration until, if ever, such Confidential Information loses its trade secret protection other than due to an act or omission of Vendor, or anyone for whom Vendor is responsible.

### **(P) Survival**

With the exception of certain of Vendor's obligations which expire two (2) years after the award of the contract, which is the subject of the request, all terms herein shall survive the expiration or termination of this Agreement.

## Signature

IN WITNESS HEREOF, Vendor has executed this Agreement as of the Effective Date indicated above.

Company Name: \_\_\_\_\_

By: \_\_\_\_\_ Name: \_\_\_\_\_

*(Sign)*

*(Print)*

Phone: \_\_\_\_\_ Email: \_\_\_\_\_