COLORADO CHILD CARE AUTOMATED TRACKING SYSTEM
POINT-OF-SERVICE (POS) DEVICE PROVIDER AGREEMENT

Provider ID No.: _____ **Effective Date**: _____

This **Agreement** is made by and between the Colorado Department of Human Services or our agent _____ (County Name), (hereinafter "CDHS") and

_____ (Provider Name), a (n)

☐ individual(s), ☐ partnership, ☐ corporation, ☐ other (hereinafter "**Provider**"); organized and existing under the Laws of the State of Colorado, and having a business or home located at the address of:

_____

ACS State and Local Solutions (hereinafter "ACS") is under contract with the Colorado Department of Human Services through their contract with Deloitte Consulting, LLC to provide an automated child care system that provides timekeeping and recording of attendance for authorized child care attendees. As part of that contract, ACS is the custodian responsible to furnish and maintain equipment (hereinafter "**Equipment**") for use by child care providers and caretakers who qualify for child care benefits.

Article 1: STATE AND VENDOR RESPONSIBILITIES

1.1 ACS will furnish a Provider with Point-of-Service (POS) Equipment and related services: installation instructions, user manual, repair or replacement of Equipment, and help desk support for Equipment troubleshooting.

1.2 Equipment. Equipment shall be a VeriFone model OMNI Vx510 or equivalent if this model becomes obsolete during the term of this agreement.

1.3 Equipment Ownership. Equipment shall at all times remain the property of the Colorado Department of Human Services.

1.4 Equipment Usage. Unless otherwise provided for in this Agreement, Equipment shall be used by Provider solely in connection with the Colorado Child Care Assistance Program (hereinafter "**CCCAP**").

1.5 Equipment Allocation. One (1) unit of Equipment shall be furnished for every authorized child care provider under the CCCAP Program. Additional Equipment may be installed if authorized by CDHS in accordance with the issuance guidelines based on a written request from the provider including the completed additional POS device questionnaire.

1.6 Installation. Providers must perform the Equipment installation in accordance with the POS Set-up Instructions and POS Operations Manual that are included with the Equipment.

1.7 Training. Providers will be required to attend a training session held by a County Agency Certified Trainer prior to receiving a POS Device. Providers will receive additional training by reading the *Quick Reference Guide* and *POS Operations Manual*. These materials will be included with the Equipment.

1.8 Help Desk. ACS shall provide help desk assistance for Provider use 24 hours per day/ 7 days per week with automated troubleshooting tips. The Help Desk can be reached at 1.877.779.1933 starting on June 7, 2010. The Help Desk will provide Customer Service Agent assistance from 7 am to 7 pm Mountain time. Help Desk services are available in both English and Spanish. Assistance is limited to Equipment problems only.

1.9 Equipment Repair. ACS shall be solely responsible for repair of Equipment. For Equipment repair, Provider shall promptly notify ACS using the Help Desk. The Help Desk can be reached at 1.877.779.1932. Repair calls are processed through the Help Desk. At ACS

discretion, Equipment may be repaired or replaced. If Equipment must be replaced, a replacement device will be shipped within two days to the Provider's place of business along with a self-addressed, postage paid return label so the defective device can be returned to ACS.

Article 2: PROVIDER RESPONSIBILITIES

2.1 Equipment Use and Care. The Provider agrees that it shall follow the instructions of any manuals accompanying the Equipment, as amended from time to time, in the care, use and installation requirements of the Equipment as specified by the manufacturer.

2.2 Equipment Security. Provider agrees that it shall provide reasonable security measures to protect the Equipment from damage, theft or unauthorized use.

2.3 Equipment Environment. Provider agrees that they shall provide a three-pronged electric outlet to operate the Equipment, a place for Equipment installation that is easily accessible to clients and safe from damage. Provider agrees that it shall install the POS device on an analog land line phone service that does not interfere with communication between the device and the state automated system that supports the CCCAP program. Provider agrees to work with ACS or other appropriate entity to troubleshoot issues with the device, and if the device indicates a communication-based issue (e.g. an error code that begins with "C") the provider will troubleshoot the communication issues internally. If the communication issue is specific to the provider's telephone system the provider is solely responsible to correct the communication issue to ensure the device communicates consistently with the state automated system that supports the CCCAP program. Provider agrees to be solely responsible for and bear all one-time and recurring expenses and fees related to the operation of the Equipment, e.g. electrical, telephone, etc.

2.4 Equipment Control and Location. Provider agrees that it will at all times keep the Equipment in its sole possession and control. The Equipment shall not be moved from the Provider address (es) stated in Exhibit A without prior written notification to CDHS and ACS. Provider agrees that at all times it shall provide accurate and current data for Exhibit A.

2.5 Equipment Repair. Provider agrees that it shall not make or attempt to make any repairs to the Equipment.

2.7 Equipment Supplies. Provider agrees that it shall be responsible for procuring the Equipment's thermal printer paper. Thermal paper can be purchased at office supply stores.

2.8 Equipment Return. Provider agrees that it shall return the Equipment to ACS if the Equipment is defective, non-operable or if the Provider is no longer caring for CCAP children.

Article 3: TERM AND TERMINATION

3.1 Term. The term of the Agreement shall commence on the Effective Date and extend for as long as the provider cares for CCCAP children (hereinafter "**Initial Term**")

3.2 Termination. Either party may terminate this Agreement without cause upon giving fifteen (15) days prior written notice to the other party, citing Section 3.4.

This Agreement shall terminate immediately upon the rendering of a negative licensing decision or confirmation of a health and safety issue.

3.4 Effect of Termination – Equipment. Upon termination, the provider will receive a pre-paid, pre-addressed mailing label and will ship all Equipment components including power pack to the ACS Depot within five (5) business days. If all Equipment is not returned, CDHS will establish a recovery for the cost of replacement of the Equipment ($365).

Article 4: **LOSS OF EQUIPMENT**

4.1 Provider agrees to bear the expenses to replace Equipment that is lost, suffers a casualty loss or is stolen while the Equipment is in the Provider's care

Article 5: **LIMITATION OF LIABILITY**

5.1 Neither CDHS nor ACS shall in any event be liable for any damages, including but not limited to, special, consequential or exemplary damages of any kind whether arising in contract, tort, warranty, indemnification or contribution, or under any other theory of law with regard to matters arising from this Agreement.

Article 6: **INDEMNIFICATION**

6.1 Except for CDHS or ACS gross negligence, if any claim is asserted or action brought against CDHS or ACS arising from this Agreement, Provider shall hold harmless and defend CDHS and/or ACS from any such claim or action at Provider expense, and shall indemnify CDHS and/or ACS for any cost and damages, including attorney's fees actually incurred by CDHS and/or ACS in connection therewith.

Article 7: **WARRANTIES**

7.1 ACS warrants that services provided under this agreement will be performed in accordance with industry standards by qualified personnel in a quality manner and will conform to the specifications as described herein.

7.2 The express warranties set forth in this section are the only warranties given by ACS with respect to the services and equipment provided pursuant to this agreement. ACS makes no other warranties expressed or implied, or arising by custom or trade usage and specifically makes no warranty of merchantability or fitness for any particular purpose.

Article 8: **GOVERNING LAW**

8.1 This Agreement will be governed by and construed in accordance with the Laws of the State of Colorado and any action commenced hereunder shall be brought in State of Colorado. Further, Provider consents to the jurisdiction of the courts located in State of Colorado.

Article 9: **ASSIGNMENT**

9.1 Neither this Agreement, nor any right or obligation hereunder, shall be assigned to third parties by the Provider without the prior written consent of CDHS and ACS.

Article 10: **AMENDMENTS OR EXHIBITS**

10.1 The amendments or exhibits listed below are incorporated herein by reference:

Exhibit A: Provider Location Information

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Article 11: **INDEPENDENT CONTRACTOR**

11.1 The parties shall, at all times, be independent contractors, and nothing contained herein shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent or employer and employee between the parties.

Article 12: **ENTIRE AGREEMENT AND MODIFICATIONS**

12.1 This Agreement supersedes any and all prior representations, conditions, warranties, understandings, proposals, or previous agreements between the parties hereto, either oral or written relating to the matters of this Agreement hereunder and constitutes the sole, full and complete agreement between the parties.

12.2 Further, this Agreement shall not be modified, changed, amended, or waived except by means of a written instrument signed by an authorized representative of each party.

IN WITNESS WHEREOF, the parties hereto have, through duly authorized officials, executed this Agreement.

	COLORADO DEPARTMENT OF HUMAN SERVICES OR OUR AGENT	**CHILD CARE PROVIDER**
By:	_____	_____
	(Signature)	(Signature)
	_____	_____
	(Name, type or print)	(Name, type or print)
	_____	_____
	(Title)	(Title)
	_____	_____
	(Date)	(Date)

Please return this complete Provider Agreement to the County. ACS cannot ship Equipment until the signed Agreement is returned.

EXHIBIT A
PROVIDER LOCATION INFORMATION

Provider ID Number: _____ **Tax ID Number (TIN):** _____

The following are the Provider locations authorized by the State of Colorado's Child Care Automated Attendance Program. Copy this page if more locations need to be listed.

Facility Number	**1**	**2**	**3**	**4**
Facility Name				
Street Address				
City				
State and Zip				
Primary phone #				
Secondary phone #				
Fax number				
E-mail address				
Emergency phone #				
Primary Point of Contact				
Secondary Point of Contact				

_____ **Check here if additional sheets are attached listing more locations. This is sheet _____ (#) of _____ (total)**

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