

## AFFILIATE AGREEMENT

This Affiliate Agreement, effective the \_\_\_\_ day of 20\_\_\_\_, is made between the Southern Early Childhood Association (SECA), a 501(c)(3) corporation, with offices at 1123 South University, Suite 255, Little Rock, Arkansas, (the "Association") and \_\_\_\_\_, a nonprofit corporation,(the "Affiliate"), with offices in \_\_\_\_\_.

WHEREAS, Association is a tax-exempt, nonprofit association, whose purposes are to provide education for early childhood professionals and advocate for the well-being of children and families in the South; and

WHEREAS, Affiliate is also a tax-exempt, nonprofit organization, that has applied to Association for status as an authorized affiliate of Association;

NOW, THEREFORE, in furtherance of the mutual promises and consideration in this Agreement, the parties agree as follows:

### 1. Grant of Charter

- a. **Charter:** Association hereby grants a nonexclusive charter to \_\_\_\_\_ to be an affiliate of Association. Affiliate shall be authorized to use the designation "Association Affiliate", with authority to use such designation in connection with the activities authorized in this Agreement, subject to the following terms and conditions.
- b. **Territory:** Affiliate shall represent Association in the following area: \_\_\_\_\_ (the "Territory").
- c. **Intellectual Property:** The foregoing grant of a charter by Association to Affiliate includes the right to use certain intellectual property of Association, such as its copyrighted material, subject to the terms and conditions in this Agreement and Association Policies.
- d. **Board Representation:** The granting of a charter shall confer one Affiliate voting position on the Association Board of Directors (Association By-Laws, Article VII).

### 2. Membership

All members of Affiliate shall also be members of Association, in accordance with the provisions, procedures, and applicable dues schedules, as determined by the Association and Affiliate. The Association Board of Directors will annually consider member dues and Association dues will form the initial component of each Affiliate dues structure. Dues charged in each state may vary, depending upon the action of Affiliate in setting the Affiliate (state and/or local) portion of the dues. Association and Affiliate will be cognizant of the affordability of dues for members as these decisions are reached.

### 3. Obligation of Association

Association's obligations under this Agreement shall include the following:

- a. **Education Programs:** Association shall to the extent practical assist Affiliate in sponsoring and holding certain educational programs in the Territory, such as seminars, meetings, conferences, or other programs as may from time to time be sponsored by Association or Affiliate.
- b. **Education Materials:** Association shall support Affiliate's educational programs in the Territory by making available educational resource materials to Affiliate without charge to the Affiliate.
- c. **Membership Publications:** Each member of Affiliate in the Territory shall receive from the Association the membership publications normally furnished by Association to its members, which may be changed or modified by Association from time to time. These publications will include *Dimensions of Early Childhood* and other publications as produced by Association.
- d. **Membership Cards:** Each member of Affiliate in the Territory shall receive from the Association a membership card that includes name and member identifier that will provide "members-only" access to Association resources. Affiliate will have the discretion to maintain the ability to assign member numbers for their Territory or designate Association to assign those numbers.
- e. **Affiliate Administrative Services:** The Association will provide administrative services to affiliates if requested. In the event that Affiliate chooses to access administrative services offered by Association, a duly executed contract will outline the legal responsibilities for both the Association and Affiliate in regard to those services.

### 4. Obligations of Affiliate

Affiliate's obligation under this Agreement shall, without limitation, include the following:

**4.1 Affiliate Status, Activities and Purposes.** Affiliate represents and warrants that it is in good standing under the laws of the Territory in which it operates and with all IRS requirements for entities that maintain a 501(c)(3) designation. Affiliate shall conduct all of its activities under this Agreement in accordance with the highest legal and ethical standards and shall have as its purposes those set forth in Association's by-laws, Article II, as follows:

- To work on behalf of young children and their families.
- To provide opportunities for the cooperation of individuals and groups who are concerned with the well-being of young children.
- To further the development of knowledge and understanding of young children and the dissemination of such information.
- To contribute to the professional growth of persons working with and for young children.

- To work to improve the standards for group care and education of children and improve the quality of life for them.

Furthermore, Affiliate shall conduct its activities in accordance with policies and procedures set forth in the Association's policy manual concerning affiliate organizations.

**4.2 Recordkeeping.** Affiliate shall maintain all records related to its corporate and tax-exempt status and shall forward to Association, if it has not yet done so, copies of its Articles of Incorporation, Bylaws, and determination letter from the Internal Revenue Service (if not included under Association's group exemption). Further, any amendments to the Articles of Incorporation or Bylaws to be proposed to Affiliate's membership shall first be submitted to the Association for review. Affiliate shall maintain records related to its list of members, educational programs, mailings of publications, use of educational materials, financial systems and other activities and operations. Affiliate shall submit, within 30 days of the conclusion of the Affiliate fiscal year, a report to Association with respect to the above.

**4.3 Compliance with Laws.** Affiliate warrants that it has and shall continue to comply with all applicable laws, regulations and other requirements that may affect its performance of this Agreement. Further, Affiliate warrants that it has obtained and will continue to maintain at its own expense, all permits, licenses, and other governmental approvals that may be required in the Territory in connection with its performance of this Agreement. At the request of Association, Affiliate shall furnish evidence satisfactory to Association that all such permits, licenses, and approvals have been obtained. Furthermore, Affiliate warrants that it shall make all required filings, such as annual corporate reports and tax filings, as may affect its corporate or tax status.

**4.4 Educational Programs.** Affiliate shall endeavor to sponsor educational programs which further and serve the purposes of Association set forth above, and shall use its best efforts to ensure that such programs are of the highest quality with respect to program content, materials, and logistical preparation. Affiliate shall send to Association an annual schedule of upcoming meetings, conferences and seminars, as well as other related activities that Affiliate intends to sponsor and Association may, at its sole discretion, send representatives to observe and participate in such functions.

**4.5 Members and Dues.** Affiliate warrants that it shall maintain a minimum number of members, which number may be changed from time to time upon the written agreement of Association and Affiliate. Association will set annual dues and all Affiliate members will pay those dues as a component of their Affiliate membership. Affiliate will have the discretion to set its portion of the annual dues (state and/or local), based upon the fiscal needs of the Affiliate and a recognition of the affordability of annual dues for the Affiliate member.

**4.6 Insurance.** Affiliate represents and warrants that it has obtained or shall obtain insurance as prescribed in the Association policy manual concerning affiliate organizations in the amounts of coverage set forth there, as may be amended or modified from time to time. Such insurance may include, without limitation, the

following types of insurance or other risk protection: automobile insurance, workers compensation, and association professional liability insurance (including antitrust, contractual, publications, directors and officers, and errors and omissions policies).

5. **Use of Trademark and Copyrighted Materials.** Affiliate shall not use or cause or permit to be used by any person, the logos or copyrighted materials of Association without Association's prior consent, other than the limited use of such logos or copyrighted materials in connection with performance of the specific activities authorized under this Agreement. Any use of Association's logo or name shall be the logo or name approved by Association. Affiliate agrees to feature the Association logo and Association relationship prominently on the following: Affiliate website, membership applications, membership publications, communication formats such as newsletters and journals, and promotional materials for educational events such as annual conference. In the event of expiration or termination of this Agreement, all use by Affiliate of Association's proprietary property, such as logos, marks, names or copyrights, shall end immediately.
6. **Option for Dual Affiliation.** This Agreement will not preclude the Affiliate option to develop an affiliation agreement with another entity that represents the same purposes as set forth in the By-Laws of the Association, Article II.

7. **Separate Entities: Indemnification.**

**7.1 Separate Entities.** Association and Affiliate expressly acknowledge and agree that they are, and shall remain, separate entities. As such, neither party shall be authorized to incur any liability, obligation or expense on behalf of the other.

**7.2 Indemnification.** In furtherance of the above intention and agreement, Affiliate hereby agree to indemnify and hold harmless Association, its officers, directors, agents, members, and employees from and against any action, suit proceeding, claim, damage, liability, obligation cost or expense which may arise by reason of any act or omission by Affiliate, or any of its officers, directors, members, or employees thereof.

8. **Revocation or Surrender of Charter.**

**8.1 Revocation of Charter.** The charter granted to Affiliate, with all of its attendant rights and obligation, shall remain in full force and effect, unless revoked by Association or surrendered by Affiliate in accordance with the following provisions.

- The Association, through its board of directors, shall have authority to revoke Affiliate's charter if the board determines that the conduct of the Affiliate is in violation of this Agreement or the provisions of the Association's policy manual concerning affiliate organizations.
- Any decision by Association to revoke Affiliate's charter shall be initiated by the sending of written notice to Affiliate specifying the grounds upon which such revocation would be based; provided, however, that association shall give Affiliate 30 days from such

notice to cure any alleged breach of the Agreement or violation of the provisions of the Policy Manual.

- In the event Association determines that Affiliate has not corrected the condition leading to its decision to revoke Affiliate's charter, such decision will become final unless Affiliate files a notice to appeal such determination. Upon the filing of such notice, Affiliate shall have the opportunity to present its case, by written communication or in person, to the board of directors of Association upon such rules or procedures as the board may from time to time prescribe.
- The decision of the board shall be final and appeal may not be taken to any other forum.

**8.2 Surrender of Charter.** Affiliate may surrender its charter by delivering notice of its intention to do so at least 60 days in advance of the effective date of such action. Failure to provide such advance notice shall constitute grounds for immediate and automatic revocation of the charter, without the appeal procedures outlined in Section 8.1.

**8.3 Association's Rights after Surrender or Revocation.** After any such surrender or revocation of Affiliate's charter, Association shall have the right to notify each member of Affiliate in the Territory of the facts of such surrender or revocation and shall have sole authority to organize a new affiliate of such members to replace the former Affiliate. In no event shall Affiliate continue to represent its members or any other members of Association for at least one year after the suspension or revocation becomes effective.

## **9. Warranty: Limitation of Liability**

**9.1 Warranty.** Association makes no representation or warranty, express or implied concerning any educational materials, educational programs, membership publications, or any other article or service provided hereunder. All guarantees, warranties, conditions and representation, either express or implied, whether arising under any statute, law, commercial usage or otherwise are hereby excluded.

**9.2 Limitation of Liability.** Affiliate acknowledges and agrees that association shall not be responsible for any damages which Association may incur from any cause, whether liability is asserted in contract or tort (including negligence). In no event shall Association be held liable to any person for loss of profits, loss of use, loss of production, loss of goodwill, incidental, indirect, consequential, or special damages of any kind.

## **10. Miscellaneous**

**10.1 Entire Agreement.** This Agreement (together with any exhibits hereto) constitutes the entire Agreement between Association and Affiliate with respect to the subject matter hereof. This Agreement may be amended only by a writing executed by both parties.

**10.2 Controlling Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Arkansas.

**10.3 Waiver.** Any waiver by either party to this Agreement of any provision shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver be construed as a waiver of such provision with respect to any other event or circumstance, whether past, present or future.

**10.4 Severability.** If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, the remaining provisions shall be enforceable to the maximum extent possible.

**10.5 Successors and Assigns.** This Agreement shall inure to the benefit of Association, its successors and assigns, and Association may assign all or any portion of this Agreement and its duties hereunder upon written notice of any such assignment. Affiliate may not sublicense or assign any of its rights or obligations under this Agreement without the written consent of the Association.

**10.6 Force Majeure.** Neither Association nor Affiliate shall be liable for its failure to perform its obligations under this Agreement due to events beyond its reasonable control including, but not limited to, strikes, riots, wars, fire, acts of God and acts in compliance with any applicable law, regulation, or order (valid or invalid) of any governmental body.

**10.7 Notices.** Any notice contemplated by, or made pursuant to, this Agreement shall be in writing.

**IN WITNESS WHEREOF;** the parties have caused this Agreement to be executed by their duly authorized representatives, effective as of the date first written above.

Affiliate

Association

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_