

New York State Department of Health  
Bureau of Early Intervention

**Early Intervention Assistive  
Technology Provider Agreement  
for Assistive Technology Goods  
and Services [V-5-2014]**

This Agreement is entered into by and between the New York State Department of Health (Health (hereinafter referred to as the “Department”), and

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Federal Employer Identification # (FEIN) \_\_\_\_\_,  
National Provider Identifier (NPI) \_\_\_\_\_ (hereinafter referred to as the “Vendor”).  
Vendor acknowledges that this agreement is made by and between the Department and Vendor,  
as Vendor is currently organized and constituted or presented. The Department reserves the  
right to terminate this agreement should the Vendor reorganize or otherwise substantially  
change the character of its corporate or other business structure or presentation.

**Purpose of Agreement**

The purpose of this Agreement is to set forth the terms and conditions for participation in the Early Intervention Program (EIP) and to establish the obligations, expectations and relationship between the Department, municipalities within the State, state fiscal agent and the Vendor.

Vendors intending to receive service authorizations for the purchase and delivery of early intervention assistive technology devices directly from a Municipality and payment from the Municipality through the Department’s fiscal agent for such services rendered must complete and comply with this agreement which sets forth the terms and conditions for such authorizations and payment.

**Definitions**

When used herein, the following terms shall have the following meanings:

- “Early Intervention Official” or “EIO” shall mean an appropriate municipal official designated by the chief executive officer of a Municipality and an appropriate designee of such official.
- “Early Intervention Program” or “EIP” means the program established pursuant to Title II-A of Article 25 of the Public Health Law.
- “Municipality” shall mean a county outside of the City of New York or in the case of a county located within the City of New York. For purposes of this agreement, “Municipality” shall further mean the Municipality in which the Vendor renders evaluations, service coordination or early intervention services to children residing in such Municipality.
- “Services” shall mean those early intervention services as defined in 10 NYCRR 69-4.1(l)

that the Vendor identified in the Vendor's agreement to the Department as being able to provide.

- "State" shall mean the State of New York.
- "Vendor" shall mean a business entity legally doing business in New York State and approved by the Department to deliver assistive technology devices or services in the EIP.
- "Assistive technology device (ATD)" shall mean any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities.
- "Assistive technology service" shall mean a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device and shall include:
  - the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment; purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
  - selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
  - coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
  - training or technical assistance for a child with disabilities or, if appropriate, that child's family; training or technical assistance for professionals, (including individuals providing early intervention services) or other individuals who provide services to, or are otherwise substantially involved in, the major life functions of individuals with disabilities.

**Now, therefore, the Department and Vendor agree as follows:**

#### **I. Role of Department, Municipalities, State Fiscal Agent and Assistive Technology Vendors in the Early Intervention Program**

Pursuant to Public Health Law (PHL) § 2550, the Department is the lead agency responsible for the administration of the Early Intervention Program in this State. Each individual Municipality and the city of New York is responsible for the local administration of the program, which includes but is not limited to, accepting referrals of children potentially eligible for program services, assigning initial service coordinators, participating in Individualized Family Services Plan (IFSP) meetings, ensuring that early intervention (EI) services contained in an IFSP are appropriately delivered, and reimbursing providers/vendors for services not covered by Medicaid or commercial insurance. The Department provides state aid reimbursement to municipalities in accordance with PHL § 2557.

The Department has a contract with a fiscal agent (SFA) that will handle vendor claiming and payment. Pursuant to PHL, Municipalities are required to utilize the SFA for fiscal claiming and payment. The Department's SFA, on behalf of the Municipality, will seek the best price for ATDs from Department approved assistive technology vendors. Procurement decisions will be determined by several factors, including but not limited to vendor's third party insurance participation, device's technical specifications, final price, quality of item, needed services (fitting, adjustments, etc.), proximity to family/child, type of delivery and delivery location. For children with third party insurance, preference will be given to vendors who participate with the child's commercial insurance and/or Medicaid coverage.

The Vendor hereby understands and agrees that the claims submitted shall be accurate and complete, and shall reflect the actual device/service rendered. The Vendor further understands and agrees that, pursuant to PHL § 2557(3) and (3-a), PHL § 2552(1), 10 NYCRR § 69-4.12 and this Agreement, both the Department and the Municipality are authorized to monitor and audit Vendors of services within the Municipality. Vendor understands and agrees that certain provisions within this Agreement that require notice to the Municipality or includes the Municipality with respect to obligations or requirements, are designed to acknowledge the Municipality's role in the local administration of the Early Intervention Program and in the oversight of Vendors in the delivery and payment for assistive technology services and devices provided to early intervention eligible children within such Municipality.

## **II. Vendor Responsibilities**

A. Vendor hereby agrees that Vendor is able to and shall deliver services in the geographical areas of the State identified in the Vendor's agreement to the Department. Vendor shall only deliver the devices or services ordered by the Municipality through the Department's SFA.

B. Vendor hereby agrees to maintain a primary business telephone listed under the name of the business in a local directory or a toll free number available through directory assistance. Vendor shall not exclusively use a beeper, answering machine, answering service or cell phone during posted business hours.

C. Vendor agrees to collaborate and communicate with the IFSP team, including the recommending therapist to ensure that the ATD accessories selected are appropriate to the meet the child's unique needs and the IFSP functional outcomes.

D. Vendor hereby agrees to fill orders from its own inventory or contract with other companies for the purchase of items necessary to fill orders.

E. Vendor hereby agrees to deliver products and/or provide requested services as soon as possible after receipt of an order. At a minimum, the following timelines must be met unless the vendor can demonstrate that the delay is due to circumstances beyond its control:

1. Items in stock must be delivered and any services to be performed by the vendor's own staff must be provided within ten (10) business days after receipt of an order.
2. Where products must be ordered or services are subcontracted from another firm, such products must be delivered or services provided within thirty (30) business days after receipt of an order.

F. Vendor hereby agrees that where the specified timelines cannot be met, the SFA's Assistive Technology Coordinator placing the order, in consultation with the Municipality will have the option to allow the vendor additional time to resolve the problem or cancel the order.

G. Vendor hereby agrees to be responsible for delivery of assistive technology devices to the beneficiary. Vendor shall, when requested, instruct beneficiaries on the use of the device, and shall maintain proof of delivery and beneficiary instruction.

H. Vendor hereby agrees to provide, at no additional cost, product technical support via telephone or remote such as online by e-mail and live support software on a website, for at least six months from the date of delivery of any product.

I. Vendor hereby agrees that whenever the manufacturer of a product sold by the vendor offers a warranty, the vendor will maintain adequate warranty records and provide assistance in arranging warranty support from the manufacturer.

J. Vendor hereby agrees to provide warranty and technical support as described above, and any additional agreed upon repair or product support, within five (5) business days of being notified of the problem, unless the vendor can show that it is not possible to respond within this time frame due to circumstances beyond its control.

K. Vendor hereby agrees to answer questions and respond to complaints of a Municipality and/or the SFA and maintain documentation of such contacts.

L. Vendor hereby agrees to accept returns of substandard (less than full quality for the particular item) or unsuitable items (inappropriate for the child at the time it was fitted and rented or sold) from the Municipality and/or the SFA on behalf of the Municipality.

M. Vendor hereby agrees and understands that the vendor is prohibited from direct solicitation to early intervention families, State staff, Municipal staff, individual rendering providers, and Early Intervention providers in agreement with the State.

N. Vendor hereby agrees and understands that the Vendor shall not bill or collect payment from the family directly for EI services nor require the family to pay additional costs.

O. Vendor hereby agrees and understands that the Vendor must not initiate repossession or otherwise take back a delivered assistive technology product from the family; rather the vendor shall work with the Municipality, through the Department's SFA to resolve any payment dispute.

P. Vendor hereby agrees to have comprehensive liability insurance in the amount of at least \$300,000 that covers both the vendor's place of business and all customers and employees of the vendor. If the vendor manufactures its own items this insurance must also cover product liability and completed operations.

Q. Vendor hereby agrees and understands that the Vendor shall obtain all necessary third-party preauthorizations; however, the pre-authorization process shall not delay delivery of products and/or provision of requested services. Delivery of products and/or provision of requested services shall occur within the timeframes provided in paragraph E of this Article.

R. Vendor understands and hereby agrees that nothing in this Agreement shall be deemed to require or otherwise hold the Department responsible for making payment to the Vendor for devices rendered under the EIP. Vendor understands and agrees that, in accordance with PHL §2557, the Municipality is responsible for payment of approved costs for ATD and AT services.

S. Vendor understands and agrees that reimbursement for devices are governed by PHL §2557 and §2559. In accordance with those sections, Vendors who receive direct service authorizations from a Municipality shall, in the first instance and where applicable, authorize the State's fiscal agent to seek reimbursement under a health insurance policy, plan or contract, including under the medical assistance program or the child health insurance program on their behalf. Pursuant to PHL §2557, approved costs, other than those reimbursable under a health insurance policy, plan or contract, including under the medical assistance program or the child health insurance program, for devices shall be a charge upon the Municipality wherein an eligible child resides.

T. Vendor shall not seek or be entitled to reimbursement directly from the Department for devices delivered to eligible children under the EIP.

U. The Department's fiscal agent, on behalf of the Municipality, will seek the best price for ATDs from Department approved assistive technology vendors. Procurement decisions will be determined by several factors, including but not limited to vendor's third party insurance participation, device's technical specifications, final price, quality of item, needed services (fitting, adjustments, etc.), proximity to family/child, type of delivery and delivery location. For children with third party insurance, preference will be given to vendors who participate with the child's commercial insurance and/or Medicaid coverage.

V. Vendor understands and hereby agrees that nothing in this Agreement shall be construed as guaranteeing to Vendor a specific number of purchases or service authorizations. Vendor understands and agrees that the Municipality through the fiscal agent may not purchase any devices or authorize any AT services from Vendor and nothing in the Agreement shall obligate the Municipality through the Department's fiscal agent from procuring such devices or services from the Vendor.

### **III. Personnel**

A. Vendor shall be familiar with and comply with all applicable Medicaid rules and regulations.

B. Vendor shall not engage in any act which constitutes an unacceptable practice under the Medical Assistance Program as enumerated in Title 18 of the New York Code of Rules and Regulations Section 515.2(a) and (b) (1) through (b) (15), (17) and (18).

C. Vendor shall ensure that they do not employ, or are affiliated with, any individual or entity, which has been excluded from either the Medicare or the Medicaid program.

D. Vendor shall not contract with any entity that is currently excluded from the Medicaid or Medicare program, any State health care programs, or any other Federal procurement or non-procurement programs.

E. Vendor shall routinely screen employees, prospective employees, and to determine if they have been excluded or terminated from participation in the Medicare or the Medicaid program.

F. Vendor shall ensure that personnel utilized by the vendor are appropriately trained and are competent to provide an assistive technology device and/or service.

#### **IV. Documentation and Recordkeeping**

A. Pursuant to PHL § 2557, Vendor shall utilize the Department's fiscal agent for early intervention claims. Vendor shall provide such information and documentation as required by the Department and necessary for the fiscal agency to carry out its duties.

B. Vendor shall utilize a standardized claiming format when claiming for ATD and services delivered in the EIP.

C. Vendor shall maintain accurate and complete records that support claiming for actual ATD and services delivered and/or rendered.

D. Vendor understands and hereby agrees that the Vendor shall not claim for payment prior to the ATD or service is delivered.

E. Vendor shall use uniform and consistent procedures as directed by the Department's fiscal agent for submission of claims.

F. Vendor understands that, for children who have coverage under an insurance policy, plan or health benefit package, including the Medicaid Assistance Program or other governmental payor, payment from such insurer or health plan shall be sought prior to payment from the Municipality being issued, in accordance with PHL §2559. Vendor shall not delay delivery of the AT device or AT service pending payment. Delivery of the device or provision of the AT service shall occur in accordance with the timeframes set forth in paragraph E of Article II.

G. Vendor shall utilize the fiscal agent in seeking payment from such insurer or health plan. Vendor shall further take the appropriate steps to secure insurer or health plan payment for services, including responding to claim denials by correcting any errors identified in claims, providing requested documentation such as that needed to support medical necessity, and the submission of Subrogation notice to each child's insurance company.

H. Vendor shall promptly notify the Department's state fiscal agent of any duplicate or erroneous payment received from any third party, State or Municipal payor and cooperate with the Department and/or its state fiscal agent to rectify the situation.

I. Vendor shall make available and accessible to the Department and Municipality, all records and information necessary to assure the appropriateness of payments made to the Vendor and to assure the Vendor's compliance with all applicable statutes and regulations, and shall cooperate with all monitoring and audits of Vendor in relation to ATD and services delivered in the EIP.

## **V. Confidentiality**

Vendor shall preserve the confidentiality of all electronic and/or hard-copy data and information, both historical and current data, that is shared, received, collected, or obtained in relation to services provided in the EIP, in accordance with applicable law and regulations, including but not limited to FERPA and 10 NYCRR § 69-4.17.

## **VI. Additional Vendor Responsibilities**

A. Vendor shall, in the event that the Vendor files for bankruptcy or reorganization under Chapter seven or Chapter Eleven of the United States Bankruptcy Code, disclose such action to the Department within (7) seven days of filing. This Agreement shall not be assigned by the Vendor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of and attempts to do so are null and void.

B. Indemnification:

1. Vendor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Vendor or its employees or Individual Vendors under contract, pursuant to this AGREEMENT. The Vendor shall indemnify and hold harmless the Department and its officers and employees, its agents including the SFA, and Municipalities and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT and under the EIP.



2. The Vendor is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the Department or Municipality nor make any claims, demand or application to or for any right based upon any different status. This provision shall survive the termination of this Agreement. This Agreement shall be deemed terminated immediately upon the Vendor's failure to comply.

## **VII. Terms and Termination**

This Agreement shall commence upon execution of this Agreement and shall be effective for a five (5) year term, unless terminated pursuant to the terms hereof. Vendor shall not provide services, nor hold itself out as authorized to provide such services on and after the date upon which this Agreement shall be deemed terminated.

If the Vendor wishes to continue participating in the EIP after the expiration of this Agreement, Vendor shall notify the Department at least ninety (90) days prior to the expiration date and request that the Department enter into a new agreement with the Vendor.

Amendments to this agreement may be made by the Department and shall be sent to the Vendor via mail or electronically utilizing the Vendor's email address. The Vendor shall notify the Department within thirty (30) calendar days of the date the Vendor receives the proposed Amendment of whether it accepts the terms contained in the proposed Amendment. The Department reserves the right to terminate this Agreement if a proposed Amendment is not accepted. Oral modifications to this Agreement are prohibited.

### **A. Termination for Convenience by the Department:**

This Agreement may be cancelled at any time by the Department giving to the Vendor not less than ninety (90) days written notice that on or after a date therein specified this Agreement shall be deemed terminated and cancelled. Vendor shall not render services in the EIP on and after the date specified in such notice and shall not claim for any ATD or services rendered after such termination date.

### **B. Termination for Convenience by Vendor:**

This Agreement may be cancelled at any time by the Vendor giving to the Department not less than ninety (90) days written notice that on or after a date therein specified this Agreement shall be deemed terminated and cancelled.

### **C. Termination for Cause:**

The Department or the Vendor may terminate this agreement prior to the end of term by giving thirty (30) calendar days written notice to the other party of its intention and reason for

termination. The non-terminating party may be given an opportunity to cure the reason for termination within the 30 day period. If the non-terminating party does not cure the reason for termination to the satisfaction of the terminating party, this Agreement shall terminate at the end of such 30 day period. Cause for termination may include but shall not be limited to: (a) failure to comply with the terms and conditions of this Agreement; and (b) any violation of applicable laws or regulations, including an unacceptable practice under the Medical Assistance Program as enumerated in Title 18 NYCRR §515.2.

D. Immediate Termination by the Department:

The Department shall have the right to terminate this Agreement, in whole or with respect to any identifiable part of the Program, effective immediately in cases of imminent danger to the health and safety of Eligible Children, Parents and/or staff, or upon the filing of a petition in bankruptcy or insolvency, by or against the Vendor. Such termination shall be immediate and complete, without termination costs or further obligations by the Department or Municipality to the Vendor.

E. Notices:

All notices shall be sent to the Vendor listed within the electronic data system (NYEIS) as the Program Director or in the case of an Individual Vendor to the address provided by Vendor. All notices of termination will contain the specific date on which the Vendor must cease providing Early Intervention Services. All notices from the Vendor must be sent to the Department at the following address:

New York State Department of Health  
Bureau of Early Intervention Assistive Technology Vendor Approval  
ESP, Corning Tower, Room 287  
Albany, New York 12237-0660

F. Severability:

It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and every other term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

New York State Department of Health  
Bureau of Early Intervention  
Assistive Technology Provider Agreement for Assistive Technology Goods and Services

Signatory must be legally authorized to enter into an Agreement on behalf of the Provider/Vendor.

I have read and understand my obligations as stated in this Agreement. (check one):  Yes  
 No

**In Witness Whereof**, the parties hereto have executed\* this Agreement as of the latest date written below.

**Vendor Name**

Business Name
FEIN and NPI

**By**

First Name	M.I.	Last Name
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**Address**

Street Address			Apartment/Floor
City	State	Zip Code (9 digit) <a href="https://tools.usps.com/go/ZipLookup">https://tools.usps.com/go/ZipLookup</a>	County (if in NY)

**Geographical Area(s):** Select all counties/municipalities for which you are available to provide services.

- |                                      |                                     |                                       |                                      |
|--------------------------------------|-------------------------------------|---------------------------------------|--------------------------------------|
| <input type="checkbox"/> Albany      | <input type="checkbox"/> Fulton     | <input type="checkbox"/> Orange       | <input type="checkbox"/> Tioga       |
| <input type="checkbox"/> Allegany    | <input type="checkbox"/> Genesee    | <input type="checkbox"/> Orleans      | <input type="checkbox"/> Tompkins    |
| <input type="checkbox"/> Broome      | <input type="checkbox"/> Greene     | <input type="checkbox"/> Oswego       | <input type="checkbox"/> Ulster      |
| <input type="checkbox"/> Cattaraugus | <input type="checkbox"/> Hamilton   | <input type="checkbox"/> Otsego       | <input type="checkbox"/> Warren      |
| <input type="checkbox"/> Cayuga      | <input type="checkbox"/> Herkimer   | <input type="checkbox"/> Putnam       | <input type="checkbox"/> Washington  |
| <input type="checkbox"/> Chautauqua  | <input type="checkbox"/> Jefferson  | <input type="checkbox"/> Rensselaer   | <input type="checkbox"/> Wayne       |
| <input type="checkbox"/> Chemung     | <input type="checkbox"/> Lewis      | <input type="checkbox"/> Rockland     | <input type="checkbox"/> Westchester |
| <input type="checkbox"/> Chenango    | <input type="checkbox"/> Livingston | <input type="checkbox"/> St. Lawrence | <input type="checkbox"/> Wyoming     |
| <input type="checkbox"/> Clinton     | <input type="checkbox"/> Madison    | <input type="checkbox"/> Saratoga     | <input type="checkbox"/> Yates       |
| <input type="checkbox"/> Columbia    | <input type="checkbox"/> Monroe     | <input type="checkbox"/> Schenectady  |                                      |
| <input type="checkbox"/> Cortland    | <input type="checkbox"/> Montgomery | <input type="checkbox"/> Schoharie    | <u>New York City Area</u>            |
| <br>                                 |                                     |                                       |                                      |
| <input type="checkbox"/> Delaware    | <input type="checkbox"/> Nassau     | <input type="checkbox"/> Schuyler     | <input type="checkbox"/> Bronx       |
| <input type="checkbox"/> Dutchess    | <input type="checkbox"/> Niagara    | <input type="checkbox"/> Seneca       | <input type="checkbox"/> Kings       |
| <input type="checkbox"/> Erie        | <input type="checkbox"/> Oneida     | <input type="checkbox"/> Steuben      | <input type="checkbox"/> New York    |
| <input type="checkbox"/> Essex       | <input type="checkbox"/> Onondaga   | <input type="checkbox"/> Suffolk      | <input type="checkbox"/> Queens      |
| <input type="checkbox"/> Franklin    | <input type="checkbox"/> Ontario    | <input type="checkbox"/> Sullivan     | <input type="checkbox"/> Richmond    |

**Types of Products/ Evaluations Offered:** Select all that apply.

- |  |  |
|--|--|
| <input type="checkbox"/> Assisted Hearing Devices                  | <input type="checkbox"/> Assisted Vision Devices |
| <input type="checkbox"/> Augmentative Communication Devices        | <input type="checkbox"/> Positioning Systems     |
| <input type="checkbox"/> Mobility Devices-Orthotics                | <input type="checkbox"/> Mobility Devices-Other  |
| <input type="checkbox"/> Self Help/Daily Living Activities Devices |  |

Authorized Signature	
Title	Telephone

**Approved By New York State Department of Health**

(Insert name of Department Representative)

First Name	Last Name
Authorized Signature	Approval Date
Dates of Agreement Effective:	Expiration:

**\*\*This Agreement is not considered to be fully executed without an approval date from the New York State Department of Health. The Agreement effective dates shall be as set forth herein. V-5-2014**