

## IN211 CENTER AGREEMENT

This IN211Center Agreement ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_ (the "Effective Date"), by and between **INDIANA 211 PARTNERSHIP, INC.**, an Indiana non-profit corporation (the "Partnership") and \_\_\_\_\_ an Indiana non-profit corporation (the "Center").

### RECITALS

The Indiana Utility Regulatory Commission has recognized the Partnership as the proper administrator of and the only party authorized to use the 211 dialing code within the State of Indiana. The Indiana Utility Regulatory Commission's recognition of the Partnership follows from the Federal Communications Commission's earlier designation of the 211 dialing code for use in connection with providing non-commercial, community information and referral service.

The Partnership has undertaken to implement a coordinated, state-wide system that will provide, on a non-commercial basis, information and referral services to the general public that will be accessible by dialing 2-1-1. To that end, the Partnership has determined that it would be most appropriate to contract with organizations already providing information and referral services to provide such services as part of the system.

The Center presently provides information and referral services and wishes to cooperate with the Partnership and provide such services as part of the system. The Partnership is willing to have the Center provide information and referral services as part of the system and is willing to make the Center accessible to the public through the use of the 211 dialing code for such purpose.

### ARTICLE I

#### DEFINITIONS

1.01 Center Agreement. The term "Center Agreement" shall mean an agreement, such as this Agreement, pursuant to which the Partnership designates an IN211 Center.

1.02 Code. The term "Code" shall mean the 211 dialing code.

1.03 Information and Referral Services. The term "Information and Referral Services" shall mean the provision on a non-commercial basis of information about human service providers and the referral of persons in need to such providers.

1.04 IN211 Center. The term "IN211 Center" shall mean any person, firm, corporation or other organization designated by the Partnership to provide Information and Referral Services as part of the 211 System.

1.05 Operations Manual. The term "Operations Manual" shall mean the Partnership's Operations Manual setting forth certain guidelines, practices, processes and procedures to be used by Center in connection with the Information and Referral Services, including all amendments and supplements thereto which may be supplied to the Center from time to time.

1.06 211 System. The term "211 System" shall mean the hardware, software, databases, training and operational practices and procedures used by the Partnership and IN211 Centers in connection with the Code.

1.07 Territory. The term "Territory" shall mean that geographical area described in Exhibit "A" as agreed upon by authorized representatives of the parties and attached hereto.

1.08 Trademarks. The term "Trademarks" shall mean any and all proprietary marks now or later placed on the Principal Register of the United States Patent and Trademark Office, trademarks, trade names, service marks, logo types, insignias, designs, Internet domain names and other symbols which the Partnership now or thereafter is authorized to use and does use. The term also shall include the Code.

1.09 Training. The term "Training" shall mean the instructional program determined necessary by the Partnership and described from time to time in the Operations Manual.

## ARTICLE II

### DESIGNATION OF IN211 CENTER & BASIC RESPONSIBILITIES OF PARTNERSHIP

2.01. Designation. The Partnership hereby designates the Center as an IN211 Center. The Partnership acknowledges that Center presently provides Information and Referral Services to the public. Nothing in this Agreement is intended to abridge Center's right to continue to provide such services. This Agreement sets forth the terms and conditions upon which Center shall provide such services as a IN211 Center.

2.02. Telecommunications Arrangements. The parties shall cooperate to make all arrangements necessary to have the Center accessible to the public through the use of the Code. Unless the Partnership determines otherwise, the Center shall be responsible for all costs associated with, and reimburse to the Partnership any amounts it might have incurred, to achieve that accessibility; provided, however, the Partnership shall obtain the Center's agreement with any costs it might incur prior to doing so. The

Partnership also shall provide Center with the equipment and/or services described on Exhibit "B".

### 2.03 Training.

(a) Training is mandatory unless the Partnership waives such requirement in writing due to (a) the Partnership's review and approval of Center's existing method of doing business, and (b) the Partnership's opinion that Center can implement the provisions of the Operations Manual without Training. The Center shall spend such period of time at Training as the Partnership and Center shall mutually agree.

(b) The Partnership shall provide Center with such assistance as it deems appropriate from time to time. In addition, the Partnership will be available on an ongoing basis at its offices for consultation and guidance with respect to the operation and management of the 211 System and will make available to Center from time to time optional staff training courses, seminars or conferences. In addition to the Operations Manual, the Partnership may from time to time make available to Center informational material, advice and techniques as it may develop from time to time.

## ARTICLE III

### BASIC RESPONSIBILITIES OF CENTER

3.01. I&R Services. The Center shall provide Information and Referral Services within the Territory in strict accordance with this Agreement, any addendum or other ancillary written agreement relating hereto, and the Operations Manual, from the Effective Date of this Agreement until the expiration of the term hereof and any renewal or extension hereof, unless sooner terminated. Nothing contained herein shall be deemed to grant Center an exclusive territory, and the Partnership may, now or in the future, designate another organization operating within or without the Territory as an IN211 Center and make such IN211 Center accessible to the public through the use of the Code in addition to or in place of the Center. It is recognized that, in addition to the Information and Referral Services, Center may provide such other services as are described on Exhibit "C" through the use of the Code.

3.02. Due Diligence. Center agrees throughout the term of this Agreement to diligently and effectively (a) promote, market and render the Information and Referral Services in the Territory, (b) develop, to the best of its ability, as reasonably determined in the sole judgment of the Partnership, the use of the Information and Referral Services, (c) devote and focus its attention and efforts to such promotion and development, and (d) cooperate and share information with the Partnership and other IN211 Centers. Center's failure to do so shall be deemed a material breach of this Agreement.

## ARTICLE IV

### ADDITIONAL CENTER RESPONSIBILITIES

4.01. Manager. Unless otherwise provided for in the Operations Manual, Center shall employ at least one Manager who has completed the Training, or who has been satisfactorily trained in the reasonable judgment of the Partnership in the Partnership's methods of operation by Center.

4.02. Insurance. Center shall purchase and maintain in full force and effect during the term hereof insurance in such types and amounts as are specified in the Operations Manual.

4.03. Review. The Partnership shall have the right to send representatives, at reasonable intervals during normal business hours, into Center's offices to inspect Center's records, operations, methods, service, management and administration, to determine the quality thereof and the faithfulness of Center's compliance with the provisions of this Agreement and the Operations Manual.

4.04. Compliance with Laws. Center shall operate the Information and Referral Services in compliance with all applicable laws, rules and regulations of all governmental authorities, shall comply with all applicable wage, hour and other laws and regulations of the federal, state or local governments, shall prepare and file all necessary tax returns, shall pay promptly all taxes imposed upon Center or upon its business or property.

4.05 Certain Acknowledgments and Representations of Center. Center represents and warrants that as of the Effective Date the following statements are true and accurate and shall notify the Partnership at any time during the Initial Term or any Renewal Term of this Agreement that they become no longer true and accurate:

(a) Center is in compliance with all applicable laws, rules and regulations of cognizant authorities.

(b) Center understands and acknowledges the value to the 211 System of uniform and ethical standards of quality, appearance and service described in and required by the Operations Manual and the necessity of providing the Information and Referral Services under the standards set forth in the Operations Manual.

(c) Center represents that it has the capabilities, both financial and otherwise, to comply with the standards of the Partnership.

(d) The execution of this Agreement by Center will not constitute or violate any other agreement or commitment to which Center is a party.

(e) Any individual executing this Agreement on behalf of Center is duly authorized to do so.

(f) Center's governing body has carefully considered and understands the nature of this Agreement, and that Center intends to comply herewith and be bound thereby.

## ARTICLE V

### OPERATIONS MANUAL

5.01 Compliance with Operations Manual. Center shall provide the Information and Referral Services in accordance with the Operations Manual.

5.02. Modifications to Operations Manual. The Partnership shall have the right to make reasonable modifications to the Operations Manual at any time and from time to time by the addition, deletion or other modification of the provisions thereof to, by way of illustration and not limitation, protect the Trademarks and goodwill related thereto, modify said Trademarks, comply with any applicable statute or judicial or administrative decision, improve the quality of service furnished to Center or customers, to expand the nature of the services provided or to improve the operational efficiency of the 211 System. All such additions, deletions or modifications shall be effective upon the Partnership having posted them on its web site and providing Center with notice of the posting. All additions, deletions or modifications to the Operations Manual shall allow for a reasonable amount of time for implementation after becoming effective and be equally applicable to all similarly situated IN211 Centers; provided, however, the Operations Manual shall include procedures for making Center-specific changes to the Operations Manual. As modified from time to time, the Operations Manual shall be deemed to be an integral part of this Agreement and references to the Operations Manual made in this Agreement, or in any amendments, exhibits or schedules hereto, shall be deemed to mean the Operations Manual as amended from time to time.

5.03. Return of Operations Manual. Upon the expiration or termination of this Agreement for any reason whatsoever, Center shall immediately return all Operations Manuals to the Partnership.

## ARTICLE VI

### TRADEMARKS

6.01 License. The Partnership hereby grants to Center the right during the term hereof to use and display the Trademarks in accordance with the provisions contained herein and in the Operations Manual, solely in connection with the Information and Referral Services and such other services as are described on Exhibit "C". Center agrees to supervise all of its employees and agents in order to insure the proper use of the Trademarks in compliance with this Agreement. Nothing herein shall give Center any right, title or interest in or to any of the Trademarks, except a mere privilege and

license during the term hereof to display and use the same according to the limitations provided in this Agreement and the Operations Manual.

#### 6.02 Acts in Derogation of the Trademarks.

(a) Center agrees that between the Partnership and Center the Trademarks are the exclusive property of the Partnership; and Center now asserts no claim and will hereafter assert no claim to any goodwill, reputation or ownership thereof by virtue of Center's licensed use thereof, or otherwise. It is expressly understood and agreed that ownership of and title to the Partnership's manuals, bulletins, written materials, methods of operation and goodwill are and shall remain vested solely in the Partnership, and the use thereof is only co-extensive with the term of this Agreement. The Partnership expressly reserves all rights with respect to the Trademarks, confidential trade secrets, methods of operation and other proprietary information, except Center agrees that it will not do or permit any act or thing to be done in derogation of any of the rights of the Partnership in connection with the Trademarks, either during the term of this Agreement or thereafter, and that it will use the same only for the uses and in the manner licensed hereunder and as herein provided.

(b) In connection with the provision of the Information and Referral Services pursuant to this Agreement, Center shall identify itself by the use of the Trademarks in the manner and to the extent described in the Operations Manual.

6.03 Use and Modification of Trademarks. The Partnership may add to, substitute or modify any or all of the Trademarks from time to time by a directive in or a supplement to, the Operations Manual. Center shall accept, use, display, or cease using, as may be applicable, the Trademarks, including but not limited to, any such modified or additional trade names, trademarks, service marks, logo types and commercial symbols, and shall within thirty (30) days of receiving such notification commence to implement such changes and use its best efforts to complete such changes as soon as practicable. On expiration or sooner termination of this Agreement, the Partnership may, if Center does not do so, execute in Center's name and on Center's behalf any and all documents necessary, in the Partnership's judgment, to end and cause a discontinuance of the use by Center of the Partnership's Trademarks, and the Partnership is hereby irrevocably appointed and designated as Center's attorney-in-fact to do so.

6.04 Use of Other Trademarks. Center shall not use or display or permit the use or display of the trademarks, trade names, service marks, insignias or logo type of any person, firm, entity or corporation in connection with the Information and Referral Services, without the prior written consent of the Partnership, or as expressly permitted in the Operations Manual. Partnership shall not use or display or permit the use or display of the trademarks, trade names, service marks, insignias or logo type of Center without notifying the Center of the use or display.

6.05 Prohibition Against Disputing The Partnership's Rights. Center shall not, during or after the initial or any renewal term of this Agreement, in any way, dispute or impugn the validity of the Trademarks, trade names, service marks, logo types or other commercial symbols licensed hereunder, or the right of the Partnership thereto, or the right of the Partnership or other Centers of the Partnership to use the same during the Term of this Agreement or thereafter.

6.06 Trademark Infringement Claims and Defense of Trademark. In the event that Center receives notice or learns of any claim, suit or demand against it on account of any alleged infringement, unfair competition or similar matter relating to its use of the Trademarks in accordance with the terms of this Agreement, Center shall promptly notify the Partnership of any such claim, suit or demand. Center shall have no power, right or authority to settle or compromise any such claim by a third party without the prior written consent of the Partnership. The Partnership shall defend, compromise or settle, at its discretion, any such claim at the Partnership's cost and expense, using attorneys of its own choosing, and Center agrees to cooperate fully in such matter.

## ARTICLE VII

### ASSIGNMENT

7.01 Assignment by the Partnership. The Partnership shall have the right to sell or otherwise transfer ("assign") this Agreement, and all of its rights and privileges hereunder to any other person, firm or corporation (the "assignee"); provided that, in respect to any sale or transfer ("assignment") resulting in the subsequent performance by the assignee of the functions of the Partnership: (a) the assignee shall at the time of assignment be financially responsible and economically capable of performing the obligations of the Partnership hereunder; and (b) the assignee shall expressly assume and agree to perform such obligations. In the event of such assignment the Partnership shall be relieved of all obligations or liabilities then existing or thereafter assertable under this Agreement.

7.02 Assignment by Center. This Agreement is being entered into in reliance upon and in consideration of the singular skills and qualifications of Center and the trust and confidence reposed in Center by the Partnership. Therefore, neither Center's interest in this Agreement nor any of its other rights or privileges hereunder may be assigned, transferred, shared or divided, voluntarily or involuntarily, in whole or in part by operation of law or otherwise, in any manner, without the prior written consent of the Partnership. The Partnership's consent to such assignment shall not be unreasonably withheld; provided, however, that it shall not be unreasonable for the Partnership to impose, among other things, the following conditions precedent to its consent to any such assignment:

(a) that the assignee demonstrate that it has the skills, qualifications and economic resources necessary, in the Partnership's sole judgment, to conduct the Information and Referral Services;

(b) that the assignee expressly assume in writing for the benefit of the Partnership all of the obligations of Center under this Agreement;

(c) that as of the date of any such assignment, the assignor shall have fully complied with all of its obligations to the Partnership, whether under this Agreement or any other agreement, arrangement or understanding with the Partnership;

(d) that the assignee execute the Partnership's then current form of Center Agreement agreeing to be bound by each and every term and provision thereof;

(e) that the assignee agree that the Partnership's Training described in paragraph 2.03 hereof will be completed by necessary personnel within thirty (30) days after the execution of the above-described Center Agreement; provided, however, that assignee shall agree to pay for all of its expenses incurred in connection therewith, including transportation, hotel room and board.

Notwithstanding the foregoing, Center shall not in any event have the right to pledge, encumber, hypothecate or otherwise give any third party a security interest in this Agreement in any manner whatsoever, so long as it is operated as a IN211 Center, or to assign, sell or transfer a portion but not all of Center's rights hereunder without the express prior written permission of the Partnership, which permission may be withheld for any reason whatsoever in the Partnership's sole subjective judgment.

## ARTICLE VIII

### TERM AND RENEWAL

8.01 Term. Unless otherwise provided in any Addendum to this Agreement, the term of this Agreement shall commence on the Effective Date and, unless sooner terminated pursuant to the provisions of this Agreement, shall terminate at 12:00 a.m. on December 31, 2007. Notwithstanding the foregoing, the Partnership may extend the term of this Agreement for one (1) year, or until 12:00 a.m. on December 31, 2008, upon giving the Center notice of the extension at least sixty (60) days before the expiration of the term hereof.

8.02 Renewal.

(a) Subject to the terms and conditions contained in this paragraph 8.02, Center shall have the right to continue as an IN211 Center for upon the following terms and conditions:

(i) Not less than sixty (60) days prior to the expiration of the term hereof, the Partnership shall notify Center of the expiration date of this Agreement and shall transmit to Center a new Center Agreement or notify Center that no new agreement allowing it to continue as an IN211 Center is offered; provided, however, that the Partnership's failure to do so shall not constitute an event of default hereunder.

(ii) The term of the proposed new Center Agreement shall not be less than one (1) year.

(iii) Within thirty (30) days after receipt by Center of said notice and Center Agreement, Center shall execute two (2) counterparts of the Center Agreement and return them to the Partnership. If Center shall fail or refuse to do so within said 30-day period, all of Center's rights and options to continue as an IN211 Center shall expire.

(b) Center's right to continue as an IN211 Center shall be subject to and conditioned upon the following conditions precedent:

(i) The Partnership reasonably determines that its name, reputation or business, or the Trademarks, are not being materially damaged by the actions or omissions of Center;

(ii) In the event the Partnership determines in good faith to cease designating IN211 Centers, the Partnership shall so notify Center at least sixty (60) days prior to the expiration of this Agreement, and upon such notification, Center's right or rights to renew this Agreement shall be terminated. As used herein, the phrase "cease designating IN211 Centers in the State of Indiana" shall mean that the Partnership shall not designate any additional IN211 Centers for a period of at least one (1) year after the expiration of the then current term of this Agreement.

(iii) At the time of the execution of any new Center Agreement by Center in connection with the IN211 Center renewal process, Center shall not be in default and shall have fully performed all of its obligations under its then current Center Agreement and any and all other applicable written agreements then in force and effect between the Partnership and Center.

(iv) The Partnership reasonably determines that the Center's continuation as an IN211 will adversely affect the efficient or effective operation of the 211 System and making the use of the Code available to the public.

(c) In the event the Partnership determines not to renew the Center as an IN211 Center by reason of a default by Center under this Agreement or any other agreement, then the Partnership must give Center notice of its intention not to renew (A) within thirty (30) days after the Center gives its notice of intention to renew as an IN211 Center, or (B) not less than sixty (60) days prior to the termination date of its then current Center Agreement, whichever occurs later.

(d) Prior to the execution of any new Center Agreement, Center shall bring the Information and Referral Services into compliance with the standards of the then current Operations Manual.

## ARTICLE IX

### TERMINATION

9.01 General. Except as provided for in paragraph 9.04, this Agreement may be terminated unilaterally by the Partnership only for cause. "Cause" shall mean a breach of this Agreement as determined by the Partnership. The Partnership shall exercise its right to terminate this Agreement upon the circumstances and in the manner described in this Article IX.

9.02 Termination Without Notice. The Partnership shall have the right to terminate this Agreement without prior notice to Center upon the occurrence of any or all of the following events, each of which shall be deemed an incurable material breach of this Agreement:

(a) If Center shall cease to provide Information and Referral Services;

(b) If Center becomes insolvent (as revealed by its records or otherwise); or if Center files a voluntary petition and is adjudicated a bankrupt, or if an involuntary petition is filed against Center; or if Center shall make an assignment for the benefit of creditors; or if a receiver or trustee in bankruptcy or similar officer, temporary or permanent, be appointed to take charge of Center's affairs or any of its property; or if dissolution be commenced by or against Center, if a corporation or partnership; or if any judgment against Center remains unsatisfied or unbonded of record for fifteen (15) days;

(c) If Center shall attempt to assign this Agreement or otherwise sell, assign, transfer or encumber the Trademarks without the written consent of the Partnership as hereinabove provided;

(d) If the Partnership reasonably determines that its name, reputation or business, or the Trademarks, are being materially damaged by the actions or omissions of Center;

(e) If Center shall default in any material obligation as to which Center has previously received a notice of default from the Partnership within the preceding six (6) months, such repeated course of conduct shall itself be grounds for termination of this Agreement without further notice or opportunity to cure.

#### 9.03 Termination With Notice.

(a) With respect to any default by Center of its obligation to pay any sums due the Partnership under this Agreement, which failure shall be deemed a material breach hereof, the Partnership may terminate this Agreement upon not less than fourteen (14) days' prior written notice of such default. If Center shall cure said default prior to the end of such period, the Partnership's said right to terminate shall cease with respect to the breach which has been so cured.

(b) Except as otherwise expressly provided herein, the Partnership may terminate this Agreement only upon thirty (30) days' prior written notice to Center setting forth the material breach which Center has committed. Upon receipt of such notice, Center shall immediately commence diligently to cure said breach, and if Center shall cure said breach during such period, the Partnership's right to terminate this Agreement shall cease; provided, however, that if, because of the nature of said breach, Center shall be unable to cure the same within said thirty (30) day period, Center shall be given such additional time as shall be reasonably necessary within which to cure said breach, upon condition that Center shall, upon receipt of such notice from the Partnership, immediately commence to cure such breach and continue to use its best efforts to do so.

9.04 Additional Right. Notwithstanding anything to the contrary set forth in this Agreement, the Partnership shall have the right to unilaterally terminate this Agreement immediately and without notice in the event it loses the right to use the Code within the Territory or it determines in its sole discretion that it is no longer able to properly operate the 211 System.

9.05 Statutory Limitations. Notwithstanding anything to the contrary in this Article, in the event any valid, applicable law or regulation of a competent governmental authority having jurisdiction over this Agreement or the parties hereto shall limit the Partnership's rights of termination hereunder or shall require longer notice periods than those set forth above, this Agreement shall be deemed amended to conform to the minimum notice periods required by such laws and regulations.

#### 9.06 Termination by Center.

(a) Center shall have the right to unilaterally terminate this Agreement for any reason ninety (90) days after written notice of such a termination is received by the Partnership.

(b) Notwithstanding the provisions of paragraph 9.06(a), Center has the right to terminate this Agreement if the Partnership commits a material breach of it thirty (30) days after written notice specifying the default is received by the Partnership. Upon receipt of such notice, Partnership shall immediately commence diligently to cure said breach, and if Partnership shall cure said breach during such period, the Center's right to terminate this Agreement shall cease; provided, however, that if, because of the nature of said breach, Partnership shall be unable to cure the same within said thirty (30) day period, Partnership shall be given such additional time as shall be reasonably necessary within which to cure said breach, upon condition that Partnership shall, upon receipt of such notice from Center, immediately commence to cure such breach and continue to use its best efforts to do so.

9.07 Center's Obligations upon Termination. In the event of termination of this Agreement, whether by reason of Center's breach, default, lapse of time or other cause, in addition to any other obligations provided for in this Agreement, Center shall forthwith discontinue the use of the Trademarks and all materials containing or bearing same and shall not thereafter operate or do business under name or in any manner that might tend to give the general public the impression that Center is in any way associated or affiliated with the Partnership. In addition, Center shall not thereafter use, in any manner, or for any purpose, directly or indirectly, any of the Partnership's trade secrets, procedures, techniques, or materials acquired by Center by virtue of the relationship established by this Agreement, including, without limitation, (a) any training or other materials, manuals, bulletins, instruction sheets, or supplements thereto, or (b) any equipment, videotapes, videodiscs, forms, advertising matter, marks, devices, insignia, slogans or designs used from time to time in connection with the use of the Code. At such time as requested by the Partnership, Center shall make its books and records available to the Partnership's representatives who shall conduct a termination audit.

9.08 Rights of the Partnership. The expiration or termination of this Agreement shall be without prejudice to the rights of the Partnership against Center and such expiration or termination shall not relieve Center of any of its obligations to the Partnership existing at the time of expiration or termination, or terminate those obligations of Center which, by their nature, survive the expiration or termination of this Agreement. Center is obligated to return, at no expense to the Partnership, any and all copies of the Operations Manual or any other communications media and material provided for Center's use without additional charge in connection with the use of the Code. It is expressly understood and agreed that the promises and agreements of Center contained in this Agreement are also for the benefit of the Partnership's successors and assigns, affiliates and designees, and any of them may, in their own names, exercise all rights and remedies necessary or desirable to protect or enforce their respective interests, including without limitation, obtaining injunctive relief to enforce the obligations of Center set forth in this Agreement.

9.09 Survival of Covenants. The covenants contained in this Agreement which by their terms require performance by the parties after the expiration or termination of

this Agreement shall be enforceable notwithstanding said expiration or other termination of this Agreement for any reason whatsoever.

## ARTICLE X

### DEFAULT & REMEDIES

10.01 Available Remedies. In the event of an uncured default by either party the other party shall be entitled to exercise all remedies available under Indiana law, except as otherwise provided in Article X.

10.02 Description of Default. The description of any default in any notice served by a party hereunder upon the other party shall in no way preclude the serving party from specifying additional or supplemental defaults in any action, arbitration, hearing or suit relating to this Agreement or the termination thereof.

10.03 Indemnity.

(a) Except as is otherwise expressly provided in paragraph 6.06 hereof, Center hereby agrees to protect, defend and indemnify the Partnership, its officers, directors, shareholders, employees, subsidiaries, direct or indirect successors, assigns, affiliates and designees and hold each and all of them harmless from and against any and all costs and expenses, including attorneys' fees, court costs, losses, liabilities, damages, claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage to any third person, firm or entity or to any property arising out of or in connection with the Information and Referral Services, or any other business or activity of Center or its owners, lessees, agents, representatives, invitees and/or affiliated or related persons or companies; provided, however, this indemnification shall not extend to any loss, injury or damage resulting solely from acts or omissions of the Partnership.

(b) Partnership hereby agrees to protect, defend and indemnify the Center, its officers, directors, shareholders, employees, subsidiaries, direct or indirect successors, assigns, affiliates and designees and hold each and all of them harmless from and against any and all costs and expenses, including attorneys' fees, court costs, losses, liabilities, damages, claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage to any third person, firm or entity or to any property arising out of or in connection with the Partnership's performance of its obligations under this Agreement, or any other business or activity of Partnership or its owners, lessees, agents, representatives, invitees and/or affiliated or related persons or companies; provided, however, this indemnification shall not extend to any loss, injury or damage resulting solely from acts or omissions of the Center.

10.04. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or any breach thereof (including without limitation, any claim that any of this Agreement, or any part thereof, is invalid, illegal or otherwise voidable or void) shall be

submitted to arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award may be entered in any court having jurisdiction thereof; provided, however, that this clause shall not be construed to limit or preclude the Partnership or Center from bringing any action in any court of competent jurisdiction for injunctive relief as is deemed to be necessary or appropriate to compel Center or the Partnership to comply with its obligations hereunder, to protect the Trademarks or to protect other property rights of the Partnership or Center. This arbitration provision shall be deemed to be self-executing, and in the event that either party fails to appear at any properly noticed arbitration proceeding, an award may be entered against such party notwithstanding said failure to appear.

10.05 Waiver and Delay. No waiver by a party of any breach or series of breaches or defaults in and no failure, refusal or neglect of a party either to exercise any right, power or option given to it hereunder or to insist upon strict compliance with or performance of the other party's obligations under this Agreement or the Operations Manual, shall constitute a waiver of the provisions of this Agreement or the Operations Manual with respect to any subsequent breach thereof, or a waiver by a party of its right at any time thereafter to require exact and strict compliance with the provisions thereof.

10.06 Attorneys' Fees and Expenses. Should any party hereto commence any action or proceeding for the purpose of enforcing or preventing the breach of any provision hereof, whether by arbitration, judicial or quasi-judicial action or otherwise or any appeal therefrom or for damages for any alleged breach of any provision hereof or for a declaration of such party's rights or obligations hereunder, then the prevailing party shall be reimbursed by the losing party for all costs and expenses incurred in connection therewith, including, but not limited to, reasonable attorneys' fees for the services rendered to such prevailing party.

10.07. Prior Agreement Waiver. By entering into this Agreement each Party hereby waives and discharges the other Party, its officers, directors, shareholders, employees, subsidiaries, direct or indirect successors, assigns, affiliates and designees from any and all costs and expenses (including without limitation attorneys' fees and court costs), losses, liabilities, damages, claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage arising out of or in connection with its performance of obligations under any agreement providing for the use of the Code that the Center and Partnership may have entered into previously.

## ARTICLE XI

### GENERAL CONDITIONS AND PROVISIONS

11.01 Relationship of Center to the Partnership. It is expressly agreed that Center has no authority to create or assume in the Partnership's name or on behalf of the Partnership, any obligation, express or implied; or to act or purport to act as agent or representative on behalf of the Partnership for any purpose whatsoever not expressly provided for in this Agreement or the Operations Manual. Neither the Partnership nor Center is the employer, employee, agent, partner, fiduciary or co-venturer of or with the other, each being independent. Center agrees that it will not hold itself out as the agent,

employee, partner or co-venturer of the Partnership. All employees hired by or working for Center shall be the employees of Center and shall not for any purpose be deemed employees of the Partnership or subject to the Partnership's control. Center agrees to respond to customer indications of dissatisfaction with services rendered by Center in a diligent and professional manner and agrees to cooperate with representatives of the Partnership in any investigation undertaken by the Partnership of complaints respecting Center's activities. Each of the parties agrees to file its own tax, regulatory and payroll reports with respect to its respective employees and operations, saving and indemnifying the other party hereto of and from any liability of any nature whatsoever by virtue thereof.

11.02 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Partnership and shall be binding upon and inure to the benefit of the Center and its or their respective heirs, executors, administrators, successors and assigns, subject to the restrictions on assignment contained herein.

11.03 Joint and Several Liability. If the Center consists of more than one person or entity, or a combination thereof, the obligations and liabilities of each such person or entity to the Partnership are joint and several.

11.04 Counterparts. This Agreement may be executed in any number of copies, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument.

11.05 Notices. Except as may otherwise be provided for by this Agreement, all notices which the parties hereto may be required or may desire to give under or in connection with this Agreement shall be in writing and shall be sent certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Partnership: Indiana 211 Partnership, Inc.  
3901 North Meridian Street, Suite 306  
Indianapolis, IN 46208-4026  
Attention: Executive Director

If to Center: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The addresses herein given for notices may be changed at any time by either party by written notice given to the other party as herein provided. Notices shall be deemed given upon deposit in the United States mails as aforesaid.

ARTICLE XII

CONSTRUCTION OF AGREEMENT

12.01 Governing Law. This Agreement and the legal relations among the parties hereto shall be governed by and construed in accordance with the laws of the State of Indiana.

12.02 Entire Agreement. This Agreement and the Operations Manual contain all of the terms and conditions agreed upon by the parties hereto with reference to the subject matter hereof. No other agreements oral or otherwise shall be deemed to exist or to bind any of the parties hereto and all prior agreements and understandings are superseded hereby. No officer or employee or agent of the Partnership has any authority to make any representation or promise not contained in this Agreement or the Operations Manual except in such manner as may be described herein or in the Operations Manual. Center agrees that it has executed this Agreement without reliance upon any such unauthorized representation or promise. This Agreement cannot be modified or changed except by (a) written instrument signed by all of the parties hereto or (b) by the Partnership's written revisions of the Operations Manual.

12.03 Titles for Convenience. Article and paragraph titles used in this Agreement are for convenience only and shall not be deemed to affect the meaning or construction of any of the terms, provisions, covenants or conditions of this Agreement.

12.04 Gender. All terms used in any number or gender shall extend to mean and include any other number and gender as the facts, context or sense of this Agreement or any Article or paragraph hereof may require.

12.05 Severability. Nothing contained in this Agreement shall be construed as requiring the commission of any act contrary to law. Whenever there is any conflict between any provisions of this Agreement or the Operations Manual and any present or future statute, law, ordinance, regulation or judicial decision, contrary to which the parties have no legal right under this Agreement, the latter shall prevail, but in such event the provision of this Agreement or the Operations Manual thus affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law. In the event that any part, article, paragraph, sentence or clause of this Agreement or the Operations Manual shall be held to be indefinite, invalid or otherwise unenforceable, the indefinite, invalid or unenforceable provision shall be deemed deleted, and the remaining parts thereof shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as indicated below:

CENTER:

THE PARTNERSHIP:

**INDIANA 211 PARTNERSHIP, INC.**

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

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

Printed: \_\_\_\_\_

Marsha Thompson

Its: \_\_\_\_\_

IN211 Board Chair

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

List of Exhibits to Center Agreement:

Exhibit "A" - Territory

Exhibit "B" - Equipment & Services

Exhibit "C" - Other Services