

**COMMONWEALTH OF KENTUCKY
JUSTICE and PUBLIC SAFETY CABINET
DEPARTMENT OF JUVENILE JUSTICE
INTERAGENCY AGREEMENT AND MEMORANDUM OF UNDERSTANDING**

This agreement, made and entered into as of the 1st day of July, 2018, by and between the Commonwealth of Kentucky, Justice and Public Safety Cabinet,

Department of Juvenile Justice
(Name of Department or Office)

hereinafter referred to as the Department or Commonwealth, and

School district/board name
(Name of Second Party)

School district/board address
(Address of Second Party)

Hereinafter referred to as the Second Party or Contractor,

WITNESSETH, THAT:

Whereas, the Department, in the exercise of its lawful duties, has determined upon the necessity of the performance of the following function briefly described as:

Provide a full continuum of educational services for youth that have been committed to or are in the custody of the Department.

and;

Whereas, the Second Party is available, responsible, and qualified to perform this function, and the Department desires that the Second Party perform this function;

Now, therefore, it is hereby and herewith mutually agreed by and between the parties hereto as follows:

This agreement is intended to form the basis for a cooperative relationship between the Department of Juvenile Justice and **School Board/District/Program**. The mutual goal and intention of each of the agencies named above is to maintain the needs of each youth as our priority in fulfillment of this agreement. It is meant to foster excellence in education and treatment and is not meant to inhibit either agency in meeting their respective goals, but rather to foster collaborative services on the part of both agencies. The expectation is that this contractual agreement will provide the basis for the highest quality of educational services possible for our youth.

The commitment to the provisions of this contract signifies each agency's efforts toward professional collaboration for provision of quality education and treatment to each youth for whom we share responsibility.

1. The Second Party agrees to perform the services as hereinafter described with particularity as follows:

- A. Comply with all applicable federal and state laws and regulations for the services provided under this agreement.
- B. Provide certified and classified staff as applicable to meet the educational needs of the youth.
- C. Assure that one full time, on site principal/head teacher/school administrator is responsible for all aspects of the school program.
- D. Assure that the school administrator submits an organizational chart detailing the lines of supervision, positions, names and titles for each individual employed at the day treatment.
- E. Assure that annual professional development for certified educational staff addresses the identified needs of youth in the program and standards set forth by the Kentucky Department of Education.
- F. Assure the teacher pupil ratio shall average, based on average daily attendance, no more than ten (10) students to one (1) teacher without a classroom aide and fifteen (15) students to one (1) teacher with a classroom aide. A classroom that exclusively serves students with educational disabilities shall comply with teacher pupil ratios as specified in 707 KAR 1:350.
- G. Provide 210 instructional days.
- H. Provide students with a minimum of six (6) hours of daily instruction as indicated in KRS 158.060(3); and provide a minimum of four (4) hours of instructional time per day for each day beyond the local school district calendar.
- I. Develop a mutually agreed upon yearly school calendar that identifies local school district instructional days, instructional days beyond the local school district calendar, professional development days, holidays, vacation days and non-instructional days.
- J. Plan vacations, professional development days, and leave with respect to the education and treatment needs of the youth, the local district calendar, local district policies and procedures, and the Department.
- K. Assure the school administrator submits the yearly school calendar and the daily school schedule to the facility superintendent and the DJJ Education Branch Manager by July 1 of each respective year for the next school year.
- L. Make educational services available to each youth upon admission, except if there is evidence to justify otherwise, and construct educational services on an open entry – open exit basis.
- M. Prepare an Educational Passport and submit to DJJ as required by KRS 158.137 and 605.110(3)(e). Please see KECSAC Policy 4.21 Educational Passport. Infinite Campus, the electronic student data collection used by the Kentucky Department of Education, may serve as the standard educational passport for state agency children.
- N. Cooperate with the Kentucky Department of Education and Office of Career and Technical Education to ensure vocational teachers placed within the program have access to the internet in classrooms and receive training on Infinite Campus.
- O. Provide instruction based on Kentucky Academic Standards, Career and Technical Education Program of Studies Implementation Manual, and Kentucky Occupational Skill Standards to meet the individual needs of each youth.
- P. Assist in integrating the youth's Individual Learning Plan (ILP) and, if applicable, the Individual Education Program (IEP) with the youth's Individual Treatment Plan (ITP).

- Q. Assure that assigned student coursework is aligned with the credit requirements necessary for earning a high school diploma.
- R. Assure that the apportioned annual credit requirements are aligned with the credit requirements and demonstrated competencies as defined in 704 KAR 3:305 (2). (Appendix A)
- S. Provide access to library service for the youth. (Appendix B)
- T. Require education staff to provide instruction that addresses all Learning Styles.
- U. Ensure that Career Clusters and Learning Styles are displayed within the classroom area.
- V. Require education staff to deliver instruction by diverse methods even when learning is primarily achieved through online credit recovery programs. Instruction may include but shall not be limited to groups, teams, hands on learning activities, accelerated teaching, or computerized learning.
- W. Require education staff to develop and follow written lesson plans with consideration given to the educational and vocational learning needs of each youth.
- X. Require education staff document evidence of a student's level of achievement using local school district's procedural documentation or the optional Kentucky Academic Standards.
- Y. Assure grades, credits, diploma, certificate of completion, or a high school equivalency diploma (General Education Development – GED) earned by the youth is in compliance with Federal and state laws and regulations.
- Z. For youth eligible for GED testing, assure youth earns grades and credits toward a diploma.
- AA. Vocational and educational assessments shall be completed within fourteen (14) days of the youth's admission if previous results are not available.
- BB. Review and revise, as needed, the Individual Learning Plan (ILP) for each youth and write an Individual Education Program (IEP) for youth with an educational disability using results of educational and vocational assessments.
- CC. Update the Individual Learning Plan (ILP) when a youth earns a diploma, certificate of program completion or a GED. The plan shall include evaluated work experience, vocational education and/or higher education through correspondence or on-campus courses.
- DD. Assure a minimum of one educator attends each treatment team meeting scheduled during the 210 instructional school days. The educator will be an active participant in the development of each youth's initial Individual Treatment Plan (ITP) and attend weekly treatment team meetings to address youth's progress and transition needs. (Appendix C)
- EE. Assure education progress reports of student achievement are forwarded to the parent or guardian on the same schedule as for students in the local school district.
- FF. Assure each youth is included in district wide, end-of-course, and statewide assessments.
- GG. Include the program in the school district textbook revision plan.
- HH. Provide necessary instructional materials and specialized equipment that meet minimum state education standards including computers and data lines.
- II. Provide remedial instruction/intervention to improve basic skills for students who score two or more grade levels below standard in reading or math.

- JJ. Collaboratively develop with DJJ staff a code of acceptable school behavior and disciplinary measures which are complimentary to and are consistent with the facility behavior management system.
- KK. Provide Infinite Campus training and give total access for school administrators, academic teachers and technical teachers.
- LL. Assure each youth's educational record contains specific name of courses youth is taking or has completed, amount of time in the course, and grades and credits earned while in the program. This information is to be included when transferring records to the next agency providing education services.
- MM. Make all educational records available upon request to DJJ staff working with youth monitoring and evaluating services for the Department as permitted by federal and state laws and regulations including the Family Educational Rights and Privacy Act (FERPA).
- NN. Assure that educational records are forwarded to the receiving school within five (5) school days following the release of a youth from the program.
- OO. Assure district staff is knowledgeable of the content of the daily log and records incidents as needed to enhance communication to better address the individual needs of the youth.
- PP. Adhere to the Department's Education Policies and Procedures. (Appendix E)
- QQ. Adhere to the Department's Code of Conduct and Code of Ethics Policies and Procedures and cooperate with investigation of misconduct. (Appendix F) If a violation occurs, disciplinary issues relating to school district personnel shall be governed by the local school district's policy and procedures. If the Department of Juvenile Justice provides written notice that it believes that any teacher and/or other educational staff has violated any Department of Juvenile Justice Policy, then the individual that is believed to have violated Policy shall not be allowed to return to the Department of Juvenile Justice's property, and the Second Party will forthwith provide a different teacher and/or other educational staff to replace the individual that would not be allowed to return.
- RR. Cooperate with the facility superintendent in obtaining the information and releases required for criminal and administrative background investigations to be conducted on any certified or classified staff who may have contact with youth and agrees to not assign any certified or classified staff to work at the program who is not approved.
- SS. Ensure that each certified and classified education staff member submits a signed Confidentiality Agreement to the facility superintendent.
- TT. Adhere to and cooperate with the pursuit of accreditation standards to which the Department is subject.
- UU. Comply with the Prison Rape Elimination Act (PREA) (42 U.S.C. §15601, et seq.) and with all applicable PREA National Standards (28 C.F.R. Part 115). The basic tenets of compliance with PREA assert that DJJ and all associated contractors have a zero tolerance policy toward sexual abuse, sexual assault, sexual harassment or any other type of sexual misconduct between youth and youth or staff and youth. The school district agrees to notify the Department and promptly investigate any allegations or instances of any sexual misconduct. (Appendix G)
- VV. The school district will ensure education staff participates in all mandatory training requirements as directed by federal requirements, DJJ Policy, and American Correctional Association accreditation standards, either through its own training, or through participation in DJJ training. Mandatory trainings include but may not be limited to program-specific Emergency Procedure training and Prison Rape Elimination Act (PREA) training.

WW. Participate fully in the monitoring of this agreement.

- XX. Assure there will be no discrimination against any applicant, or recipient of services on account of race, color, age, sex, religious creed, ancestry, national origin or sexual preference in performance of this agreement.
- YY. Assure the facility superintendent/designee is invited to participate on the interview panel for the hiring of any educational staff for the program.
- ZZ. Seek input from the superintendent of the facility when evaluating individual education staff based on district evaluation criteria.
- AAA. Allow the opportunity to participate on the interview panel for the hiring of any rehabilitation instructor or vocational staff for the program.
- BBB. Assure the school administrator/designee attends the facility management team meetings.
- CCC. Assure appropriate DJJ staff is invited to participate in educational meetings relative to the development or review of educational services for individual youth (i.e., Admissions and Release Committee (ARC) meetings).
- DDD. Assure certified and classified staff complies with the school district acceptable use policy for Internet usage.
- EEE. Assure no DJJ youth is permitted access to e-mail.
- FFF. Assure Internet access is diligently supervised and is purposeful for the completion of academic/vocational learning objectives.
- GGG. Provide youth Internet access with a school district or DJJ content filtering device in place.
- HHH. Data lines outside of DJJ must be approved by the Information Systems Branch.
- III. Through use of a content filtering device, ensure that Sexually Explicit Materials are not available via any video or computer system, software or hardware product, or internet service in any area where youth are present within the offices and programs of the Department of Juvenile Justice.

2. In relation to the agreement, the Department or its facility designee agrees to perform the following functions:
 - A. Comply with all applicable federal and state laws and regulations for the services provided under this agreement.
 - B. Provide the school administrator or designee as much notice as possible prior to a youth being admitted to or discharged from the facility.
 - C. Assure that the school administrator or head teacher is notified of a suspected educational disability using the Child Find form.
 - D. Provide the educators access to all pertinent records as permitted by law in order to meet the individual needs of the youth.
 - E. Provide the school administrator notice of relevant meetings at the same time other Department staff is provided notice.
 - F. Assure facility staff will provide supervision and supportive assistance in the course of all academic activities. Youth workers shall be included in classroom activities to the maximum extent possible and shall work cooperatively with all education staff.

- G. Require Department staff to read and record in the program's daily log to assure knowledge of any incident that may affect a youth's behavior or performance is communicated.
- H. Make the daily log accessible to district staff to enhance communication to better address the individual needs of the youth.
- I. Dispense all medication to the youth.
- J. Notify the Second Party School Administrator of any grievance involving the educational staff. Each agency will address the grievance according to their respective policy and procedures. If a mutually acceptable resolution is not reached within the timelines of the respective policies and procedures, the following action shall be initiated:
 - Step 1. The Department Regional Administrator and Second Party designee, who is not the School Administrator, will meet to discuss, clarify, and resolve the matter. This resolution will be formalized in writing and conveyed to the Facility Superintendent and Second Party School Administrator. If the matter cannot be resolved, the following action shall be initiated.
 - Step 2. The Department Regional Director and the Second Party Superintendent or designee, who is not the School Administrator, will meet within 10 working days. They will review the grievance, interview the individuals they deem appropriate and reach a resolution. This resolution will be formalized in writing and conveyed to the Facility Superintendent and Second Party School Administrator.
- K. Assure appropriate DJJ staff attends educational meetings relative to the development or review of educational services for individual youth (i.e., Admissions and Release Committee (ARC) meetings).
- L. Assure educators are assigned to treatment teams and a minimum of one educator attends each treatment team meeting scheduled during the 210 instructional days. The educator will be an active participant in the development of each youth's initial Individual Treatment Plan (ITP) and attend weekly treatment team meetings to address youth's progress and transition needs.
- M. Provide technical assistance through Education Branch staff.
- N. Collaboratively develop with the local school district staff a code of acceptable school behavior and disciplinary measures that are consistent with the facility behavior management system.
- O. Participate on the interview panel for the hiring of any educational staff for the program.
- P. Obtain information and releases required for criminal and administrative background investigations to be conducted on any certified or classified staff who may have contact with youth. Assure that criminal and background checks are completed for school staff.
- Q. Provide input to the school district staff person evaluating individual education staff based on district evaluation criteria.
- R. Refuse an educational staff entry to a facility if they are found to be in violation of the Department's Code of Conduct or Code of Ethics policies and procedures.
- S. Schedule facility management team meetings, whenever possible, to allow the school administrator the opportunity to attend.
- T. Provide safety inspections at regular intervals.
- U. Consider the school calendar in the timing of discharge of youth from facility, whenever possible.

- V. Through use of the DJJ Proxy Server and the Information Systems Branch in schools where DJJ provides internet services, ensure that Sexually Explicit Materials are not available via any video or computer system, software or hardware product, or internet service in any classroom setting or areas where youth are present within the offices and programs of the Department of Juvenile Justice.
3. This agreement shall remain valid and in force for twelve (12) months from its effective date, provided it is not terminated pursuant to paragraph 46 below.

JUSTICE AND PUBLIC SAFETY CABINET TERMS AND CONDITIONS

1. Contractor shall comply at all times with the federal and state constitutions; federal, state, and local law; federal and state executive orders; federal and state attorney general opinions; federal and state case law; Commonwealth of Kentucky Executive Department policy and procedures; Commonwealth Office of Technology policy and procedures; and Commonwealth policy and procedures.
2. The Contractor shall report any and all acts and omissions constituting a violation of applicable federal, state, or local law; applicable Commonwealth policies and procedures; or this Memorandum of Understanding ("MOU") to the Commonwealth in writing within one business day of the discovery of the violation.
3. The Contractor shall provide any and all policy and other directives governing the Contractor as applicable to this MOU.
4. The Contractor certifies that the Contractor is legally entitled to enter into this MOU with the Commonwealth, and by holding and performing this MOU, the Contractor will not be violating any conflict-of-interest statute (KRS 45A.330-45A.340, 45A.990, 164.390), nor KRS 11A.040 of the executive branch code of ethics relating to the employment of former public servants.
5. To the extent permitted by law, the Contractor agrees to indemnify and hold harmless the Commonwealth against any and all claims, losses, demands, obligations, and litigation, including attorneys' fees, that result from or by: (1) goods tendered and services rendered by the Contractor in connection with performance of this MOU, (2) any and all bad-faith, erroneous, negligent, reckless, and unlawful acts and omissions of the Contractor, its officers, or employees in the performance of this MOU, (3) the Contractor's creation of a hazardous condition or exacerbation of a pre-existing hazardous condition; (4) the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes by the Contractor, (5) the policies and procedures specifically involving all the Contractor employment practices used by the Contractor during the term of this MOU, and (6) any failure of the Contractor, its officers, or employees to observe federal, state, and local laws, including but not limited to labor laws and minimum wage laws.
6. The parties agree that as to any and all legal matters each party shall represent only itself, even if the parties appear to have a common interest. The parties may coordinate their efforts in any and all legal matters upon determination of the Commonwealth's General Counsel that doing so would be beneficial to the Commonwealth.
7. The Contractor acknowledges and agrees that the Contractor acts as an agent of the Commonwealth in fulfillment of any and all terms and conditions within this MOU and any and all lawful associated acts and omissions by the Contractor necessary to fulfill the terms and conditions within this MOU. Under no circumstance does the Commonwealth approve, authorize, or ratify any and all acts or omissions of the Contractor in violation of federal and state constitutions; federal, state, and local law; federal and state executive orders; federal and state attorney general opinions; federal and state case law; Commonwealth of Kentucky Executive Department policy and procedures; Commonwealth Office of Technology policy and procedures; Commonwealth policy and procedures; or this MOU.
8. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, gender presentation, age, or genetic information. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, gender presentation, age, genetic information, or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or

other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

- 8.1. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will state that all qualified applicants will receive consideration for employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, gender presentation, age, genetic information, or disability.
- 8.2. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part; the Contractor may be declared ineligible for further contracts; and such other sanctions that may be imposed and remedies invoked as provided in or as otherwise provided by law.
9. Both parties, including any subcontractors or agents of each, agree to comply with all applicable state and federal confidentiality laws, including the Family Educational Rights and Privacy Act and the Health Insurance Portability and Accountability Act, and to protect the security, confidentiality, and integrity of education and health information. The Contractor acknowledges and agrees that the Commonwealth shall be entitled, without waiving any other rights or remedies, to injunctive or equitable relief to enforce the requirements of this provision of this MOU.
10. Vendors and other state agencies that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq. ("the Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set for in the Act.
 - 10.1. "Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one(1) or more of the following data elements:
 - 10.1.1. An account, credit card number, or debit card number that, in combination with any required security code, access code, or password, would permit access to an account;
 - 10.1.2. A Social Security number;
 - 10.1.3. A taxpayer identification number that incorporates a Social Security number;
 - 10.1.4. A driver's license number, state identification card number, or other individual identification number issued by an agency;
 - 10.1.5. A passport number or other identification number issued by the United States government; or
 - 10.1.6. Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec. 1232g.
 - 10.2. As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects, or maintains) personal information from the Commonwealth pursuant to the contract or agreement."
 - 10.3. The Contractor agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.
 - 10.4. The Contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the Commonwealth, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2) applies and the Contractor abides by the requirements set for in that exception. Notification shall be in writing on a form developed by the Commonwealth Office of Technology
 - 10.5. The Contractor agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.
 - 10.6. Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the Contractor agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.
 - 10.7. In accordance with KRS 61.932(2)(a), the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology.
11. The parties acknowledge that records, data extracts, information, metadata, and/or data provided by the Commonwealth to the Contractor are the property of the Commonwealth. In order for the Commonwealth to maintain control and integrity of its records, the Contractor agrees that any Freedom of Information Act request, Kentucky Open Records request, or other request seeking access to information or data provided by the

Commonwealth will be reported to and forwarded to the Commonwealth within two business days. The Contractor shall notify the requester: (1) that it is not authorized to accept such requests; (2) that the Commonwealth is the sole entity authorized to accept such requests; and (3) of the point of contact for such requests.

12. The Contractor agrees that it will not distribute, divulge, publish, or release any data or information obtained from or owned by the Commonwealth without the prior written approval of the Commonwealth unless compelled to do so by law or by a judicially signed order from a court of competent jurisdiction. The Contractor acknowledges that it receives the Commonwealth's data or information solely for the purposes of this MOU, and that its receipt of the Commonwealth's data or information in no way creates any ownership interest in the Commonwealth's data or information, unless explicitly provided otherwise within the terms and conditions of this MOU.
13. The Contractor shall ensure that any and all access to Commonwealth data by Contractor personnel is limited to only those Contractor personnel with a necessary and essential purpose to fulfill the terms and conditions within this MOU.
14. The Contractor shall not utilize Commonwealth data for the Contractor's benefit except as contemplated within and pursuant to the terms and conditions of this MOU. The Contractor shall not advertise, brand, market, or commit any and all other act or omission designed to create any and all benefit for the Contractor utilizing Commonwealth data.
15. The Contractor shall not sell or resell any and all Commonwealth data.
16. The Contractor shall ensure that any and all data transmitted and received on behalf of and as directed by the Commonwealth is transmitted and received only via secure methods and protocols.
17. Upon the expiration of the term of this MOU, unless it is renewed prior to its expiration, the Contractor shall either: (1) return any and all data provided by the Commonwealth, destroy any and all copies of the data in whatever form they occur, complete the attached Data Destruction Certification, and submit the certificate to the Commonwealth no less than 7 calendar days after expiration of this MOU; (2) destroy the data, including any and all copies of the data in whatever form they occur, without returning the data to the Commonwealth, complete the attached Data Destruction Certification, and submit the certificate to the Commonwealth no less than 7 calendar days after expiration of this MOU; or (3) retain the data subject to the terms of this MOU regarding data ownership, privacy, and breach. The Commonwealth retains discretion to choose the option Contractor shall perform. In the event that the Commonwealth has not communicated to the Contractor which option should be followed, the Contractor shall perform the actions listed in option (1).
18. The Contractor shall be responsible for the proper custody and care of any Commonwealth-owned property furnished for Contractor's use in connections with the performance of this MOU. The Contractor shall reimburse the Commonwealth for its loss or damage, normal wear and tear excepted.
19. The Contractor agrees and acknowledges that any and all property, whether intellectual or tangible and whether chattel or real, purchased by the Contractor, the Contractor's subcontractors, or the Contractor's agents in fulfillment of the terms and conditions of this MOU shall become the exclusive and sole property of the Commonwealth upon purchase by the Contractor and be owned by the Commonwealth at any and all times and in any and all locations. The Contractor shall report any and all purchases to the Commonwealth in writing as directed by the Commonwealth. The Commonwealth may approve or deny in writing any and all written requests by the Contractor to the Commonwealth to transfer ownership of any and all Contractor purchased and Commonwealth owned property. Electronic mail shall constitute a writing, written approval, written denial, and a written request. The Contractor shall notify the Commonwealth in writing prior to providing any and all property, whether intellectual or tangible and whether chattel or real, that the Contractor, the Contractor's subcontractors, or the Contractor's agents has determined to be proprietary in nature and that the Contractor may use as a basis to assert a claim of ownership to Commonwealth property. Electronic mail shall constitute a writing.
20. The parties agree that they receive all information communicated between them before the execution of this MOU in strict confidence and that the receiving party, its agents, or employees shall not, without prior written consent of the other party, disclose any such information, subject to Commonwealth of Kentucky and federal disclosure laws.
21. The Contractor shall not represent that a working copy, draft, or the finalized version of this MOU is identical to a previous iteration of this MOU if the Contractor has made edits since the last iteration. The Contractor shall clearly present all edits either through editing functions in word processing software or as a list provided contemporaneously with the most recently edited iteration.
22. The Contractor shall not in any and all manners in any and all mediums to any and all individuals or entities state or imply that the Contractor is endorsed or preferred by the Commonwealth.
23. The Contractor shall perform only the work duties explicitly authorized in this MOU.

24. The Contractor shall ensure that any and all deliverables meet requirements and standards previously established by the parties in writing.
25. If the Commonwealth determines that deliverables due under this MOU are not in conformance with the terms and conditions of this MOU, the Commonwealth may request that the Contractor deliver assurances in the form of additional Contractor resources and demonstrate that other major schedules will not be affected. The Commonwealth shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the Contractor.
26. The Contractor shall reimburse the Commonwealth for any grants or other funding lost as a direct result of Contractor's failure to comply with the requirements set forth by the terms of any grant of which the Commonwealth is the grantee that requires, explicitly or implicitly, the Contractor to adhere to the terms and conditions, including but not limited to the special conditions, of the grant.
27. The Contractor agrees that the Commonwealth, and its duly authorized agents and designees, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this MOU for the purpose of a financial audit or program review, including confidential and proprietary information. The Contractor also recognizes that any and all books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, except to the extent that books, documents, papers, records, or other evidence is subject to KRS 61.878(1)(c)(1).
28. The Contractor represents and warrants, and the Commonwealth relies upon such representation and warranty, that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its provision of goods or its performance of services. The Contractor further represents and warrants that in the performance of this MOU, no person, including any subcontractor, having any such interest shall be employed.
29. The Contractor shall not knowingly allow any official or employee of the Commonwealth who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this MOU to voluntarily acquire any ownership interest, direct or indirect, in the contract prior to the completion of this MOU.
30. During the term of this MOU, Contractor shall be authorized in its sole discretion to discipline, terminate or take any other personnel action against Contractor personnel. Upon communication by Commonwealth of an issue with Contractor personnel, Contractor shall have the sole authority to take action to effect a solution.
31. At no point shall any Contractor personnel be considered an employee of the Justice and Public Safety Cabinet, for any purpose, including but not limited to unemployment, taxes, withholding, health insurance, liability, retirement, workers' compensation, vacation, sick or other leave, the Family Medical Leave Act, accrued benefits, evaluations, or any other purpose. At all times, any such individual shall be considered and deemed to be an employee of the Contractor.
32. Nothing in this MOU shall be construed, in any way, as granting to any individual providing services under this MOU any of the claims, privileges, or rights established or recognized under KRS Chapter 16, KRS Chapter 18A or KAR Title 101.
33. The Contractor shall not allow or authorize Contractor personnel to fill or perform supervisory positions, roles, or duties regarding Commonwealth employees. The Contractor also shall not allow or authorize Contractor personnel to conduct performance evaluations of Commonwealth employees.
34. In no event shall any person or entity be deemed to be a third-party beneficiary of this MOU.
35. Pursuant to the Executive Branch Code of Ethics, Kentucky Revised Statutes Chapter 11A, and in order to avoid conflicts of interest more generally, dual-status personnel may not manage or administer this MOU or any of its individual terms and conditions. Dual-status personnel is defined as any and all individuals who are employed by or receive a tangible benefit from the Commonwealth and the Contractor simultaneously.
36. Dual-status personnel shall be considered Commonwealth personnel and shall not be considered Contractor personnel for the purposes of this MOU, except for the terms and conditions of this MOU that apply to dual-status personnel by virtue of their dual status.
37. The Contractor acknowledges that the Commonwealth may execute agreements with other vendors for additional or related goods and services that address, interact with, or otherwise regard this MOU. The Contractor shall fully cooperate with such other vendors and vendor personnel, agents, and designees. The Contractor shall not commit any act; allow any omission; or permit its personnel, agents, or designees to commit any act or allow any omission that will interfere with the performance of work by any other vendor or any other vendor's personnel, agents, or designees.
38. The Contractor shall comply, at a minimum, with the Records Retention Schedule promulgated by the State Archives and Records Commission applicable to the agency to which it is providing goods, services, revenue, or any and all combinations thereof pursuant to this MOU.

39. Within ten business days of employing a subcontractor, Contractor shall provide to the Commonwealth: (1) the name of the subcontractor; (2) the subcontractors EIN; and (3) a copy of a written agreement between Contractor and subcontractor requiring subcontractor to agree to the terms of any non-disclosure agreement to which Contractor is subject under this MOU.
40. Each party shall provide a contact to resolve any and all issues related to this MOU and promptly update the contact information as necessary.
41. All notices under this MOU shall be given in writing. Electronic mail constitutes a writing.
42. No change, waiver, or discharge of any liability or obligation under this MOU on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
43. No party shall assign its respective rights or obligations under this MOU without prior written consent of the other party. Any purported assignment or delegation in violation of this MOU is void.
44. The terms and conditions of this MOU may only be amended by mutual written consent of both parties.
45. The Contractor shall agree and acknowledge that any and all violations of this MOU may result in the immediate termination of this MOU, as well as the imposition of civil and criminal sanctions as applicable.
46. The Commonwealth shall have the right to terminate and cancel this MOU at any time not to exceed 30 days' written notice served on the Contractor by registered or certified mail.
47. This MOU shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.
48. The parties agree that any claim, action, or lawsuit arising under this MOU must be brought in Franklin Circuit Court in the Commonwealth of Kentucky.
49. If any term or provision or any part of this MOU is declared invalid or unenforceable, the remainder of this MOU shall not be affected, and each term and provision of this MOU shall be valid and enforceable to the fullest extent permitted by the law.
50. This MOU is the final and exclusive agreement between the parties. All prior negotiations and agreements are superseded by this MOU.

FIRST PARTY: Department of Juvenile Justice
Name of Agency

APPROVED:

BY: _____
DJJ Commissioner Signature

DATE: _____

SECOND PARTY: _____
Name of Agency

APPROVED:

BY: _____
Signature

TITLE: _____

DATE: _____