

## SERVICE PROVIDER CONTRACT BOILERPLATE LANGUAGE

1. **Term of the Agreement.** This Agreement is binding as of the date first written above. The obligations of the Service Provider under this Agreement shall commence on [Month dd, yyyy] and continue through [Month dd, yyyy], unless and until terminated as provided in section 23. Any obligations specified in this Agreement which are intended to survive the termination of this Agreement shall survive said termination.
  
2. **Duties and Obligations of Service Provider.**
  - A. Service Provider assures and agrees that it will fully perform the services described in Attachment A in accordance with generally accepted professional standards, and in a manner satisfactory to RWI. Service Provider shall provide the assessment, counseling, transition, and supportive services under this Grant in accordance with all applicable laws and regulations as well as directives and standards prescribed by RWI and all appropriate New York State agencies and the federal government. In the event that such services are not performed in accordance with the provisions of this section, RWI, in addition to any other available remedies, may suspend the operation of the services herein at any time during the term of the Agreement by giving at least thirty (30) days prior written notice to the Service Provider of the suspension date, the length of the suspension and the reason therefore. Any such suspension continuing for a period of sixty (60) or more consecutive days shall constitute a termination under Section 23 of the Agreement.
  
  - B. Service Provider shall properly monitor the grant participants in the ordinary course of the Service Provider's business.
  
  - C. Service Provider shall require all grant participants to complete all necessary documentation regarding their participation with the Service Provider as required by RWI and by any Federal, State, local and/or other government agencies. Service Provider shall make this information and documentation readily accessible to RWI, which obligation shall survive termination of this Agreement, as set forth more fully in Section 3 below.
  
  - D. Service Provider shall fully cooperate with RWI with respect to the completion of any program monitoring requirements imposed on RWI by any Federal, State, local, and/or other government agencies, including, but not limited to, the completion of any reporting forms, performance reports and forms documenting educational program outcomes and/or completion. In this regard, Service Provider shall provide RWI with reasonable access to its place of business, personnel and the records detailed in Section 2 and Section 3 of this Agreement.

3. **Access to Records.**

- A. Service Provider agrees to maintain and retain sufficient on-site records and information necessary for the documentation of all aspects of the Grant described in this Agreement. This affirmative obligation requires that the Service Provider maintain records regarding the individuals participating in this Grant, including, but not limited to, all records pertaining to attendance, training, receipt of supportive services and all other Grant elements.
- B. The Service Provider agrees to annually disclose to RWI all funding sources that support the program budget of the Grant. In the event that the Service Provider is a recipient of additional funds that will either directly or indirectly expand or enhance the identified Grant within the current contract period, the Service Provider agrees to inform RWI of the additional funds upon official notification from the granting entity by providing RWI a copy of such notification.
- C. The Service Provider agrees to permit on-site program monitoring visits, inspections and audits of all records, books, papers and documents associated with this Agreement by authorized representatives of RWI and any Federal, State, local, and/or other government agencies, and further agrees to provide necessary support in connection with the performance of such audit.
- D. The Service Provider agrees to maintain for a period of five (5) consecutive years following termination of this Agreement, any and all records, reports and other documentation arising from the performance of this Agreement, and as set forth in Section 3(A) and 3(B) above, including all attendance and payroll records. Service Provider shall provide RWI with access at reasonable times and places to the Service Provider's records described in Section 2 and Section 3 of this Agreement, which obligation shall survive for a period of five (5) consecutive years following the termination of this Agreement for any reason.

4. **Compensation.**

- A. RWI agrees to pay the Service Provider based on expense vouchers submitted for the operation of the Grant for the period as stated in Section 1, and as agreed to in the attached budget and Attachment A. Payments are based on Grant expenses for same period, up to the amount as agreed to in the attached budget. Any funds remaining after termination of this agreement will remain with RWI.
- B. It is understood and agreed by the Parties to this Agreement that all payments made to Service Provider under this Agreement are expressly conditioned upon the continued availability of funds for this Grant.
- C. In the event RWI does not have funds available under this Grant, RWI may terminate this Agreement in accordance with the terms of Section 23 of this Agreement and RWI shall be relieved of any obligation or liability

to Service Provider to continue any Grant activities beyond the period for which funds shall have actually been allocated.

- D. RWI shall reimburse the Service Provider for the expenses described in Section 4(A) above upon the execution of reimbursement vouchers submitted by the Service Provider.
  - E. RWI shall pay all amounts due and owing to Service Provider under this Agreement within thirty (30) days after their receipt from Monroe County Industrial Development Corporation.
5. **Monitoring/Access to Records.** Designated representatives of appropriate Federal, State, local, and/or other government agencies shall have a right to monitor the provision of services under this Agreement which includes having access at reasonable times and places to Service Provider's employees, reports, surveys, books, records, audits, case conferences and any other material relating to the cost or delivery of such services. Service Provider agrees to maintain and retain all Grant, fiscal, and statistical records as prescribed by RWI and the U.S. Department of Labor (USDOL) for a period of five (5) years after delivery of service and final payment.
  6. **Fair Hearings.** Service Provider acknowledges that eligible individuals receiving services under this Agreement may be entitled to request a Fair Hearing to appeal matters relating to the provision of services. Service Provider agrees to cooperate and participate in the Fair Hearing process as directed by RWI or appropriate Federal, State, local, and/or other government agencies, consistent with applicable law and regulation, regarding services provided under this Agreement. Such cooperation and participation shall include, but not be limited to, providing testimony, reports, records and documents at, and in preparation for Fair Hearings, continuing participant services in appropriate cases, and compliance with Fair Hearing decisions.
  7. **Subcontracts/Assignment.** The Service Provider shall not enter into subcontracts for services to be provided through this Agreement without RWI's written permission. In the event a subcontract is permitted by RWI, the Service Provider remains responsible for the performance of the subcontractor and the form and substance of the subcontract shall be consistent with 18 NYCRR Part 405, if applicable. This Agreement may not be assigned by the Service Provider or its right, title or interest therein assigned, transferred conveyed, sublet or disposed of without the previous consent, in writing, of RWI.
  8. **Licenses, Certifications, and Permits.** The Service Provider shall procure and keep in effect for the duration of the Agreement all licenses, certifications, or permits required by the Federal government, New York State or local governments and, where applicable, shall post such licenses, certifications, or permits in a prominent place, as required.
  9. **Nondiscrimination & Equal Opportunity Assurance.** As a condition to the award of financial assistance the Service Provider assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Innovation and Opportunity Act of 2014 which prohibits discrimination regarding participation, benefits, and employment on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any Federal – financially assisted program or activity;

Title VI of the Civil Rights Act of 1964 which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any Federal – financially assisted program or activity (including provisions protecting persons with Limited English Proficiency against National Origin Discrimination and providing them with meaningful access to services as clarified by Executive Order 13166);

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The Service Provider also assures that it will comply with all regulations implementing the laws listed above, including but not limited to the WIOA Final Rule, at 20 CFR Parts 603 et al. and 34 CFR Parts 361 et al. This assurance applies to the Grantee participants enrolled in WIOA Title I programs or activities. The Service Provider understands that the United States has the right to seek judicial enforcement of this assurance.

10. **Veterans Priority of Service.** When the pool of eligible training candidates includes veterans and eligible spouses of veterans, the Service Provider assures and agrees that it will provide such persons with priority of service in compliance with 20 CFR Part 1010.
11. **Inventions.** The Service Provider recognizes that any inventions, software, furniture or equipment purchased through the Grant is property of RochesterWorks, Inc.
12. **Clean Air Act.** Service Provider assures and agrees that it will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
13. **Energy Policy and Conservation Act.** Service Provider assures and agrees that it will comply with applicable mandatory standards and policies relating to energy

efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

14. **Renegotiation.** The parties agree to re-negotiate this Agreement in the event that appropriate Federal, State, local, and/or other government agencies issue new or revised requirements binding on RWI as a condition for receiving continued Federal or State reimbursement.
  
15. **Notice of Job Vacancies.**
  - A. The Service Provider recognizes the continuing commitment on the part of Monroe County to assist those receiving temporary assistance to become employed in jobs for which they are qualified, and the County's need to know when jobs become available in the community. The Service Provider agrees to notify RWI when it has or is about to have a job opening for a full time position within Monroe County or any contiguous county. Such notice shall be given as soon as practicable after the Service Provider has knowledge that a job opening will occur. The notice shall contain a description of conditions for employment, including the job title and information concerning wages, hours per work week, location and qualifications (education and experience). Service Provider agrees to utilize the New York State Department of Labor job bank to place notices of any such jobs.
  
  - B. The Service Provider recognizes that this is an opportunity to make a good faith effort to work with Monroe County for the benefit of the community. Nothing contained in this provision, however, shall be interpreted as an obligation on the part of the Service Provider to employ any individual who may be referred by or through the County for job openings as a result of the above notice. Any decisions made by the Service Provider to hire any individual referred by or through the County shall be voluntary and based solely upon the Service Provider's job requirements and the individual's qualifications for the job, as determined by the Service Provider.
  
16. **Lobbying.** As required by Section 1352, Title 31 U.S.C. and WIOA Sec. 195, and codified in the regulations at 29 CFR Part 93, the Service Provider certifies that:
  - A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Service Provider, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant or loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  
  - B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer

or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this agreement, the Service Provider shall complete and submit Federal Standard Form LLL, DISCLOSURE FORM TO REPORT LOBBYING, in accordance with its instructions.

17. **Drug-Free Workplace.** As required by the Drug-Free Workplace Act of 1988, and implemented at 29 CFR Part 98, the Service Provider certifies that it will provide a drug-free workplace by:
- A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Service Provider's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
  - B. Establishing an ongoing drug-free awareness program to inform employees about:
    - the dangers of drug abuse in the workplace
    - the Service Provider's policy of maintaining a drug-free workplace
    - any available drug counseling, rehabilitation, and employee assistance program
    - the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace
  - C. Making it a requirement that each employee be engaged in the performance of this Agreement be given a copy of the statement specified in Section 17(A) above.
  - D. Notifying the employee in the statement required by Section 15(A) above, that as a condition of employment under this Agreement, the employee will:
    - abide by the terms of the statement
    - notify the employer in writing of his or her conviction for a violation of a criminal drug statute **occurring in the workplace** no later than five (5) calendar days after such conviction
  - E. Notifying, in writing within ten (10) calendar days after having received notice from an employee or otherwise receiving actual notice of such conviction, Technical Assistance and Training Manager, RochesterWorks, Inc., 255 N. Goodman St., Rochester, NY 14607.
  - F. Taking one of the following actions within thirty (30) calendar days after receiving notice, with respect to any employee who is so convicted:

- taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
  - requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by an appropriate agency.
- G. Making a good faith effort to continue to maintain a drug-free workplace through the above steps.
18. **Prohibition on Trafficking in Persons.** The Service Provider and its employees may not
- A. Engage in severe forms of trafficking in persons during the period of time that the Grant is in effect;
  - B. Procure a commercial sex act during the period of time that the Grant is in effect; or
  - C. Use forced labor in the performance of the Grant.

The Service Provider shall inform RWI’s Technical Assistance and Training Manager immediately of any information it receives from any source alleging a violation of a prohibition in this paragraph. For purposes of this section “Employee” means either i) an individual employed by you or a subrecipient who is engaged in the performance of the Grant; or ii) another person engaged in the performance of the Grant and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirement. “Forced Labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. “Private Entity” is defined in 2 CFR 175.25. “Severe Forms of Trafficking in Persons,” “Commercial Sex Act,” and “Coercion” have the meanings given at section 103 of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7102).

19. **Debarment and Suspension.** The Service Provider shall certify to the terms set forth in Attachment B, annexed hereto, which is incorporated by reference into this Agreement.
20. **Federal Single Audit.** Not Applicable.
21. **Federal Funding Accountability and Transparency Act.** Not Applicable.
22. **Personally Identifiable Information.** The Service Provider must recognize and safeguard personally identifiable information (PII) except where disclosure is allowed by prior written approval of the Grant Officer or by court order. The Service Provider must meet the requirements in Training and Employment Guidance letter (TEGL 39-11, Guidance on the Handling and Protection of

Personally Identifiable Information (PII), (located at [http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=7872](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7872)).

23. **Termination.** This Agreement may be terminated as follows:
- A. This Agreement may be terminated by either party without cause upon thirty (30) days prior written notice to the other party.
  - B. This Agreement may be terminated immediately by RWI upon written notice to Service Provider:
    - (i) If funding for the services for the Grant set forth in this Agreement is terminated or curtailed;
    - (ii) If any of the Parties become insolvent, is unable to pay its debts as they mature, states in writing that it is not able to pay its debts as they mature, makes an assignment for the benefit of creditors, files, or has filed against it, any proceeding in the U.S. Bankruptcy Court, is subject to a levy, seizure or sale of a substantial part of its property on behalf of creditors, or is subject to the appointment of a receiver for a period equal to or greater than thirty (30) days;
    - (iii) If any of the Parties is dissolved, terminated or ceases to exist according to the laws of the State of New York;
    - (iv) If any of the Parties commits any breach of this Agreement or violates any applicable statute or regulation; or
    - (v) If RWI determines that the services performed by Service Provider under this Agreement do not adequately meet the standards of quality as prescribed by State and Federal governments.
  - C. This Agreement may be terminated by the mutual written consent of the Parties at any time.
24. **Insurance.** Throughout the term of this Agreement, Service Provider shall, at its own cost and expense, procure and maintain or otherwise arrange for insurance policies covering the following: workers' compensation insurance, New York State disability benefits insurance, or its equivalent, comprehensive general liability insurance (including, without limitation, contractual liability) covering bodily injury and property damage, with single limits of liability in the amount of \$1,000,000 or more; *if applicable* automobile liability insurance in the amount of \$1,000,000 with a minimum of \$1,000,000 for each occurrence, bodily injury and property damage. Original certificates evidencing such coverage and indicating that such coverage will not be canceled or amended in any way without ten (10) days prior written notice to RWI, shall be delivered to RWI before final execution of this Agreement and original renewal certificates conforming to the requirements of this Section shall be delivered to RWI at least sixty (60) days prior to the policy expiration date. **Service Provider's insurance shall provide for and name RWI as an additional insured.** All policies of insurance shall be issued by companies

in good financial standing, duly and fully qualified and licensed to do business in New York State or otherwise acceptable to RWI.

25. **Indirect Cost Rate and Cost Allocation Plan.** If the Service Provider has a federally approved Negotiated Indirect Cost Rate Agreement (NICRA) or Cost Allocation Plan (CAP), the Service Provider will provide a copy of the NICRA or CAP within 30 days of execution of this Agreement. If a new federally approved Negotiated Indirect Cost Rate Agreement (NICRA) or Cost Allocation Plan (CAP) is issued during the life of this Agreement, the Service Provider shall provide a copy of the new NICRA or CAP to RWI within the later of 30 days of issuance or 30 days of the date of execution of this Agreement. Funds may be re-budgeted as necessary between direct and indirect costs consistent with institutional requirements and DOL regulations for prior approval, however the total amount of the grant budget will not be increased.
26. **Indemnification.** Service Provider covenants to indemnify and hold harmless RWI, its officers, employees and agents, and, at the request of RWI, defend RWI, its officers, employees and agents, from and against any and all claims, judgments, costs, actions, awards, liabilities, losses, expenses, damages or liability, including attorney's fees and costs of litigation, arising out of negligence, misconduct, omission or breach of the Service Provider, its officers, employees and agents, in connection with the performance of its duties under this Agreement. Service Provider further covenants, in case any claim or demand is asserted against it which may result in liability to RWI, that it shall give prompt notice thereof in writing to RWI and shall cooperate in the investigation of any such claim or defense of any action arising therefrom. Service Provider shall not be required to indemnify or defend RWI for any damage or loss arising from any negligent acts or omissions or willful misconduct of RWI, its officers, employees and agents. The provisions of this section shall survive expiration or termination of this Grant.

RWI covenants to indemnify and hold harmless Service Provider, its officers, employees and agents, and, at the request of Service Provider, defend Service Provider, its officers, employees and agents, from and against any and all claims, judgments, costs, actions, awards, liabilities, losses, expenses, damages or liability, including attorney's fees and costs of litigation, arising out of negligence, misconduct, omission or breach of RWI, its officers, employees and agents, in connection with the performance of its duties under this Agreement. RWI further covenants, in case any claim or demand is asserted against it which may result in liability to Service Provider, that it shall give prompt notice thereof in writing to Service Provider and shall cooperate in the investigation of any such claim or defense of any action arising therefrom. RWI shall not be required to indemnify or defend Service Provider for any damage or loss arising from any negligent acts or omissions or willful misconduct of Service Provider, its officers, employees and agents. The provisions of this section shall survive expiration or termination of this Grant.

27. **Relationship of Parties.**

- A. In performing professional services under this Agreement, Service Provider shall be and act at all times and in all respects as an independent contractor providing the case management, classroom and/or customized training services under this Grant, and Service Provider shall, in carrying out the duties and obligations of this Agreement, be and perform at all times as an independent contractor. The sole interest of Service Provider is to ensure that the services under this Grant are performed in a consistent, competent and efficient manner. Nothing herein shall be construed to create an employer/employee relationship between the Service Provider and RWI or between the Service Provider and RWI's employees or professional subcontractors. RWI and its employees or professional subcontractors shall not be eligible hereunder for participation in any employee benefit plans of the Service Provider, nor shall they have any claim under this Agreement against the Service Provider for vacation pay, sick leave, retirement benefits, Social Security, Workers' Compensation, disability or unemployment insurance benefits or any other employee benefits of any kind.
- B. Neither Service Provider nor RWI shall be authorized to act as agent for the other or to incur any liability in the name of or on behalf of the other, unless expressly provided in this Agreement or specifically authorized in writing by the party, which would be responsible for the obligation.

28. **Severability.** Every provision of this Agreement is intended to be severable. If any provision is held to be invalid or unenforceable by law or by a court of competent jurisdiction, all other provisions shall nevertheless continue in full force and effect. In lieu of such invalid or unenforceable provision, there shall be added to this Agreement a legal, valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

29. **Order of Precedence.** Not Applicable.

30. **Public Announcements.** Not Applicable.

31. **Miscellaneous**

The following provisions shall apply to this Agreement:

- A. The paragraph headings contained in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning, or be taken as an interpretation of any provision of this Agreement.
- B. Several copies of this Agreement may be executed by the parties, each of which shall be deemed an original for all purposes, and all of which together shall constitute but one and the same instrument.
- C. In the event any term or condition of this Agreement should be breached by either party and thereafter waived by the other party, then such waiver shall be limited to the particular breach so waived and shall not be deemed

to waive any other breach either prior or subsequent to the breach so waived.

- D. If the consent of either party is required for whatever reason under the terms of this Agreement, such consent shall not be unreasonably withheld.
  - E. The Parties agree that each will timely execute any further documents that will be reasonably necessary to effect any term, condition, warranty, or other part or aspect of this Agreement.
  - F. The Parties may only assign their respective rights and obligations under this Agreement in their entirety, and may not assign less than all of their respective rights and obligations. Any assignment will be conditioned upon prior written consent from each of the other Parties, which consent shall not be unreasonably withheld.
  - G. Wherever necessary or appropriate, the masculine gender whenever used shall include the feminine, and the feminine shall include the masculine; the neuter shall include both masculine and feminine; the singular shall include the plural, and the plural shall include the singular.
32. **Failure of Performance.** If either party to this Agreement fails in the due performance of any of its obligations under the terms of this Agreement, the other party will have the right, at its election, to sue for damages for such breach and to seek such legal and equitable remedies as may be available to it, including the right to recover all reasonable expenses, which shall include reasonable legal fees and court costs, incurred: (a) to sue for damages; (b) to seek such other legal and equitable remedies; and (c) to collect any damages and enforce any court order or settlement agreement including, but not limited to, additional application to the court for an order of contempt. Nothing contained herein shall be construed to restrict or impair the rights of either party to exercise this election. All rights and remedies herein provided or existing at law or in equity shall be cumulative of each other and may be enforceable concurrently therewith or from time to time.
33. **Notices.** Any notice or other communication which is required to be given under the terms of this Agreement shall be in writing and shall be delivered personally, or sent by registered mail, or by certified mail return receipt requested to the addresses noted above. Any notice which is mailed shall be deemed to have been given on the second business day after the day of mailing (not counting the day mailed), irrespective of the date of receipt. Notices may be signed and given by the attorney for the party sending the notice. A new address may be designated by notice.
34. **Construction.** All understandings and agreements previously made by and between the parties are merged in this Agreement, and all schedules and exhibits that are now or will be attached, which alone fully and completely expresses their agreement. This Agreement may not be changed, terminated, nor any of its provisions modified, amended or waived, except in a writing signed by all of the parties to this Agreement.

35. **Applicable Law; Jurisdiction; Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of New York without regard to its principles of conflicts of law. The County of Monroe in the State of New York is hereby designated as the exclusive forum for any action or proceeding arising from or in any way connected to this Agreement, and the parties hereby expressly consent to the personal jurisdiction of the state or federal courts in this forum.
36. **Binding Effect.** This Agreement shall be binding upon and will inure to the benefit of the parties, their heirs, distributees, legal representatives, transferees, successors and assigns.
37. **Compliance with Laws.** The parties to this Agreement hereby assert that, to the extent applicable, they are in compliance with all rules and regulations set forth in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as well as the requirements contained in the Federal Office of Management and Budget final rule on updated cost principles published at 2 CFR Chapter I, and Chapter II, Parts 200 et al.
38. **No Waiver.** Failure to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or more times be deemed a waiver or relinquishment of such right or power at any other time or times.