

Membership Agreement

THIS AGREEMENT, made this _____ day of _____, 20____, by and between New Mexico Abilities, a nonprofit corporation existing under the laws of the State of New Mexico, with principal offices located at 8100 Mountain Rd. NE, Suite 103, Albuquerque, New Mexico, and _____, an individual with a disability or an agency for persons with disabilities existing under the laws of the State of New Mexico with principal offices located at _____ hereinafter called (“Member”).

WHEREAS, New Mexico Abilities operates to facilitate the distribution of orders for the purchase of services performed by persons with disabilities in the State of New Mexico among New Mexico Abilities Members; and

WHEREAS, Member has applied to New Mexico Abilities to participate as a Member providing services as aforementioned; and

WHEREAS, Member understands and agrees that in order to accomplish its purpose, New Mexico Abilities in accordance with its policies and procedures as approved by the Council, determines which of its Members shall provide services as aforementioned in each instance;

NOW, THEREFORE, for and in consideration of these provisions, which are incorporated herein and the mutual promises, covenants and agreements hereinafter set forth by New Mexico Abilities and Member, with the intent to be legally bound, do agree as follows:

1. New Mexico Abilities will have the exclusive right to represent its members in all matters pertaining to the sales of services to the State of New Mexico and all Departments, Agencies, Officers, Boards, Commissions, and political subdivisions regardless of

location when such sales are pursuant to Title 2, Chapter 40, Part 5 of New Mexico's Administrative Code.

2. New Mexico Abilities will have the exclusive right to represent its members in all matters pertaining to Title 2, Chapter 40, Part 5 of New Mexico's Administrative Code, as amended from time to time.
3. Member agrees that no services shall be delivered to any agency of the State of New Mexico or local government unless during the State Fiscal Year at least seventy-five percent persons with disabilities are used in the direct labor for the provision of those services.
4. To be eligible to participate in this program, Member Agencies must certify to the Council that persons with qualifying disabilities will make an appreciable contribution to the performance of the service. In each case, the Council makes the final determination of eligibility. The Member must also be capable of performing the service in accordance with the specifications of the contract.
5. New Mexico Abilities will retain a fee of five percent (5%) for all Contracts obtained on behalf of Member. Said fee shall be in addition to the fair market price established by the Council.
6. Member agrees to abide by any and all rules, procedures and policies which New Mexico Abilities establishes pertaining to these Contracts, including but not limited to, rules, procedures and policies pertaining to the following:
 - A. Quality and standards of services;
 - B. Employment of persons with disabilities to perform such contracts;
 - C. Types and amounts of insurance coverage Member shall maintain with respect to the performance of such contracts. *In addition New Mexico*

Abilities requires a current liability certificate of insurance on file for all member agencies as a requirement of membership.

- D. Roles and responsibilities in performing such contracts.
 - E. The Agency and New Mexico Abilities Policy and Procedures Manual.
7. Member hereby agrees to indemnify New Mexico Abilities and save it harmless from and against any damage, liability, loss or deficiency including, but not limited to, reasonable attorney's fees and other costs and expenses incident to any claim, suit, action or proceeding arising out of or resulting from Member's performance of any Contract. This paragraph shall survive any termination of this Agreement.
 8. With the approval of the Council, either party may terminate this Agreement by giving 120 days written notice thereof to the party. Upon such notice of termination by either party, New Mexico Abilities shall have the right to reassign all executory contracts which had been assigned to Member to its other members; provided, however, that Member shall perform work to deliver any assigned service contract and shall remain entitled to payment for work performed less liquidated damages.
 9. If either party breaches any provisions of this Agreement, the other party shall have the right, at its election to sue for damages for such breach or seek other remedies or relief as may be available. The party breaching this contract shall be responsible for payment of reasonable attorney fees and other costs incurred by the other in enforcing its rights under this Agreement.
 10. This Agreement contains the entire understanding of the parties, and there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

11. The modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.
12. If any term, condition, clause, or provision of this Agreement shall be determined or declared to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from this Agreement. In all other respects this Agreement shall be valid and continue in full force, effect and operations.
13. This Agreement shall not be assigned by either party without the prior written consent of both parties.

Any notice to be given hereunder shall be in writing and shall be effective by registered or certified mail, return receipt requested. Notice to New Mexico Abilities shall be sufficient if addressed to :

New Mexico Abilities

New Mexico

and to Member at:

Each party may change the address for notice by giving notice of such change in accordance with the provision of the paragraph.

Executed by the parties hereto on the day and year first above written with the intent to be legally bound:

ATTEST:

NEW MEXICO ABILITIES

Signature

Print name

Title
(SEAL)

Signature

Print name

Title

ATTEST:

MEMBER AGENCY

Signature

Print name

Title

(SEAL)

Signature

Print name

Title