ACS OHIO ECC PROVIDER EQUIPMENT AGREEMENT

FOR INTERNAL USE ONLY
Agreement Number: OHDAYC-00-

Provider ID: _____

Effective Date: _____

This **Agreement** is made by and between ACS State & Local Solutions, Inc. a New York Corporation, having an office at 8260 Willow Oaks Corporate Drive, Fairfax, VA 22031 (hereinafter "**ACS**") and _____ _____, a _____ corporation, individual(s), partnership, other _____; organized and existing under the Laws of the State of _____, and having a business, residence at _____ (hereinafter "**Provider**").

ACS is under contract with the State of Ohio (hereinafter "**State**") to provide an automated e-Child Care system that provides timekeeping and recording of attendance of State authorized Child Care attendees. As part of that contract with the State, ACS is also required to furnish equipment for the use of child care providers and maintain that equipment.

Article 1: **ACS STATE AND LOCAL SOLUTIONS RESPONSIBILITIES**

1.1 ACS will furnish Provider with Point of Service (POS) terminal equipment (hereinafter "**Equipment**") and related services, installation, training, repairs, and help desk support.

1.2 Equipment. Equipment shall be a VeriFone model VX510 or a VX570 Point-of-Service (POS) terminal. ACS reserves the right to change the Equipment's brand, model or features at any time without prior notification to Provider.

1.3 Equipment Ownership. Equipment shall at all times remain the property of ACS.

1.4 Equipment Usage. Equipment shall be used by Provider solely in connection with the Ohio Electronic Child Care Program (hereinafter "**Ohio ECC**").

1.5 Equipment Allocation. Guidelines for Equipment allocation are established under a separate contract between ACS and the State. Equipment will be allocated at a ratio of 1 unit of Equipment to 50 State authorized Child Care attendees (hereinafter "Active Participants"), ACS reserves the right to remove excess Equipment on demand during Provider's normal business hours. Excess Equipment is defined as a ratio of Equipment to Active Participants of less than 1:50 when more than 1 (one) unit of Equipment is furnished (examples: 1:49 or 1:30).

1.6 Installation. ACS shall provide for Equipment installation at a time mutually agreed to between ACS (or its designated installer) and the Provider.

1.7 Training. At the time of installation, the Provider or authorized person will be trained and provided one (1) *Quick Reference Guide* and one (1) *Ohio Child Care Provider Operations Manual*. This reference material will be made available on the Ohio Child Care Provider Website described in the *Ohio Child Care Provider Operations Manual*.

1.8 Help Desk. ACS shall provide a toll-free telephone number for Provider use 24 hours per day/7 days per week. The Help Desk will be staffed by customer support representatives. The Help Desk will also be staffed on all major holidays

1.9 Equipment Repair. ACS shall be solely responsible for repair of Equipment. For Equipment repair, Provider shall promptly notify ACS using the telephone number(s) separately furnished to Provider by

ACS. Telephone calls from pay phones will not be accepted. At ACS discretion, Equipment may either be repaired or replaced. If the equipment issue cannot be resolved by phone with the Customer Service Representative nor NEMC, and replacement equipment is required, the equipment is replaced within 48 hours of notification of the problem and is received by the provider the following business day.

1.10 Supplies. ACS will provide the initial supply of paper. The supply will be as follows:

Type A Homes – 9 rolls of paper
Centers – 18 rolls of paper
All other providers – 3 rolls of paper

After the initial supply, the Provider is responsible for purchasing paper for the equipment.

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 or ACS.

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 Environmentals. Provider agrees that it shall provide suitable electric current (standard 120 volt outlets) to operate the Equipment, a suitable place for Equipment installation, a suitable environment for the Equipment and telephone service for use by the Equipment (shared or dedicated at Provider discretion). Provider agrees to be solely responsible for and bear all one-time and recurring expenses and fees, of all electrical and telephone services necessary for the operation of the Equipment.

2.4 Provider and Bank Data. Provider agrees that at all times it shall provide accurate and current data for Exhibit A (Ohio ECC Equipment Recovery and Reimbursement Authorization Form). Provider acknowledges that failure to immediately notify ACS in writing of changes to Exhibit A data may result in delay in equipment installation and/or any reimbursement due. Provider acknowledges and agrees that banking information can be used to credit, debit, and/or make adjustments to credits or debits, required to fulfill the terms of this agreement.

2.5 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) reflected on record with the State without prior authorization from State.

2.6 Equipment Liens. Provider agrees that it shall keep the Equipment free and clear of all liens and encumbrances.

2.7. Equipment Access. Provider agrees that ACS or its designee shall have free and clear access to the Equipment at all reasonable times for the purpose of maintenance, repair, inspection or removal.

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

Equipment Supplies. After the initial supply described in Paragraph 1.10, the Providers is responsible for purchasing paper for the equipment.

Article 3: TERM AND TERMINATION

3.1 Term. The term of the Agreement shall commence on the Effective Date and continue through Provider's State determined term of agreement for the Publicly Funded Child Care Program (PFCC) participation, as well as the existence of assigned Active Participants.

3.2 Renewal Periods. Unless the Agreement is terminated or expires in accordance with the terms of this Agreement, this Agreement shall automatically renew without further action for the duration of authorization assignment and active participation.

3.3 Termination. Either party may terminate this Agreement without cause upon giving fifteen (15) days prior written notice to the other party, citing this Section 3.3.

This Agreement shall terminate immediately upon the instance of one or more of the following: Provider is no longer authorized under PFCC or Provider ceases its business operations in the State for any reason.

3.4 Effect of Termination – Equipment. Within five (5) business days of Agreement termination, Provider shall return all Equipment to ACS at ACS expense and in the manner agreed to by ACS, or make the Equipment available for ACS pickup at a mutually agreed time from 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding Federal holidays. Upon termination of the Agreement pursuant to the provisions herein, Provider will immediately return the Equipment to ACS or purchase the Equipment from ACS at a price to be mutually agreed upon between ACS and Provider. Failure of the Provider to return equipment within ten (10) business days of the effective termination date will result in an ACH debit in the amount of seven hundred and sixty-five dollars and no cents ($765.00) to the Provider's financial institution account.

Should such a debit occur as a result of non-returned equipment on the part of Provider, Provider will have 30 days from the day of the debit to return the equipment and receive a full refund. Credits will not be issued beyond 30 days and Provider will own the equipment if they were successfully debited in accordance with the terms of this Agreement.

Article 4: CARE OF EQUIPMENT

4.1 Provider agrees to follow the instructions of any Manuals accompanying the Equipment, as amended from time-to-time, in the use and care of the Equipment and agrees to advise ACS or its authorized representatives of any conditions that may require servicing. Provider will take all reasonable security measures to protect the Equipment from damage and/or unauthorized use. Provider will not make or attempt to make any repairs to the Equipment. Provider will ensure that Provider's existing insurance covers the Equipment against casualty loss. Provider agrees to bear the expense of repairing damage to the Equipment which occurs while the Equipment is in Provider's care, unless such damage is caused by Equipment malfunction which did not result from Provider's improper use of the Equipment.

Article 5: LIMITATION OF LIABILITY

5.1 ACS and the State will not be responsible or liable for any cost, expense or damage arising out of the use of the Equipment by Provider including, but not limited to, lost profits or damages to persons or property. Provider will bear all risks including the entire risk of loss, theft, damage or destruction of the Equipment and all liability for the use, possession, operation, storage and condition of the Equipment; provided, however, that Provider will not be liable for personal injury and/or damages to property resulting from the negligence or willful acts of ACS, its employees, subcontractors or agents.

Article 6: INDEMNIFICATION

6.1 Provider will indemnify and hold ACS, its parent corporations, affiliates, employees, subcontractors and agents harmless from all losses, costs, expenses and damages, including attorneys' fees, incurred because of or incident to the Equipment or the use, possession, operation, storage and condition thereof; provided, however, that Provider's obligation to indemnify and hold harmless will not apply in cases in which ACS will be found liable for personal injury and/or damage to property resulting from the negligence or willful acts of ACS, its employees, contractors or agents.

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 Ohio and any action commenced hereunder shall be brought in State of Ohio. Further, Provider consents to the jurisdiction of the courts located in State of Ohio.

Article 9: **ASSIGNMENT**

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

Article 10: **AMENDMENTS OR ADDENDA**

11.1 The amendments, addenda, exhibits or attachments listed below, are incorporated herein by reference:

Exhibit A: Ohio ECC Equipment Recovery and Reimbursement Authorization Form
Exhibit B: Provider Location Confirmation Form

.**Article 11:** **INDEPENDENT CONTRACTOR**

12.1 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**

13.1 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.

13.2 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.

	ACS STATE & LOCAL SOLUTIONS, INC.	**CHILD CARE HOME OR CENTER**
By:	(Signature)	(Signature)
	Michael Langenohl (Name, type or print)	(Name, type or print)
	VP, Electronic Payment Services (Title)	(Title)
	4/26/2010 (Date)	(Date)

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Exhibit A

Ohio ECC EQUIPMENT RECOVERY FORM

Provider ID #: _____

_____
(Full Legal Business Name)

authorizes ACS and its designated financial institution, Bank of America, and the financial institution listed below to debit funds from and/or deposit funds to the indicated business account for activity related to the Ohio ECC system, in accordance with to the terms of the ACS Ohio ECC Provider Equipment Agreement Article 3.4.

Please Note: Submission of this form to ACS only relates to the equipment supplied to you by ACS. Any changes related to your Provider Agreement for Publicly Funded Child Care Services MUST be made on the CCIDS Provider Portal.

***Choose ( ) One*:**

☐ **First Submission** ☐ **Information Change**

Business Information:

_____
Authorized Individual Name

_____
Title

_____
DBA (Business Name)

_____
Address

_____
City/State/Zip

_____
Telephone Number

_____
Authorized Signature

Bank Account Information:

Checking Account Number:

- OR -

Savings Account Number:

Bank Routing Number (9-digit ABA Number):

Please return this completed form and a voided check or deposit slip to:

ACS State and Local Solutions
National Retail/Provider Management Center
P.O. Box 80469, Austin TX 78708
Questions? Contact us at: (866) 217-1076

Ohio Provider 2372
123 Main St
Any City, OH12345 Date _____

Pay to the
Order of _____ $ _____
_____ Dollars

VOID

XYZ Bank of Ohio
City, XY

For _____ _____

:123789789:987654321:2372

Exhibit B

Provider Location Confirmation Form

Please complete a separate sheet for each facility if you own more than one.

Provider ID Number	
Name	
Facility Name (If different)	
Street Address	
City	
State	
Zip Code	
Primary Phone Number	
Second Phone Number	
Third Phone Number	
Fax Number	
e-Mail Address	
Primary Contact Name	
Secondary Contact Name	