

Contract Number _____ **Resource Number** _____
Facility Number _____ **Facility License Type** _____
Provider Enrollment No. _____ **Amendment Number:** _____

GENERAL CONDITIONS

1. **Contracting Parties.** The **Texas Department of Family and Protective Services**, (“Department” or “DFPS”), and _____, an independent contractor, (“Contractor”), do hereby make and enter into this contract (“Contract”). This Contract, along with all Attachments, constitutes the entire agreement between the parties. The parties agree that, for the purposes of this Contract, all references to the “Department” shall include the Texas Health and Human Services Commission (HHSC) and any other agency named in Chapter 531 of the Texas Government Code to the extent that HHSC has transferred DFPS’s functions related to this Contract to itself or to such other agency pursuant to HHSC authority in §531.0055 of the Texas Government Code, or pursuant to authority granted to HHSC in the General Appropriations Act as enacted by the Seventy-seventh Legislature and signed by the Governor in 2001, or pursuant to any other statutory authority of HHSC. When acting in such capacity, HHSC or such other agency shall be considered an authorized agent acting on behalf of DFPS.
2. **Authority to Contract.** This Contract is entered into under Chapter 40, Human Resources Code, for the mutual considerations described herein.
3. **Purpose.** The purpose of the residential child care contract is to establish the qualifications, standards, and terms of delivering specified services to children in contracted care; to set the terms and conditions of operations and payment; and to specify the method of ensuring delivery of contracted services. The purpose of residential child care is to protect the well-being of the child, enhance the child’s functional abilities in a 24-hour substitute care setting, and prepare the child for his/her permanency planning goal, by providing the following services as appropriate:
 - A) Routine child care which ensures the health and safety of the child;
 - B) Appropriate educational, recreational, and vocational activities;
 - C) Behavior management, diagnostic services, medically necessary health care services, and preventive health care services;
 - D) Appropriate supervision for all activities and services while in the contractor’s care;
 - E) Continuity of care for the integration and coordination of all services referenced in Sections 7-18;
 - F) Referral to all appropriate service providers to meet each child’s specific needs, including, but not limited to, Department of Aging and Disability Services (DADS), Department of State Health Services (DSHS), Department of Assistive and Rehabilitative Services (DARS), Early Childhood Intervention, local Mental Retardation Authority (MRA), local Mental Health Authority (MHA), and the Health and Human Services Commission.
4. **Applicable Contract Provisions.** This Contract contains the terms applicable to all residential childcare service contracts including those with child placing agencies, childcare facilities, independent homes, and emergency shelters.
 - A) If the Contractor is a child-placing agency (“CPA”), all terms of the Contract apply.
 - B) If the Contractor is a childcare facility, other than a CPA, sections 13.B, 19E, 20.C, 42, 24, and 28.E of this Contract are **not** applicable.
 - C) If the Contractor is an independent home; sections 13.B, 19E, 20.C, 24, and 28 of this Contract are **not** applicable.
 - D) If the Contractor is an emergency shelter, sections 6, 8E, 8F, 13B, 19E, 20C, 24, 27B iii a), 28E of this Contract are **not** applicable.
 - E) Contractor must comply with the special terms and conditions set forth in Attachment E.
5. **Contractor Warranty.** The Contractor, by acceptance of the child, warrants that:
 - A) It has the expertise to meet the child’s current needs based on the background information provided by

the Department;

- B) It will accept the Service Level Unit rates, as described in section 28, as payment for the services contained in section 6 and the requirements of this Contract; and
- C) It will deliver the services described in this Contract in a manner that represents high standards of professional quality.

6. **Contracted Service Levels.**

- A) The minimum services to be provided by the Contractor to each child will be determined by the Department based on the child's level of need. Designation of the level of the needs of a child shall be Basic, Moderate, Specialized or Intense as described in Attachment C. Contractor shall provide services to children authorized at _____ Service Levels, and shall maintain full compliance with the associated Service Levels as described in Attachment C for each child placed with the Contractor.
- B) Upon placement of a child whose initial Service Level has not been determined or is Basic, or when the Contractor accepts placement at the Basic rate, the Contractor shall have forty-five (45) calendar days to submit a request for Service Level evaluation of the child directly to the Service Level Monitor.

CONTRACTED COMPONENTS OF CARE

7. **Routine 24-hour child care.**

A) **Food.**

- i. The Contractor shall provide food in accordance with the Daily Food Guide contained in Appendix III of the Consolidated Minimum Standards for Facilities Providing 24-Hour Child Care, as currently written and as subsequently modified. The Consolidated Minimum Standards for Facilities Providing 24-Hour Child Care, can be found on the DPFS website under Child Care Licensing ("Licensing").
- ii. In addition to the Daily Food Guide required by Licensing, the Contractor shall ensure that each child receives fresh fruits, vegetables, and dairy products at least once a day.

B) **Clothing and Personal Items.**

- i. The Contractor shall maintain an inventory of the child's clothing and personal items that are of substantial value and/or sentimental value.
 - a. A complete inventory of clothing and personal items shall be completed at admission, as additional clothing is purchased or provided, and at discharge.
 - b. The clothing and personal item inventory should be signed and dated by the youth, when age and developmentally able, and Contractor's staff.
 - c. The clothing and personal item inventory shall be sent with the Department caseworker at discharge.
- ii. The Contractor shall provide each child with Appropriate Clothing as defined in Attachment B.
- iii. The Contractor shall allow children to label their clothes with the child's name or initials and, at the time of discharge, provide the child's Department caseworker with all of the clothing obtained for, or given to, the child.
- iv. The Contractor shall provide each child with appropriate furnishings to meet their hygiene and personal grooming needs.
 - a. Grooming Products shall be provided so that each child is able to maintain good hygiene and grooming practices.
 - b. Grooming Products shall meet each child's ethnic hygiene and hair care needs.
 - c. Daily baths or showers with sufficient hot water shall be available; and
 - d. Training/education shall be provided as necessary to ensure each child understands the concepts of personal hygiene and grooming and what they need to do on a daily basis to achieve and maintain good hygiene and grooming.

C) **Room, Board and Furnishings.**

- i. The Contractor shall provide each child with a bed, sheets, towels, blankets, bedspreads, pillows, mattresses and other furnishings necessary to meet the child's needs. The Contractor shall ensure that the items be kept clean and in good repair.

- ii. The Contractor shall ensure that children have personal storage space for their clothing and possessions. The Contractor shall provide children who are able to look after their own needs with individual storage space in their bedrooms for clothing and possessions.
- iii. The Contractor shall provide behavioral, gender and age appropriate living arrangements for each child, with the exception of sibling groups, where appropriate. (Section 1, Standard 6200, TAC Chapter 40 §722.430) (Appendix F, 3300 TAC Chapter 40 §720.122 and Appendix G, 3300 TAC Chapter 40 §720.247)

8. Behavior Counseling and Supervision.

A) Activities of Daily Living Skills.

The Contractor shall teach each child with Basic Living and Social Skills such that they are able to appropriately care for themselves and function in the community.

B) Therapy.

- i. The Contractor shall ensure that behavioral health services are available and provided to each child as needed by a Qualified Behavioral Health Care Contractor or Professional.
- ii. The Contractor shall, if under contract to provide services to children authorized with Moderate, Specialized, and/or Intense Service Levels, access Medicaid for Medicaid covered behavioral health services.
- iii. The Contractor shall utilize community resources to obtain behavioral health services not covered by Medicaid.
- iv. In the event that community resources are not available for behavioral health services and/or Medicaid does cover the services, the Contractor shall be financially responsible for providing these services.
- v. The Contractor shall consider the therapeutic relationship and the effectiveness of therapy as a factor when:
 - a. Reviewing the child's service plan;
 - b. Reviewing the therapeutic relationship between the child and the therapist as a benefit to the child;
 - c. Reviewing factors, such as the improved affect, increased self-regulation, and overall improvement in the child's functioning.
- vi. Therapy notes should:
 - a. Be legible and completed within timeframes set by the Contractor;
 - b. Demonstrate consistency with the service plan, psychological evaluation and/or psychiatric evaluation;
 - c. Document individualized short and long-term treatment goals, DFPS permanency planning goals and progress toward those goals and the frequency in the provision of therapy.

C) Discipline

- i. The Contractor shall use appropriate authority and discipline practices as necessary to set limits for behavior and help each child develop the capacity for self-control.
- ii. The Contractor shall develop and implement discipline and emergency behavior intervention policies that are consistent with RCCL Minimum Standards (Minimum Standards) at http://www.dfps.state.tx.us/Child_Care/Child_Care_Standards_and_Regulations/default.asp and the Texas Administrative Code.
- iii. The Contractor shall ensure that all de-escalation techniques of behavior intervention are exhausted before utilizing more restrictive and intrusive behavior management or emergency behavior intervention.

D) Crisis Management

- i. The Contractor shall utilize developmental age appropriate Emergency Behavior Intervention techniques, as described in Minimum Standards, to resolve emergencies.

- ii. The Contractor shall manage the facility and milieu in a manner that minimizes disruption during a crisis.

E) Service Plan and Coordination

- i. The Contractor shall develop and coordinate a Service Plan that addresses the services that will be provided to a foster child to meet each child's specific needs.
- ii. Service Plans shall be developed in accordance with the requirements contained in Attachment C under the sections entitled "Casework and Support Services" and "Service Plans".
- iii. The Contractor shall ensure that its Service Plan incorporates the permanency goals identified by the Department as well as any behavioral goals established by the Department pursuant to 1 TAC §351.13.
- iv. The Contractor shall also provide services in accordance with the Service Plan to assist a child to transition to a new living arrangement or to new provider services.
- v. The Contractor shall incorporate these education plans into the Service Plan, as applicable, for each child and shall coordinate the provisions of services under each plan to maximize the benefit to the child.
 - a. The Contractor shall incorporate the components of the child's Individual Education Plan in the Service Plan.
 - b. The Contractor shall incorporate the school district's Individual Transition Plan that has been developed for children sixteen (16) years of age or older and receiving special education services.

F) Diagnostic Assessment

The Contractor shall provide diagnostic assessments as defined in Attachment C, Section M500.02

9. Educational and Vocational Activities.

A) Educational Activities.

- i. The Contractor shall ensure that each school-aged child placed with the Contractor pursuant to this Contract attends an educational program accredited by the Texas Education Agency ("TEA"). The Contractor may request an exception to this requirement from the Department's caseworker. The Assistant Commissioner for CPS, or his/her designee may approve the exception request, and such approval must be in writing.
- ii. The Department may at any time, require that the child in state conservatorship attend the local public school.
- iii. Not later than the third (3rd) calendar day after the date a child is placed in a residential facility,
 - a. If the child is three (3) years of age or older, notify the school district in which the facility is located; or
 - b. If the child is younger than three (3) years of age, notify a local early intervention program in the area in which the facility is located.
- iv. The Contractor shall maintain and update an Education Portfolio, including but not limited to, report cards, transcripts, the Admissions, Review, and Dismissal (ARD) team meeting notes, the Individual Education Plan (IEP), the Full Individual Evaluation (FIE)/Diagnostic testing, and the school withdrawal or discharge paperwork for each child in the Contractor's care. The Contractor will make the Education Portfolio readily available to the Department's caseworker on any visit with the child or otherwise, if requested.
- v. The Contractor shall document that the report card and progress reports are discussed with each child.
- vi. The Contractor shall provide the child's Education Portfolio to the Department's caseworker at the time a child is discharged from the Contractor's care. The Contractor will ensure the following:
 - a. The most current educational documents and records are in each child's Education Portfolio
 - b. The child's Education Portfolio includes the child's current school withdrawal paperwork.
- vii. The Contractor shall minimize disruptions to a child's education by scheduling therapy and other appointments outside school hours, whenever possible.

B) Vocational Activities

The Contractor shall provide vocational activities, including apprenticeships, internships, job skill training, and trade skills, such that each child:

- i. has access to appropriate vocational activities;
- ii. receives the assistance needed to maximize the benefit of these activities; and
- iii. is provided transportation to vocational activities.

10. **Routine Recreational Activities.**

- A) The Contractor shall provide recreational activities such as indoor, outdoor, school, community and church activities for children served under this Contract that are age-appropriate, varied, and are of interest to the child.
- B) Recreational activities must, at a minimum, be supervised in accordance with Minimum Standards and service level requirements contained in Attachment C. In addition, the Contractor shall intervene, as necessary, to reduce the risk of and occurrence of any and all injuries.
- C) The Contractor shall ensure that the youth have input into the type of recreational activities they wish to participate in.

11. **Medical and Dental Care.**

- A) The Contractor shall provide access to medically necessary Medical and Dental care for each child.
- B) The Contractor shall provide access to the preventive medical services recommended by the most current version of the Texas Health Steps periodicity schedule found in Section 42.2.2 of the Texas Medicaid Providers Manual at <http://www.tmhp.com/default.aspx>. In the event an annual medical exam is not required by the Texas Health Steps periodicity schedule, a well child exam must, at a minimum, be provided for that year.
- C) The Contractor shall access Medicaid for covered services available to eligible children.
- D) In the event that neither community nor Medicaid resources are available to fund recommended Medical or Dental Care, the Contractor shall notify the Department's caseworker for assistance.
- E) In the event the Contractor has any questions or concerns regarding the prescribed recommendations for follow-up treatment, the Contractor shall raise these concerns/questions with the Department and the Department will assist the Contractor with a resolution.

12. **Psychotropic Medications**

- A) Contractors shall require physicians who treat DFPS children to follow the principles outlined in the Psychotropic Medication Utilization Parameters for Foster Children ("Parameters") developed by the Department of State Health Services and incorporated herein by this reference (<http://www.dshs.state.tx.us/mhprograms/psychotropicMedicationFosterChildren.shtm>).
- B) When a physician prescribes a medical regimen that meets the "Criteria Indicating Need for Further Review of a Child's Clinical Status" on pages 4-6 of the Parameters, the physician will document his/her rationale in the child's clinical record. Prescribing a medical regimen that meets these criteria may require further review of the child's medication needs and clinical record by a CPS medical review process for children in foster care as defined by the Department.
- C) If a child is prescribed psychotropic medications, the Contractor is required to ensure that a physician evaluates the need for continued treatment with the medication at a minimum of every three (3) months and documents the evaluation in the child's medical record. This evaluation must include adequate laboratory monitoring at prescribed intervals specific to the medication(s), a list of potential risks, medication response, presence or absence of side effects, service plan and intended use of prescribed medications.

13. **Travel.**

- A) The Contractor shall provide or arrange all travel necessary to ensure a child's access to medical visits, therapy visits, recreational, school and school activities, family visits, court hearings, Preparation for Adult Living ("PAL") activities, Permanency Conferences, Transition Plan Staffings, Family Group Decision Making conferences, Circles of Support meetings, and any other services necessary to fulfill the tasks on a child's Plan of Service.

- B) A Contractor who is licensed as a CPA shall arrange and facilitate sibling visits when siblings are at different placements within the same CPA unless the sibling visits are:
 - i. Prohibited by court order; or
 - ii. Contrary to the best interest of the children as reflected in any of the Plans of Service of the siblings; or
 - iii. Discouraged by a mental health professional treating any of the siblings.

14. **Cultural Competence.**

The Contractor shall provide the contracted components of care with a high level of Individual and Organizational Cultural Competence as described in Attachment B.

15. **Contractor Participation.**

The Contractor shall participate in:

- A) Staffings required by the Department which include but are not limited to, medical, school, permanency planning and legal staffings;
- B) Family Group Decision-Making Conferences and Circles of Support meetings required by the Department or a court; and
- C) Any other meetings required by the Department or a court having jurisdiction over the child and necessary to ensure that the Contractor is complying with a child's Plan of Service.

16. **Maintaining Connections.**

- A) The Contractor shall make a good faith effort to ensure that children are able to preserve desired and appropriate Connections to religious, family, school, community, and appropriate organizations through on-site or off-site means.
- B) The Contractor shall document all good faith efforts to maintain the child's Connections.

17. **Providing Testimony.**

The Contractor shall:

- A) Ensure that Contractor's employees and subcontractors appear and testify in judicial proceedings, depositions and administrative hearings relating to a child placed, at the request of the Department;
- B) To the extent possible, notify, and/or assist the Department in locating, past employees or subcontractors when past employees or subcontractors are needed to appear and testify in accordance with this subsection. The Contractor is responsible for the cost associated with the requirements of this subsection.

18. **Least Restrictive Setting.**

Provide all services in a manner that safeguards the health, welfare and safety of the children in the least restrictive setting possible.

PROGRAM REQUIREMENTS

19. **Facility Licensure.**

The Contractor shall:

- A) Comply with Minimum Standards for the licensure for any child care license issued by the Department to the Contractor for services provided under this Contract;
- B) Comply with the operating or regulatory agency's regulations if the Contractor is a facility operated by or regulated by one of the state agencies specified in 40 TAC §700.1321(e);
- C) Comply with all applicable Service Levels as contained in Attachment C and the Contracted Components of Care described in sections 7-18; and
- D) Ensure that all staff providing direct client services comply with State professional laws pertaining to the services provided including laws pertaining to licensure and confidentiality.
- E) Child Placing Agencies must distribute the Texas Health Steps and the Medical Transportation Brochure materials described at <https://secure.thstepsproducts.com/> to their agency verified foster homes at least

annually. These materials are available to the public at no cost by accessing the aforementioned website. Specifically Child Placing Agencies must distribute:

- i. THSteps Checkup Brochure EPSDT-05
- ii. THSteps Wallet Cards EPSDT-08A
- iii. Appointment Education Brochure EPSDT-16
- iv. Case Management for Children and Pregnant Women Brochure CM1-182A
- v. Medical Transportation Brochure MTP-166

F) All staff providing treatment and reviewing plans of care shall comply with Attachment C.

20. **Departmental Right of Placement and Removal.**

- A) The Department, as Managing Conservator, may place or remove a child whenever the Department determines it is in the best interest of the child to do so. The Department reserves the right to place children only in those facilities that it believes can meet the needs of the child. No part of this contract shall be construed as a commitment by the Department to place a particular child, any child, or a specified number of children with the Contractor.
- B) The Contractor shall comply with the Department's placement processes, including timely data entry of vacancies into the Department's Extranet data system. The Contractor shall not engage in practices used to circumvent these placement processes.
- C) The Contractor shall comply with all applicable federal and state laws, including the Multiethnic Placement Act, as amended by the Interethnic Adoption Act of 1996 (42 USC Chapter. 21 §1996b), the Indian Child Welfare Act (24 USC Chapter 21 §1915), the Adoption and Safe Families Act of 1977 (42 USC Sec. 629 et seq. and Sec. 670 et seq.) and comparable state laws regarding placement of children.

21. **Use of Department Forms.**

A) **Non-emergency placements.**

For children at the Moderate Service Level or higher, the Department shall complete and provide to the Contractor at, or prior to, placement the Common Application for Placement of Children in Residential Child Care (Form 2087) as the uniform assessment form and application for admission. The Contractor shall accept children for placement by the Department only after receiving completed Form 2085-FC, Form 2085-B and/or C and/or D as appropriate and, if at the Moderate Service Level or higher, Form 2087 and Form 2089-A. If the Department's worker attempts to place a child at Moderate Level or higher without a copy of a current Form 2089-A, the Contractor may, but is not required to, accept the child for seventy-two (72) hours after having the Department's caseworker sign the Department's Form 2089-A.

B) **Emergency placements.**

The Department shall attempt to complete and provide to the Contractor at, or prior to, placement the Common Application for Placement of Children in Residential Child Care (Form 2087) as the uniform assessment form and application for admission. The form may be incomplete but shall contain all available information. Alternatively, the Department may provide to the Contractor the Alternative Application for Placement of Children in Residential Child Care (Form 2087ex). In either case, Form 2087 shall be completed and provided to the Contractor at the time the child's placement is changed from an emergency to a non-emergency placement. The Contractor shall accept Form 2087 or Form 2087ex as the uniform assessment form and application for admission for placement of Department children. The Contractor shall accept children for placement by the Department only after receiving completed Form 2085-FC, completed Form 2085-B, and/or C and/or D, and (complete or incomplete) Form 2087 or 2087ex.

C) **Unaccompanied emergency placements.**

In the event an unaccompanied child in the care of the Department presents for emergency placement, the Contractor may accept the child for placement and shall immediately notify the Department to determine Department instructions and to initiate documentation. The Department shall complete the required forms within the next working day but may immediately move the child.

D) **Use of Forms at Admission.**

- i. The Contractor shall accept children for placement by the Department only after receiving completed Form 2085-FC, completed 2085-B and/or C and/or D, and (complete or incomplete) Form 2087 or 2087ex.
- ii. The Department shall complete and provide to the Contractor either Form 2087 or 2087ex.

- a. The Department will complete the Form 2087 within thirty (30) calendar days following the Contractor's written request for it.
- b. The Department will make available to the Contractor Forms 2085-FC, 2085-B, C, and D, 2087ex, and 2089-A to provide to the Department's workers for completion.
- c. Placement when the child's Service Level has not been determined will be compensated at the Basic rate.

E) Disclosure of Medical Information.

The Department's amended forms 2085-FC and 2085-B, C, and D are intended to enable Contractor to obtain and disclose health information on a child when it is necessary while still complying with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). If circumstances arise where it is not possible for Contractor to do so, Contractor should work with the Department's caseworker, chain of command and the DFPS Residential Contract Manager to obtain such additional permissions as are necessary.

F) Medical Consent.

- i. The Contractor shall follow the requirements of the Medical Consent for Children in DFPS Conservatorship and Youth Consenting to Medical Care policy, pertaining to residential child care providers <http://www.dfps.state.tx.us/PCS/residential.asp>. The medical consenter is authorized to access, receive, and review all the child's medical records. Furthermore, the medical consenter may authorize the release of the child's medical records to the extent necessary to obtain services for the child.
- ii. The Contractor shall ensure that all foster parents and employees who are eligible to serve as Medical Consenters under "How DFPS Establishes the Medical Consenter", have access to and complete computer-based training on Informed Consent as soon as practicable after it is made available by DFPS.
- iii. The Contractor shall ensure that all foster parents and professional employees who are eligible to serve as Medical Consenters, as stated above, follow the requirements within DFPS policy regarding "Responsibilities of Medical Consenters and Back Up Medical Consenters".
- iv. The medical consenter is authorized to access, receive, and review all the child's medical records. Furthermore, the medical consenter may obtain free copies or authorize the release of the child's medical records to the extent necessary to obtain services for the child

22. Approval for Travel.

- A) Prior to allowing any overnight travel by the child, the Contractor shall develop and maintain a written policy regarding overnight travel.
- B) Whenever the Contractor wishes to take a child in the Department's managing conservatorship outside the state or country, the Contractor must obtain prior written approval for the child's travel as provided in 40 TAC Section 700.1340.
- C) If the travel is within the state of Texas and for more than three (3) calendar days (seventy-two (72) consecutive hours), the Contractor must obtain prior written approval from the Department's caseworker or DFPS staff in the caseworker's chain of command.
- D) Written approval is not required when:
 - i. The caseworker arranges for the child to visit with members of the child's own family or with relatives; or
 - ii. The child's Department caseworker authorizes the child to travel in specified circumstances (usually routine trips or visits).

23. Removal and Discharge of Children.

- A) The Contractor shall make all reasonable attempts to meet the needs of the child in the Contractor's care in order to prevent placement disruption.
- B) The Department shall remove a child placed by the Department when notified by the Contractor that the child poses a danger to self or others or exhibits volatile or self-injurious behaviors that are inappropriate for the program of service and requires a placement in another setting.
 - i. If the Contractor provides the Department with documentation from a physician that the child poses a danger to self or others, to facilitate admission to a hospital, the Department shall remove the child

within twenty-four (24) hours. Admission of the child to a hospital by the Contractor serves as documentation of the need for a more secure setting. The Contractor shall immediately inform the Department's caseworker of the admission and shall state whether the Contractor is willing to accept placement of the child upon discharge from the hospital.

- ii. If the Contractor provides the Department with documentation from a psychiatrist, licensed psychologist, physician, LCSW-ACP, or LPC showing that the child consistently exhibits behavior that cannot be managed within licensed program services, the Department shall remove the child within fourteen (14) calendar days. The Department shall immediately communicate with the Contractor and staff the child's circumstances to determine a plan for moving the child to ensure the child's safety and that of others.
- C) The Contractor shall notify the Department caseworker within twenty-four (24) hours of the child's placement in jail or juvenile detention and shall state whether the Contractor is willing to accept placement of the child upon the child's release from jail or juvenile detention. If the Contractor is not willing to accept placement of the child upon the child's release, the Department shall, within twenty-four (24) hours of receipt of notification from the Contractor, remove the child placed by the Department.
- D) If the Contractor provides other documentation to the Department that it is no longer in the child's best interest to remain at the Contractor's facility, or that the Contractor cannot meet the needs of the child, the Department shall remove the child within thirty (30) calendar days. This documentation shall be signed by the Contractor's Executive Director, Child-Care Administrator or designated employee, other than the Contractor's case manager. The Department shall immediately communicate with the Contractor and staff the child's circumstances to determine a plan for moving the child to ensure the child's safety and best interests and those of others. The Department shall remove the child as quickly as is necessary. The Department may immediately remove the child.
- E) In the case of an emergency shelter, if the Contractor wishes to discharge a child pursuant to subsection, the Department shall have up to ten (10) calendar days to remove the child. In the case of other emergency placements, if the Contractor notifies the Department within the first thirty (30) calendar days of the placement, the Department shall have up to ten (10) calendar days to remove the child.
- F) If the Contractor discharges a child placed by the Department except as stated above, it constitutes a breach of this Contract.
- G) Not later than thirty (30) calendar days after the Contract is executed, the Contractor shall notify the Department's Residential Contract Manager in writing of the Contractor's designated employee or employees who may approve discharges as provided in subsections D, E, or F, above.
- H) Upon the effective date of the discharge of any child, whether initiated by the Department or by the Contractor, the Contractor shall make available to the Department a discharge summary, an education portfolio and records such as:
 - i. Service Plan, therapy and/or behavioral health notes
 - ii. Gift/personal possession inventory including books, toys and money
 - iii. Clothing inventory
 - iv. Immunization record
 - v. Medications
 - vi. Most recent clinical records such as psychological evaluations and psychological testing, upon request.

24. **Contractor Support and Supervision of Foster Families.**

The Contractor shall:

- A) Develop and implement a plan, in accordance with DFPS policy, for providing support services as needed to the Contractor's foster families where children placed by the Department are residing;
- B) Ensure that a Contractor's case manager is available at all times to assist and support Foster Parents providing services to children with Primary Medical Needs, Therapeutic Needs, and Habilitative Needs as defined in the minimum standards for Child-Placing Agencies;
- C) Develop and implement a written plan to quarterly monitor its foster homes for compliance with licensing standards and Service Level standards as contained in Attachment C and as required in section 28. The Contractor shall make this plan available to the Department upon request;

- D) Have supervisor/case manager services available twenty-four (24) hours a day to the Contractor's direct caregivers;
- E) Have a written plan for contacting foster homes within seven (7) calendar days following a placement and assessing (1) whether the child's needs are being met in the foster home and (2) how the child is adjusting to the foster home;
- F) Comply with the written plan required in subsection E, above, for each foster home and for each child placed in a foster home;
- G) Maintain documentation of all contact with its foster families;
- H) Approve and use as foster parents only U.S. citizens, permanent residents, or other qualified aliens as defined in 8 U.S.C. § 1641(b); and
- I) Avoid financial and other conflicts of interest by prohibiting any person authorized to sign this Contract on behalf of the Contractor, or any board member, officer, or employee of the CPA, from also being a foster parent verified by the Contractor. Any individual working in the day-to-day operations of the Contractor, either through the Contractor's employ or pursuant to a contractual arrangement between the individual and the Contractor, may not be a foster parent verified by the Contractor. Such persons may be foster parents verified by other CPAs.

25. **Disaster and Emergency Response Plan.**

- A) The Contractor must maintain at all times a written disaster and emergency response plan, policies and procedures to address internal and external emergencies and disasters that include, but are not limited to acts of nature (such as flood, hurricane, fires, and tornadoes), chemical or hazardous material spills, critical equipment failure, weapons of mass destruction events, and acts of terrorism.
- B) In the event of an emergency requiring evacuation or quarantine, the Contractor shall be responsible for maintaining the safety and placement of all children in its care. All staff and sub-contractors of the contractor must be aware of the disaster plan requirements and be prepared to fulfill their role in executing the plan.
- C) The disaster and emergency response plan and procedures must address the following:
 - i. Mandatory evacuation if directed by local officials;
 - ii. Emergency evacuation;
 - iii. Disaster planning training for all facility staff;
 - iv. Arrangements for adequate provision of:
 - a) Staffing;
 - b) Shelter;
 - c) Food;
 - d) Transportation;
 - e) Medication;
 - f) Supplies;
 - g) Emergency Equipment; and
 - h) Services.
 - v. Identification, location and tracking of children;
 - vi. Protection and/or recovery of children's records (including electronic records);
 - vii. The provision of regular and crisis-response services to children during and after a disaster, including:
 - a) Methods for ensuring that services such as, but not limited to, crisis counseling are provided to meet the crisis-related needs of the children in care during and after the disaster;
 - b) Methods for ensuring that medical services are provided to children throughout the disaster. Such services include, but are not limited to, providing children with medication as prescribed (including insulin and asthma-related treatments), emergency care, and medical care for children with Primary Medical Needs (as defined at Attachment C).
 - c) Plans for maintaining the services, as required by a court order and/or the child's service plan, for the children in care after the disaster;
 - viii. Communication with DFPS and CPS, including:
 - a) Information (name, telephone numbers) of two emergency contacts designated by the Contractor who will be available to DFPS at all times in the event of an emergency or disaster;
 - b) Methods for how the Contractor will contact CPS to provide information on the location and condition of children in care who have been evacuated as soon as the children reach their

evacuation destination. Contractors with multiple facilities and CPAs must contact CPS once per day, at a minimum (unless otherwise instructed by DFPS), to provide information concerning the children in their care until all children are accounted for. CPAs must have methods through which their homes can contact CPA administration to inform them of the location and condition of children in care as soon as possible upon reaching an evacuation destination.

- ix. Post-disaster activities (including emergency power, food, water, and transportation);
- x. Plans for return after an evacuation;
- xi. Methods to ensure the disaster plan remains current and is reviewed when changes in administration, construction, or emergency phone numbers occur; and
- xii. Child-placing agencies must provide a copy of their disaster plan to foster/adoptive parents and ensure that each home has a written disaster plan, which will be updated as necessary and at each re-verification. The CPA will maintain a copy of each home's disaster plan in its records.

26. **Access to Children.**

The Contractor shall, at all times, permit access to all children placed by the Department in the care of the Contractor to the Department, its employees, its designees, and its third-party contractor for the Texas Service Level System and its employees. The Department shall exercise this right in a reasonable manner and attempt to plan and coordinate such visits in cooperation with the Contractor and in a manner that minimizes disruption of the care of the children placed with the Contractor. In no event shall this section be construed to prohibit the Department, or its designees, from making unannounced visits to the Contractor's facilities or to a foster home verified by a CPA.

27. **Performance Measurement.**

A) **Performance Evaluation.** Contractor performance evaluation is based on the assessment of output/outcome measures, compliance with Contract requirements, and compliance with licensing standards as indicated by Department records, compliance with Attachment C based upon reports submitted to the Department by its third-party contractor, and/or contract monitoring performed by Department staff. Department staff shall provide its contract monitoring tools to all residential childcare contractors prior to monitoring.

DFPS staff, representatives, or its third-party contractor for the Texas Service Level System shall monitor the child's Service Plan to measure the progress of the child in achieving applicable behavioral goals using the scale described at Texas Administrative Code (TAC), Title 1, Part 15, Chapter 351 Rule §351.13. If amended, the new goals and measures will apply immediately, upon their effective date. The frequency of monitoring shall be based upon the current review period appropriate for that specific child's service level.

B) **Contract Performance Outcome Measure.**

i. **Basis for Evaluation.** The Department shall evaluate the Contractor's performance using the output and outcome measures contained in this section as well as the Contractor's compliance with the terms and conditions herein. Such performance shall be based upon monitoring reports from Department staff and or its third-party contractor. Items to be monitored will include: compliance with licensing standards; compliance with service level standards; and the child's progress in achieving any applicable behavioral goals as required by Texas Administrative Code, Title 1, Part 15, Chapter 351, Rule 351.13.

ii. **Contract Outcome Measure.** Children in Substitute Care will be safe in the Contractor's care.

Indicator. The indicator for this measure is the percentage of children in Substitute Care served by Contractor during the evaluation period who experience no incidents resulting in a finding of "Reason-to-believe (RTB)", as defined at 40 TAC §700.511(a)(1).

Target. 100%

Purpose. The purpose of this measure is to evaluate the Contractor's success at protecting children in its care. This outcome is directly related to the mission of DFPS to protect children from abuse/neglect as well as one of the outcomes measured by the Child and Family Services Review

(CFSR) of the US Health and Human Services Administration for Children and Families (www.acf.hhs.gov/programs/cb/), "Children are first and foremost protected from abuse and neglect."

Methodology. The numerator is the count of confirmed Residential Childcare Licensing (RCCL) investigations of the contractor involving a child who is/was under DFPS conservatorship, for which a disposition of RTB has been determined during the reporting period. The denominator is the total number of children in DFPS conservatorship and in substitute care served by the contractor during the reporting period. Divide the numerator by the denominator. Subtract the result from one (1) to give the complimentary 'children not confirmed as victims' measurement and state as a percentage.

The definition and data source for this measure are set forth in Attachment F.

iii. **Contract Output Measures.**

- a) **Output #1.** Children in Substitute Care have up-to-date service plans and records.
Indicator. The percentage of children in Substitute Care served by the Contractor during the evaluation period whose service plans meet the requirements of the applicable Service Level and have been reviewed in accordance with the frequency described in the applicable section of 40 TAC Chapter 720, Subchapter H.
Target. 100%
- b) **Output #2.** Children in Substitute Care receive all services described in their Service Plans in a timely manner.
Indicator. The percentage of children in Substitute Care served by the Contractor during the evaluation period who receive all services described in their service plan with the frequency described in such plan.
Target. 100%
- c) **Output #3.** Children in Substitute Care receive timely medical and dental checkups.
Indicator. The percentage of children in Substitute Care served by the Contractor during the evaluation period who receive the medical and dental services described in Section 11 within 30 days of the scheduled due date.
Target. 100%

FINANCIAL REQUIREMENTS

28. **Service Level Unit Rates.** The Contractor acknowledges and agrees to the following.
- A) The Service Level unit rates ("daily rates") are determined periodically by HHSC in accordance with the Cost-finding Methodology established by HHSC. The daily rates in effect during the term of this Contract are contained in Attachment A, which is attached hereto and incorporated herein by this reference.
 - B) Once the funds are paid to the Contractor for services properly provided, the Department does not control how they are expended so long as the Contractor expends them legally and accounts for them accurately in the Contractor's cost report.
 - C) The Contractor's actual allowable costs, both direct and indirect, as reported on the cost reports, must be reasonable and allocable in accordance with sections 28 and 29 of this Contract.
 - D) The Department requires that a minimum dollar amount of the daily rate paid by the Department be remitted by the Contractor to foster families to pay for the basic child maintenance costs of children placed pursuant to this Contract. The required remittances are set out in Attachment A, which is attached hereto and incorporated herein by this reference. If the Department implements a change in the Service Level rates, the Department will change those minimum dollar amounts in Attachment A.
 - E) Foster care maintenance payments must be expended for items that are provided by foster parents in accordance with 42 USC 675(4).
29. **Conditions of Payment.** All payments shall be made to the Contractor after deducting any known previous overpayment made by the Department. The Department is not obligated to pay for unauthorized services or to pay more than is consistent with federal and state regulations. The Contractor further acknowledges and

agrees that:

- A) The Contractor shall be compensated only once for residential child care services delivered under this Contract. The Contractor shall not bill for or retain any additional compensation for such services from the Department or any other entity.
- B) The Contractor shall not be reimbursed for vandalism or damage caused by deliberate acts of destruction by a child placed with the Contractor.
- C) The Department shall pay the Contractor the Service Level daily rate for each child placed by the Department and receiving services in accordance with the child's Plan of Service (including permanency planning goals), licensing standards, contract terms, and Service Level standards.
- D) The Department shall pay for the calendar day of placement, but not for the calendar day of discharge. If the child is discharged on the day of placement, the Contractor shall not be reimbursed for that day.
- E) If a child is away from the Contractor's facility without prior authorization, and if the Department's caseworker or the caseworker's supervisors and Contractor agree in writing that the child should return to the facility, then the Contractor may keep the placement open for the child. Reimbursement for reserve bed days shall be permitted in accordance with the Texas Administrative Code Rule § 700.323 and the policies established by the Department (<http://www.dfps.state.tx.us/Handbooks/default.asp>) and incorporated herein by this reference.
- F) The Department shall give the Contractor notice in writing at least thirty (30) calendar days prior to the effective date of any change in policy or procedure, which affects payments to the Contractor.

30. **Contractor Payments/Refunds to the Department.** The Contractor shall:

- A) Be responsible for any monitoring/audit exception or other payment irregularity regarding this Contract or subcontract, which may be found after review by the Department or the United States Department of Health and Human Services; and
- B) Be responsible for the timely and proper collection and reimbursement to the Department of any amount paid in excess of the proper payment amount.

31. **Restrictions on Use of Contract Funds.**

- A) The Contractor shall not use any funding under this Contract to influence the outcome of elections or the passage or defeat of any legislative measures.
- B) The Contractor shall adhere to the requirements of all applicable OMB Circulars and Department rules and policies for allowable cost determinations.
- C) In the event of a conflict between the OMB Circulars and the Department's rules and policies, the Department rules and policies shall govern and take precedence.

32. **Accounting Records.** The Contractor shall adhere to Generally Accepted Accounting Principles promulgated by the Financial Accounting Standards Board and follow Department fiscal management policies and procedures in maintaining financial records. (<http://www.fasb.gov/accepted.html>)

33. **Insurance.**

- A) The Contractor shall provide insurance for direct delivery of services under this Contract. The Contractor shall obtain and furnish proof of the following bonding and insurance coverage within forty-eight (48) hours of the award of the Contract and at such other times as may be specified by the Department. The required coverages are:
 - i. Dishonesty bonding under a commercial crime policy or business services bonding at a \$10,000 minimum;
 - ii. For independent homes, general liability insurance having a minimum limit of \$300,000 per occurrence and \$600,000 aggregate; and
 - iii. For all other child-care facilities, commercial general liability coverage insurance have a minimum limit of \$300,000 per occurrence a \$600,000 aggregate.
- B) The Contractor shall purchase coverage with insurance companies or carriers rated for financial purposes "B" or higher whose policies cover risks located in the state of Texas. All bonds, policies, and coverage shall be maintained during the entire term of the Contract.
- C) In the event the Contractor is unable to comply with subsection A, above, the Contractor shall provide

the Residential Contract Manager with two (2) written denial letters from different insurance companies evidencing the Contractor's attempts to obtain and inability to obtain the requisite insurance. The Contractor shall provide this information to the Residential Contract Manager within ten (10) days of the award of the Contract.

- i. The Contractor shall also attempt to obtain the insurance required in subsection A, above, on an annual basis. If the Contractor is not able to obtain insurance, the Contractor shall provide the Residential Contract Manager with the documentation required in subsection C, above, to demonstrate the Contractor's compliance with this section.
 - ii. This subsection C is in addition to the requirements for obtaining a license contained in 42 HRC 42.049 (c).
- D) All required insurance policies shall include an endorsement stating that the Department shall be given thirty (30) calendar days written notice of policy or bond cancellation or a material change in the policy or bond.

34. Physical Property and Equipment Purchased with Department Funds.

The Contractor may report depreciation of physical property and equipment on the cost reports as allowed in Department Rules and applicable federal regulations and OMB Circulars. If the Contractor wishes to have pre-approval of the equipment as appearing to be reasonable and necessary for the Contract, the Contractor may obtain approval from Residential Contract Manager prior to purchase of physical property and equipment when the purchase is for \$5000 or more or if the purchase is for less than \$5000 but considered equipment according to Contractor policies.

- A) The Contractor shall permanently identify all equipment purchased with Department funds by appropriate tags or labels affixed to the equipment;
- B) Maintain a current inventory of such equipment and assume responsibility for the protection of all physical property and equipment used at facilities being maintained to carry out this Contract and purchased with Department contract reimbursements and take appropriate measures to meet this obligation. In the event of theft or damage to equipment purchased with Department funds, the Contractor shall furnish the Department with a written, factual report of the theft of, or damage to the equipment, including the circumstances concerning the loss. In addition, in the event of any theft, vandalism, or other offense against the properties, the Contractor shall notify appropriate local law enforcement authorities in compliance with Section 31.03 of the Texas Penal Code.
- C) Contractor shall comply with state and federal rules and statutes concerning transactions with related parties.
- D) This section shall not prohibit collateral assignment of such payments for the purpose of secured lending arrangements in the ordinary course of business or the filing of a financing statement covering same, so long as such transactions do no purport to require DFPS to pay the secured lender directly.

35. Independent Contractor.

- A) The Contractor is an independent contractor and is responsible for all payroll taxes and benefits for its employees.
- B) The Contractor shall indemnify the Department and pay to the Department all costs, penalties, or losses whatsoever occasioned by the Contractor's omission or breach of this section.

36. Prohibition of Sale or Transfer of Accounts Receivable.

The Contractor shall not sell, or transfer ownership of any payments due to Contractor under this Contract to any third party or financial intermediary if such transaction would result in such payments being made by the Department to the third party. This section shall not prohibit collateral assignment of such payments for the purpose of secured lending arrangements in the ordinary course of business.

ADMINISTRATIVE

37. Applicable Statutes, Regulations, Policies and Procedures.

- A) In maintaining financial records and in preparing cost reports, the Contractor shall apply the principles in 45 CFR (Code of Federal Regulations) Part 74 and 48 CFR Part 31 regarding the guidelines for use and expenditure of Title IV-E funds; Office of Management and Budget (OMB) Circular A-110 and Department rules, regarding the guidelines for use and expenditure of funds received from the Department, which

consist in part of both state and federal revenues; and Department rules regarding the guidelines for reporting of costs to the Department on cost reports. If the Contractor is a governmental entity, the Contractor shall comply with OMB A-87. If the Contractor is either a for-profit entity or a nonprofit entity, the Contractor shall comply with OMB A-122. Contractor must remain in compliance with state regulations not in conflict with federal regulations. For the purposes of this Contract, "not in conflict with federal regulations" means outside the scope of the federal regulations. In no event shall this provision be construed as prohibiting the Department from utilizing rules and policies that are more restrictive than the federal regulations.

- B) Contractor shall comply with all applicable federal and state regulations and with DFPS policies and procedures regarding services delivered under this contract.
- C) Contractor shall comply with all applicable state and federal statutes in effect at the time such services are rendered, including the following:
 - i.) Federal Financial Participation (FFP) requirements in accordance with Titles 45 and 48 of the Code of Federal Regulations and federal circulars, as amended;
 - ii.) Title VI of the Civil Rights Act of 1964 (Public Law 88-352), Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112), the Americans with Disabilities Act of 1990 (Public Law 101-336), and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts; and Title 40, Chapter 738 of the Texas Administrative Code. These laws and regulations provide in part that no person shall be excluded from participation in or denied, any aid, care, service, or other benefit provided by federal and/or state funding, or otherwise be subjected to discrimination, on the grounds of race, color, national origin, sex, age, disability, political beliefs or religion;
 - iii.) Health and Safety Code Section 85.115 relating to workplace and confidentiality guidelines regarding AIDS and HIV;
 - iv.) Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals who will perform any labor or services under this Contract;
 - v.) All state and federal licensing and certification requirements, health and safety standards, and regulations prescribed by the United States Department of Health and Human Services Department;
 - vi.) All applicable standards, orders or regulations issues pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.);
 - vii.) 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 (Public Law 94-163); and
 - viii.) Standards and requirements concerning deinstitutionalization of children found at Health and Safety Code §321.002 and 42 USC §675(5)(A).
 - ix.) All applicable state and federal laws, rules, and regulations regarding conflicts of interest in the performance of its duties under this Contract. Contractor warrants that it has no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with its performance under this Contract.
- D) The Contractor shall provide a drug-free workplace within the meaning of the Federal Drug-Free Workplace Act (42 USC §702 et seq.).
- E) Contractor shall notify the Department in writing within ten (10) calendar days if the Contractor receives a formal complaint or lawsuit filed against it regarding noncompliance with any of the above statutes or regulations.

38. **Limitations for Specified Contractors.**

If the Contractor is a council of governments, a regional planning commission, or a similar regional planning agency created under Chapter 391, Local Government Code, a Local Workforce Development Board, an MHMR community center, local mental health authority, or a local mental retardation authority, the Contractor shall expend funds under this Contract subject to limitations and reporting requirements set forth at Article IX of the General Appropriations Act of the 79th Legislature (the "Appropriations Act"). Those limitations are as follows:

- A) Parts 2 and 3 of Article IX of the Appropriations Act, pertaining to position classifications and salaries

(excepting any requirement for increased salaries for local government employees.

- B) Government Code §§556.004-556.006, prohibiting payment of expenses for lobbying or influencing elections;
- C) Government Code §§2113.012 and 2113.101, Use of Alcoholic Beverages;
- D) Section 6.24 of Article IX of the Appropriations Act, Performance Rewards and Penalties;
- E) Section 7.01 of Article IX of the Appropriations Act, Budgeting and Reporting;
- F) Section 7.02 of Article IX of the Appropriations Act, Annual Reports and Inventories;
- G) Government Code §2101.0091, Reports of Periodic Audits; and
- H) Part 5 of Article IX of the Appropriations Act, Travel Regulations.

39. **Contractor Employees, Subcontractors and Volunteers.**

- A) The Contractor shall prohibit or promptly remove from direct client contact any employee, subcontractor, or volunteer who is alleged to have committed abuse or neglect; an offense against the person, an offense against the family, or an offense involving public indecency under the Texas Penal Code; an offense under the Texas Controlled Substances Act; or any similar offense under the laws of any jurisdiction. If it is determined that the employee, subcontractor or volunteer has not committed such offenses, the employee, subcontractor, or volunteer may again be assigned to direct client contact upon 24 hours' written notice to the Department. The Contractor may report this information to the Department's Statewide Intake staff at 1-800-252-5400 to meet the notice requirements of this subsection.
- B) If the Department requires specific job qualifications, Contractor shall only assign personnel with the required qualifications to perform those designated job functions.
- C) Contractor shall verify and disclose, or cause its employees, subcontractors and volunteers to verify and disclose, criminal history and any current criminal indictment involving an offense against the person, an offense against the family, or an offense involving public indecency under the Texas Penal Code as amended, or any offense under Chapter 481, the Texas Controlled Substance Act, of the Texas Health and Safety Code, or a similar offense under the laws of any jurisdiction. This verification and disclosure shall be required of all individuals who have direct contact with Department clients or access to their records. Verification must be accomplished through use of the forms provided by the Department. Contractor must send required identifying information to the Department on forms, by telephone, and/or by facsimile within two (2) calendar days after a new person is at the facility or family home. If a person has supplied the verification to the Contractor, and the Contractor has no reason to believe that it is false, and the person has a current license requiring a criminal background check issued by the Department or by another Texas HHSC agency or by a Texas health care licensing entity, the Contractor may immediately allow unsupervised client contact by the person. If any of the conditions in the prior sentence are not met, the Contractor may not allow unsupervised client contact until the Department has performed the criminal history check and notified the Contractor unless the Contractor has obtained criminal history record for its employee, subcontractor, or volunteer directly from the Department of Public Safety of the State of Texas and the information verifies no criminal record as detailed in subsection D. Following receipt of the information, the Contractor may immediately allow unsupervised client contact, which shall continue until the Department has performed its own criminal history check and notified the Contractor.
- D) All experts, consultants or employees of the Contractor who are employed by the Contractor to perform work under this Contract are neither employees of the State nor under contract to the State and the Contractor alone is responsible for their work, direction, compensation and personal conduct while engaged under this Contract. Nothing in this Contract shall impose any liability or duty on the State for the acts, omissions, liabilities or obligations of the Contractor or any person, firm, company, agency, association, corporation or organization engaged by the Contractor as expert, consultant, independent contractor, specialist, trainee, employee, servant, or agent, or for taxes of any nature, including but not limited to unemployment insurance, worker's compensation, disability benefits and social security.

40. **Retention, Access and Confidentiality of Records.**

- A) Contractor shall maintain financial, programmatic, and supporting documents, statistical records, inventories of nonexpendable property acquired, and other records pertinent to claims or cost reports submitted and/or services delivered during the contract period for a minimum of five (5) years after the termination of the contract period. If any litigation, claim, or monitoring/audit involving these records begins before the five (5) year period expires, the Contractor shall keep the records and documents for not less than five (5) years and until all litigation, claims, or monitoring/audit findings are resolved. The case is considered resolved when a final order is issued in litigation, or a written agreement is entered into between the Department and the Contractor.
- B) Contractor shall provide any records and information concerning the child to the Department upon verbal request in emergency situations. Upon verbal request, Contractor must forward legible records and information to the Department within the Department's specified time frame. Emergency requests for records can include, but are not limited to, need to review the child's service level in order to make a placement change, court ordered, or attorney requested.
- C) Contractor shall provide any records and information concerning the child to the Department upon written request. Upon receipt of written request, Contractor must forward legible records and information to the Department within fourteen (14) calendar days. Information could include, but is not limited to the service plan, therapy notes, discipline logs, medical and dental logs, and narratives. Contractor shall not dispose of such records before giving the Department written notice of its intent to dispose of such records.
- D) All records received by or created by Contractor and identifiable to clients referred by the Department are confidential and may be disclosed to third parties only with the prior written consent of the Department or within the scope of consents permitted by the Medical Consenter. Contractor will take such measures as are reasonably required to secure such confidential records and prevent the destruction and/or disclosure of such records, except as permitted herein. In the event Contractor receives any request or demand for disclosure of confidential records by oral questions, documents subpoenas, civil investigative demand, interrogatories requests for information or other similar legal process, Contractor will provide the Department with prompt notice of such request so that the Department may seek an appropriate protective order and/or consent to Contractor's disclosure of the requested records.
- E) Contractor shall establish a method to ensure the confidentiality of records and other information relating to clients according to applicable federal and state law, rules and regulations. The Department shall have an absolute right of access to, and copies of, client case records or other information relating to clients served under this Contract.
- F) The provisions of this section shall remain in full force and effect following termination of or cessation of the services performed under the terms of this Contract.

41. **Written Approvals.**

The Contractor must obtain written approval in the following circumstances:

- A) From the Department's case worker or chain of command, before moving a child from one foster home to another foster home or between licensed types of care. In the event of an emergency, and if prior approval cannot be obtained, the Department shall be notified of the move within twenty-four (24) hours. The Department shall respond to requests for approval within ten (10) calendar days of receiving a proper request.;
- B) From the Residential Contract Manager prior to the effective date of any sale or change in ownership.
- C) From the Department's caseworker or chain of command, prior to allowing any overnight visits, the Contractor shall develop and maintain a written policy regarding overnight visitation. No child may be removed from the facility to the home of a non-related person, other than a court appointed individual, for a period exceeding seventy-two (72) hours without written approval of the child's Department caseworker.
- D) From the Residential Contract Manager, when requesting Department staff to sign Contractor-developed forms.

42. **Intermittent Alternate Care.**

The Department may allow Contracted Child Placing Agencies and Independent foster homes to utilize Intermittent Alternate Care to:

- A) Provide foster parents additional supports for child-care responsibilities;

- B) Increase the retention of foster parents;
- C) Decrease the number of moves children experience; and
- D) Promote the overall development and permanency needs for children in foster care.

Child Placing Agencies and Independent foster homes that are permitted to use Intermittent Alternate Care must do so pursuant to the requirements contained in Attachment D, which is attached hereto and incorporated herein by this reference.

43. **Notifications.**

- A) The Contractor shall:
 - i. Maintain at all times at least one active electronic mail (email) address for the receipt of contract-related communications from the Department. It is the Contractor's responsibility to monitor this email address for Contract-related information.
 - ii. At a minimum, give the Department the amount of written notice required by Section 23 before discharging a child placed by the Department.
 - iii. Notify the Department within twenty-four (24) hours after the Contractor determines that a child placed by the Department with the Contractor is a danger to self or others and requires a placement in another setting, or has been incarcerated or placed in juvenile detention;
 - iv. Notify the Department within twenty-four (24) hours, when the Contractor knows that a child placed by the Department and in the Contractor's care requires hospitalization;
 - v. Notify the Department within twenty-four (24) hours, of any Serious Incident reportable to the Department's Residential Child Care Licensing (RCCL) division. The Contractor may report serious incidents to the Department's Statewide Intake at 1-800-252-5400 to meet the requirements of this subsection;
 - vi. Notify Law Enforcement and the Department within twenty-four (24) hours of a child running away. If the child is under twelve (12) years of age, has physical or serious mental health issues such as being a danger to self or others, or is a known or habitual runaway, local law enforcement authorities and the Department must be notified within two (2) hours;
 - vii. Within ten (10) calendar days, notify the Department by completing the Department's form 4732 when a person formerly employed by the Department is hired, as required by law. This Contractor shall obtain this form by contacting the assigned Residential Contract Manager;
 - viii. Within ten (10) calendar days, notify the Residential Contract Manager of any significant change affecting the Contractor, including, without limitation: the addition, replacement, or termination of the Administrator; any change in ownership of the facility; a change in the Contractor's status as a for-profit or nonprofit entity; any change to the Contractor's admissions policy, and significant changes to the scope and coverage of the services to be provided by the Contractor and/or Subcontractor under this contract, including the program description and other necessary components;
 - ix. Within ten (10) calendar days, notify the Residential Contract Manager if there are Service Level issues which cannot be resolved by the Department's third-party contractor or payment issues which cannot be resolved by the applicable regional foster care billing coordinator;
 - x. Within ten (10) calendar days, notify the Department in accordance with section 29.B of this Contract concerning the theft of, or damage to, any equipment purchased with Department funds;
 - xi. Within five (5) calendar days of changes in the email address referenced in subsection A (i) above contact the Residential Contract Manager and the Residential Contract Mailbox (Residential_Contracts@dfps.state.tx.us) with the provision of the correct or updated email address.
 - xii. Within twenty-four (24) hours, notify the Department in accordance with section 39. (C) of this Contract concerning the Contractor's intent to reassign an employee to direct client contact. The Contractor may report this information to the Department's Statewide Intake at 1-800-252-5400 to meet the requirements of this subsection;
 - xiii. Promptly report any child death;
 - xiv. Within fifteen (15) calendar days, notify the Department in accordance with section 43 (B) v of this Contract concerning its intent to terminate the Contract after receiving notice of the reduction or elimination of funding for this Contract; and
 - xv. Notify the school regarding any change under this term of the contract that will affect the child's attendance to school and, where possible the length of time a child may be absent.
 - xvi. Promptly report any suspected case of abuse or neglect to the Department Statewide Intake Program at 1-800-252-5400, as required by the Texas Family Code, Chapter 261. All reports must be made

within twenty-four (24) hours of the discovery of abuse or neglect.

- B) The Department shall:
- i. Provide the Contractor with thirty (30) calendar days written notice when planning a discharge from placement except as provided below or in the case of Emergency Shelter where a five (5) calendar day notice is required;
 - ii. Not be required to provide notice for removal when court ordered, when there is an immediate threat to the health, safety or well-being of a child, after Contractor provides notice or requests removal under section 15, or when the Department determines removal is in the best interest of the child. However, when the Department determines the removal to be in a child's best interest, they will make every effort to afford the child and Contractor reasonable notice;
 - iii. When requested by the Contractor, provide the Contractor with a discharge document signed by the DFPS Program Director responsible for the child or, at the Department's discretion, a higher management level if the Department wishes to discharge a child with less than thirty (30) days notice when the discharge is not for one of the reasons in subsection B (ii) above. The discharge document shall describe the Department's reasons for the discharge and the reasons for discharging with less than thirty (30) days notice.
 - iv. Keep the Contractor informed of any significant changes in the child's circumstances in a timely manner including legal status, family situation, and factors related to the child's permanency plan;
 - v. Notify the Contractor when it knows that funds for this Contract will be reduced or eliminated as referenced in section 51 of this Contract; and
 - vi. Notify the Contractor within ten (10) calendar days when a request for a Service Level evaluation will not be forwarded to the Service Level Monitor.

44. **Reporting.**

The Contractor shall accurately complete cost reports, time studies, Internal Control Structure Questionnaires (ICSQ's), contract monitoring surveys, and any other reports required and requested by the Department and provide a copy to the Department within time frames specified by the Department.

45. **Cost Report Training.**

The Contractor shall require and ensure that individual(s) responsible for completing the Contractor's cost reports attend cost report training provided by HHSC prior to submitting a cost report.

46. **Authority of Department Staff.**

Department staff is not authorized to sign forms developed by the Contractor unless those forms have received prior approval by an attorney for the Department. The Department is not bound by unauthorized staff actions in signing such forms. Department staff, however, are permitted to sign the written Service Plan referenced in Attachment C of this Contract, and may sign documents as witnesses and may sign documents acknowledging receipt of information from Contractors.

47. **Notices of Department Funding.**

The Contractor shall place notices acknowledging the funding it receives from the Department in all of its literature and information published on its website that describes services provided under this Contract, in the same font as the majority of the other descriptive material. This notice will also appear in the Contractor's annual financial report, if any is issued.

CONTRACT MONITORING

48. **Assessments of Physical Facilities and Operations.**

The Contractor shall allow periodic assessments of its physical facilities and operations, which may include specific foster homes, by a Department employee. The Contractor's physical facilities and operations shall be approved by the Department based on assessments prior to and during the Contract period.

49. **Departmental Monitoring and Auditing.**

The Contractor acknowledges and agrees that:

- A) Department employees and/or Department representatives shall monitor, audit, evaluate and otherwise review the services provided, and related documentation and financial records, for compliance with contractual and statutory/regulatory requirements.

- B) DFPS' third-party contractor will complete a periodic Service Level compliance reviews. This determines the level of services that are actually being provided by the Contractor. When there are deficiencies, the third-party contractor provides the Contractor thirty (30) calendar days for correction beginning the date that the third-party contractor determined that the Contractor is not meeting the contracted Service Levels. The third-party contractor will issue a final letter indicating the Contractor's non-compliance with the Service Levels after the thirty (30) calendar day period for correction. Upon receipt of notification from the Department, the Contractor will not be paid more than the Service Level rate as determined by the Service Level Monitor. The Contractor will not be paid more than the Service Level until the Contractor receives notice from the Department. The Service Level Monitor will indicate to the Department that all contracted services are being met and the Department will subsequently notify the Contractor. This is not a limitation on other remedies that DFPS may pursue.
- C) Acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, HHSC Office of Inspector General, or any successor agency, to audit or investigate the expenditure of funds under this Contract or any and all subcontract. Contractor further agrees to cooperate fully with the State Auditor's Office and/or HHSC' Office of Inspector General, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.

OTHER PROVISIONS

50. **Precedence of Contractor Compliance.**

The terms of the Contract shall prevail over less stringent licensing regulations or other state or federal regulations.

51. **Contract Contingency.**

This Contract is at all times contingent upon the availability and receipt of state or federal funds that the Department has allocated to this Contract; and, if funds for this Contract become unavailable during any budget period, this Contract may be immediately terminated or reduced by the Department, in its sole determination. The Department shall notify the Contractor when it knows that funds for this Contract will be reduced or eliminated. The Contractor may terminate the Contract based upon such notification. If the Contractor terminates this Contract based on the Department's notice to reduce or eliminate funding, the Contractor must notify the Department in writing of its intent to terminate the Contract within fifteen (15) calendar days of receipt of the Department's notification. The notice must contain the actual date of termination and the Contractor's date of termination must not be less than ten (10) calendar days from the Department's receipt of such notice and it must not exceed ninety (90) calendar days from the date the Department receives such notice. If the Contractor properly notifies the Department in accordance with this section, the Contractor will be paid at the contracted rate(s) in effect on the day services are delivered until the last child is removed in accordance with the contract termination procedures.

52. **Transfers, Assignments and Subcontracting.**

- A) The Contractor shall not transfer or assign this Contract without prior written approval from the Department.
- B) The Contractor shall, and shall require any Subcontractors to refrain from entering into any subcontract for basic/routine child care services or therapy (counseling) services under this Contract without prior written approval from the Department
- C) The Contractor shall, and shall require any subcontractors to abide by all the terms and conditions of this Contract.
- D) The Contractor shall not in any way be relieved of any responsibility under this Agreement by any subcontract.

53. **Contract Changes, Amendments and Renewals.**

- A) Changes and Amendments. Except as provided at subsection 53(C), no change, modification, or amendment to the Contract will be effective until approved in writing by the Department and the Contractor. This Contract together with any approved amendment(s) to this Contract shall be the

controlling instrument in case of any dispute relating to the wording of any portion of the contract or amendment.

- B) **Contract Renewals.** The Contract is renewable upon mutual agreement of the parties and subject to the conditions in 40 TAC §§700.2501-700.2505 and the terms of this Contract. The life of the Contract, including the original term of performance plus any and all renewals, shall not be renewed beyond August 31, 2007.
- C) **Unilateral Amendments:** The Department reserves the right to make unilateral amendments to this Contract when necessary to: a) incorporate new or revised Federal, State, or Department laws, regulations, rules, or policies; b) update Service Level descriptions or daily rates; or c) comply with a court order or judgment. The amendment will be effective upon the Contractor's receipt of a copy of the amendment signed by the Department.

54. **Remedies.**

The Department, based on information from monitoring or other verifiable sources, may terminate this Contract for cause or take other actions it deems necessary to ensure compliance with the terms and conditions of this Contract. Such actions include, but are not limited to, the following:

- A) The Department may require the Contractor to take specific corrective actions in order to maintain compliance with Service Levels, applicable federal or state regulations, and the terms and conditions of this Contract. Contractor's failure to comply with the specific corrective actions may be grounds for contract termination action by the Department. The Contractor must respond in writing to the contract corrective action plan and must address each correction in writing. The Contractor must submit its written response to the Department for review and approval. Upon receipt of the Department's approval, the Contractor shall implement the requirements of the contract corrective action plan and shall maintain compliance with the contract corrective action plan. Failure to comply or maintain compliance with the contract corrective action plan may be grounds for the exercise of further remedies set forth in this section.
- B) Recover payments made to the Contractor or impose administrative error remedies based on monitoring/audit findings of violations of Contract requirements;
- C) Remove children and suspend further placements; and
- D) Suspend, place into abeyance, or remove any of the Contractor's contractual rights.
- E) In addition to any other right to terminate contained in this Contract, the Department reserves the right to terminate this Contract, in whole or in part, to conduct a new solicitation for the same or similar services.

55. **Provisions for Termination of Contract and Dispute Resolution.**

- A) If the Contractor fails to provide services according to the terms and conditions of this Contract, the Department may, upon written notice of default to the Contractor, terminate all or any part of the Contract. Termination is cumulative of any other rights and remedies provided by law, Department regulations or under this Contract.
- B) This Contract may be terminated at any time by mutual consent. In addition, either party may terminate this Contract by giving thirty (30) calendar days written notice to the other party. This Contract will be terminated at the end of the thirty (30) calendar day notice period. Nothing in this subsection shall be construed to prohibit immediate termination of the Contract pursuant to section 55.A, above. This Contract shall otherwise terminate by the date specified on the last page of this Contract.
- C) At the end of the Contract term or other contract termination, the Contractor shall, in good faith and in reasonable cooperation with the Department, aid in the transition to any new arrangement or provider of services, including the orderly transition of the children placed by the Department to new homes. The respective accrued interests or obligations incurred to date of termination must also be equitably settled. This equitable settlement shall occur in compliance with 40 TAC §732.270 and §732.271 within six (6) months from the date of Contract termination.
- D) Upon termination of this Contract, the Department will work with the Contractor to transfer the Department's children from the Contractor's facility as efficiently as possible. The goal will be to remove

all the Department's children by the effective date of the termination of the Contract; however, in the event this is not possible, the Contractor will continue to provide care for the children in accordance with the terms and conditions of this Contract and the Department will reimburse the Contractor for any care provided after the date of Contract termination until all children are removed from the Contractor's care.

- E) The Department shall terminate this Contract if the Contractor is found liable for or has a contract, license, certificate or permit of any kind revoked for Medicaid fraud. The Department shall also suspend or terminate this Contract if the Contractor's license, certificate or permit has been revoked by any agency named in Chapter 531 of the Texas Government Code (Health and Human Services agencies of the State of Texas).
- F) Contract Dispute Resolution.
- i) The dispute resolution process provided for in Chapter 2260 of the Texas Government Code and 40 TAC §§732.401-.431 shall be used, by the Department and the Contractor to attempt to resolve any claim for breach of contract made by the Contractor.
 - ii) A Contractor's claims for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, the Contractor shall submit written notice, as required by subchapter B, to the Executive Director or his designee. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, Government Code, are being invoked. A copy of the notice shall also be given to the Department's Residential Contract Manager in addition to all other representatives of the Department and the Contractor otherwise entitled to notice under the this Contract.
 - iii) Compliance by the Contractor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.
 - iv) The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the Contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the Department if the parties are unable to resolve their disputes under subsection 1, above.
 - v) Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this Contract by the Department nor any other conduct of any representative of the Department relating to the Contract shall be considered a waiver of sovereign immunity to suit.
 - vi) The submission, processing and resolution of the Contractor's claim is governed by the published rules adopted by the Department pursuant to Chapter 2260, Government Code, as currently effective, hereafter enacted or subsequently amended.
 - vii) Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Contractor, in whole or in part.

56. Indemnification and Hold Harmless.

The Contractor shall indemnify and hold harmless the Department, Department officers, agents, representatives, and employees from and against any and all claims or losses for physical damage to property or injury to persons resulting from negligence or misconduct on the part of the Contractor, the Contractor's agents, employees, representatives, volunteers or subcontractors. In the event of loss, damage, or destruction of any property due to the negligence or misconduct of the Contractor, the Contractor shall indemnify and pay full cost of repair, reconstruction, or replacement, at the discretion of the Department. Such cost shall be due and payable by the Contractor within ten (10) calendar days after the date of receipt of written notice from the Department of the amount due. The State of Texas, DFPS, and their respective employees, officers, agents, and representatives can neither agree to hold the Contractor harmless nor agree to indemnify the Contractor; and any provisions to the contrary are void.

- 57. Force Majeure.** Neither party shall be liable for any delay or failure to perform its obligations under this Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, tornadoes, hurricanes, earthquakes, elements of nature, or any other cause beyond the control of such party; provided the non-performing party is without fault in causing such default or delay, and such default or delay could not have been prevented by the non-performing party. In order to avoid the imposition of contract remedies

under this Contract in the event of such a default or delay, the Contractor must give written notice within three (3) calendar days of such default or delay. The Contractor waives this defense if the written notice is not given to the Department within the specified time frame.

58. **Copyrights and Use of Information.** The Contractor, in developing, copying, and disseminating reports or other information under this Contract, shall:
- A) Retain all rights to copyright, use, reproduce, and distribute any material written or produced by the Contractor that is the subject of this Contract. When the Contractor develops materials using funds from this Contract, the Contractor must grant the Department and the federal government a royalty-free, nonexclusive, and irrevocable license or right to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so for governmental purposes.
 - B) Defend any claim, suit, or proceeding brought against the State of Texas or the Department on the issue of infringement of any copyright by any product, or any product part, supplied by the Contractor to the Department under this Contract. The Contractor will pay, subject to limitations specified in this subsection, any final judgment entered against the State of Texas or the Department on this issue in any suit or proceeding defended by the Contractor. The Contractor will be relieved of this obligation if, within thirty (30) calendar days after the Department receives notice, the Department fails to notify the Contractor in writing of any claim, suit, or proceeding, and at the Contractor's expense, give the Contractor all information needed to defend any claim, suit, or proceeding subject to the jurisdiction of the Attorney General of Texas. The Contractor will report to the Department within thirty (30) calendar days and in reasonable written detail, each notice of claim of copyright infringement pertaining to this Contract of which the Contractor has knowledge.
59. **Section Headings.** Section headings are used in the Contract for descriptive purposes only and have no legal force or effect, but exist for ease of administration and identification.
60. **Exhibits.** The following documents are incorporated into this Contract:
- A) Form 1513, Disclosure of Ownership and Control Interest Statement, if applicable
 - B) Form 2031, Corporate Board of Directors Resolution, if applicable;
 - C) Form 2046, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contractors
 - D) Form 2047e, Certification Regarding Federal Lobbying
 - E) Forms 4732e/4732ae, Nongovernmental Contractor Certification, if applicable;
 - F) Form 4733, Contractor Assurances
 - G) Form 9003, Child Support Certification
 - H) Form 9007RCC, Internal Control Structure Questionnaire (ICSQ) for Residential Child Care
 - I) Form 9151ASD and/or SSD, Client Services HUB Subcontracting Plan
61. **List of Attachments.** The following documents are attached hereto and incorporated herein by this reference:
- Attachment A** - Child Placing Agencies - Foster Care Maintenance Payments; Daily Rate Schedule.
 - Attachment B** - Definitions
 - Attachment C** - Service Levels
 - Attachment D** - Intermittent Alternate Care
 - Attachment E** - Special Terms and Conditions
 - Attachment F** - Contract Performance Outcome Measure
62. **General Release.** The acceptance by the Contractor or its assignees of the final payment under this Contract, whether by voucher, judgment of any court of competent jurisdiction or any other administrative means, shall constitute and operate as a general release to the State from any and all claims of and liability to the Contractor arising out of the performance of this Contract.

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- 63. **Waiver.** Waiver by the Department of a breach of any term of this Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless and until the same shall be agreed to in writing by the Department or State as required and attached to the original Contract.
- 64. **All Legal Provisions Deemed Included.** It is the intent and understanding of the parties to this Contract that each and every provision of law required to be inserted in this Contract shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is to be deemed to be inserted herein, and if, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this Contract shall forthwith upon the application of either party be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.
- 65. **Severability.** If this Contract contains any unlawful provision not an essential part of the Contract and which shall not appear to have been a controlling or material inducement to the making thereof, the same shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Contract without affecting the binding force of the remainder.
- 66. **Supersession.** This amendment supersedes in its entirety the provisions of the Residential Child Care Contract between DFPS and the Contractor and having an effective date of September 1, 2005.
- 67. **Term.** This agreement shall be effective from September 1, 2006, through August 31, 2007.

For the faithful performance of the terms of this contract, the parties affix their signatures and bind themselves effective the **1st day of September, 2006**, and continuing through the _____ **day of _____, 2007**, subject to the availability of appropriated funds.

**Texas Department of Family
and Protective Services**

Contractor:

 Signature
 Printed Name: _____
 Printed Title: _____

 Signature
 Printed Name: _____
 Printed Title: _____

Date

Date

Residential Child Care Contract Attachment "A"

The following rates will be effective through the contract term:

	FY 2006 Rates *
Basic CPA	\$37.00
Basic Foster Family	\$20.56
Basic Facility	\$37.00
Moderate CPA	\$67.32
Moderate Foster Family	\$35.97
Moderate Facility	\$82.22
Specialized CPA	\$89.68
Specialized Foster Family	\$46.25
Specialized Facility	\$118.20
Intense CPA	\$164.45
Intense Foster Family	\$82.22
Intense Facility	\$207.62
Emergency Shelter	\$96.61

The amounts below are the minimum amounts that a child-placing agency must reimburse its foster families for clients receiving services under a contract with the Department.

	Minimum Daily Amount to be Reimbursed to a Foster Family
Basic	\$20.56
Moderate	\$35.97
Specialized	\$46.25
Intense	\$82.22

Residential Child Care Contract Attachment "B"

Residential Child Care Contract Glossary

This Attachment contains a list of Terms and their definitions as used in the Contract. In addition to the terms defined in this document, Attachment "C" contains a listing of terms used in that Attachment and in the Contract.

APPROPRIATE CLOTHING - For each child in care clothing provided by the Contractor that, at a minimum, is:

- A) In sufficient quantity such that there are an adequate number of the following: T-shirts, undershirts, underwear, bras, socks, shoes, pants, shirts, skirts, blouses, coats/jackets, sweaters, pajamas, shorts and other clothing necessary for a child to partake in daily activities;
- B) Gender and age-appropriate;
- C) Is proportionate to the child's size;
- D) In good condition, and is not worn-out with holes or tears (not intended by the manufacture to be part of the item of clothing); and
- E) Clean and washed on a regular basis.

BASIC LIVING SKILLS – Services provided by the Contractor to enable a child to develop and/or restore the skills necessary to care for oneself. Basic living skills includes, but is not limited to, grocery shopping, food planning and preparation, maintenance of living environment, laundry, personal hygiene, utilization of transportation systems, personal identification documents, personal finance, and budgeting.

BEHAVIORAL HEALTH SERVICES – Services for the treatment of mental, emotional, or chemical dependency disorders.

CAREGIVER - The person authorized by DFPS to care for a child, including the child's foster parent(s), relative(s), or 24 hour child care facility staff.

CASE WORKER – A DFPS employee who provides casework services to children in substitute care under the conservatorship of the State.

CHAIN OF COMMAND – In the event the Contractor is unable to communicate with the child's caseworker, the Department's chain of command should be used. The typical Department chain of command is as follows: Caseworker, Supervisor, Program Director, Program Administrator and District Administrator. The Department chain of command is identified by the district/region in which the caseworker is housed.

CHILD'S PLAN OF SERVICE – The Department's developed plan that addresses the services that will be provided to a foster child to meet each child's specific needs while in substitute care (aka: plan of service, child's plan, case plan).

CONNECTIONS – Relationships children have with extended family members, previous foster families, schools, communities, tribes/tribal customs, and religious/religions observances (www.acf.hhs.gov).

CONSERVATOR OF A CHILD – a court can appoint a person, licensed child-placing agency, or authorized agency as managing conservator of a child, which gives the conservator rights and duties regarding the child that are similar to those of a parent. Unless limited by the court order awarding conservatorship, the managing conservator has the specific rights and duties listed in Family Code §153.371. A

Residential Child Care Contract Attachment "B"

managing conservator may be appointed on a short term or temporary basis (generally referred to as temporary managing conservatorship or TMC) or on a longer term, indefinite basis (generally referred to as permanent managing conservatorship or PMC).

CONTRACTED COMPONENTS OF CARE - In addition to the requirements set forth in Attachment C, services documented in the child's plan of service and within the scope of the Contract's license, provided directly, or procured on behalf of the child. Components of care include, but not limited to the provision of routine 24-hour childcare, behavior counseling and supervision, educational and vocational activities, routine recreational activities, medical and dental care, travel, and activities that may require Contractors participation.

CONTRACTED CHILD CARE – 24-hour, child-care facilities and child-placing agencies (CPAs) that have a contract with DFPS, are monitored by DFPS Licensing for Minimum Standards, and are also monitored by the third-party contractor for compliance with the Service Level System. Contracted childcare includes residential treatment centers, basic child-care facilities, and CPAs. The Service Level System does not apply to emergency shelters, although they also have DFPS contracts. The Residential Contract Manager can also monitor these facilities.

CONTRACT PERIOD – The beginning date through the ending date specified in the term of the original contract including contract renewals and/or contract extensions.

EMERGENCY BEHAVIOR INTERVENTION - Interventions used in an emergency situation, including personal restraints, mechanical restraints, emergency medication, and seclusion.

EDUCATION PORTFOLIO - contains important school documents and is designed to follow ALL children to each placement. This allows for the review of the most current educational records and documentation by school officials, Residential Child Care Contractors, foster parents, kinship caregivers, and the youth themselves.

The contents of the Portfolio are: 1) School Enrollment documented: Birth certificate, Social Security card, Immunizations, and withdrawal notice from the last school; 2) Special education documented: Admission, Review & Dismissal team meeting notes, Individual Education Plan (IEP), Section 504 documents, Full Individual Evaluation and/or other diagnostic assessments; 3) Report Cards: Report cards, progress reports, and/or IEP progress reports; 4) Transcripts; 5) Standardized test result: TAKS/SDAA/LDAA; 6) referrals, notices, or correspondences; 7) Pictures; 8) Miscellaneous: anything school related and not mentioned.

EMERGENCY SHELTER – a 24-hour residential group-care facility that DFPS Office of Child-Care Licensing (CCL) has licensed to provide emergency shelter for children. DFPS Rules, 40 TAC §700.1321(d)(1).

FACILITY – includes child-care facilities and child-placing agencies. 42 HRC 42.002 (13).

FAMILY PRESERVATION – protective services provided to a family whose children are not in a court-ordered placement. CPS may provide family-preservation services to any family that needs CPS assistance to reduce the likelihood that a child in the family will be abused or neglected in the foreseeable future. DFPS Rules, TAC §700.702.

FAMILY REUNIFICATION – CPS provides reunification support services to families whose children are returning home at the end of court-ordered placements in substitute care. The purpose of the services

Residential Child Care Contract Attachment "B"

is to provide support to the family and the child during the child's transition from living in substitute care to living at home. DFPS Rules, TAC §700.703.

FOSTER CARE MAINTENANCE PAYMENTS – means

(A) payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operations of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) In cases where –

- (i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and
- (ii) payments described in subsection (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subsection (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subsection with respect to such son or daughter.

42 USC, Chapter 7, Section 675 (4).

FOSTER PARENT – a person receiving foster care maintenance payments from the CPA. This term does not apply to Contractor staff from other programs and respite providers. This term is specific to Child Placing Agency programs.

GROOMING PRODUCTS – Items / products provided to the a child to met their personal and ethnic needs and includes but is not limited to, haircuts, hair care products, hair care accessories, sensitive skin products, hypoallergenic products, and necessary headdress, where applicable.

INDIVIDUAL CULTURAL COMPETENCE - The knowledge, skill or attribute one has relative to cultures other than his/her own, that is observable in the consistent patterns of an individual's behavior, interaction and work related activities over time, which contributes to the ability to effectively meet the needs of children and families receiving services.

KINSHIP (RELATIVE) CAREGIVERS – unlicensed caregivers who the court has approved for a child's placement because they are related to the child by blood, marriage, or adoption; or have a significant, long-standing relationship with the child's family.

MEDICAL CARE – The prevention, treatment, and management of illness and the preservation of mental and physical well being through the services offered by the medical and allied Health professions.

MEDICAL HOME - A PCP or specialty care Provider, if applicable, who has accepted the responsibility for providing accessible, continuous, comprehensive and coordinated care to the person in DFPS conservatorship.

MINIMUM STANDARDS – DFPS rules which are the minimum requirements for permit holders and which are enforced by DFPS to protect the health, safety, and well being of children. DFPS provides publications that contain the minimum standards and guidelines for compliance for each type of operation except for listed family homes. Listed family homes do not have minimum standards.

Residential Child Care Contract Attachment "B"

MONITORING – Monitoring is a systematic examination of the financial statements, records, and procedures of a Contractor. It involves many of the techniques and procedures used in auditing, but differs both in scope and purpose. Functioning properly, the monitoring process serves as an early warning system, detecting potential problem areas before they become severe and providing plans for corrective action.

NON-BEHAVIORAL CRISES – Situations that arise within a therapeutic milieu that constitutes an emergency event or has a significant negative impact in the therapeutic setting i.e. serious injury to a child in the client population that is known to other members of the client population, the death of a staff person or severe thunderstorm.

OFFICE OF MANAGEMENT AND BUDGET (OMB) – Federal Office of Management and Budget. An entity receiving federal funds is required to comply with the provisions contained in the Circulars issued by this office.

ORGANIZATIONAL CULTURAL COMPETENCE - a set of values, behaviors, attitudes, and practices within a system, organization, program or among individuals, which enables staff and volunteers to work effectively with children and families from other cultures. Furthermore, it refers to the staff's ability to honor and respect the beliefs, language, interpersonal styles, and behaviors of individuals and families receiving services.

PERMANENCY PLANNING – the identification of services for a child (and usually to the child's family), the specification of the steps to be taken and the time frames for taking those steps so as to achieve the following goals:

- (A) A safe and permanent living situation;
- (B) A permanent living situation for the child;
- (C) A committed family for the child;
- (D) An enduring and nurturing family relationship that can meet the child's needs;
- (E) A sense of security for the child; and
- (F) A legal status for the child that protects the rights of the child.

DFPS Rules, 40 TAC §700.1201 and CPS policy

PERMANENCY PLANNING GOAL – includes, but is not limited to, one of the following:

1. Family preservation
2. Family reunification
3. Alternative family placement with long-term commitment consisting of:
 - (A) Adoption and care by a relative;
 - (B) Permanent conservatorship and care by a relative
 - (C) Adoption and care by an unrelated family;
 - (D) Permanent conservatorship and care by an unrelated family;
 - (E) Care by a foster family with DFPS having permanent Conservatorship
 - (F) Care in some other family arrangement with DFPS having permanent conservatorship
4. Another planned living arrangement with support of a family consisting of:
 - (A) Preparation for independent living, for youth who are at least 16 years old and have no developmental disability; or

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- (B) Preparation for adult living with community assistance in the most integrated setting, for youth who are at least 18 years old and who have a developmental disability.

DFPS Rules, 40 TAC §700.1203

PERMIT – A license, certification, registration, listing or any other written authorization granted by licensing to operate a child-care facility, child-placing agency, listed family home, or maternity home. This also includes a child-care administrator's license. DFPS Rules, 40 TAC, §745.21(28).

PERSONAL ITEMS – All objects either in possession of the child upon admission or given as a gift which includes, but is not limited to, medication, toys, money, gift cards, allowances, televisions, radios, and CDs.

QUALIFIED BEHAVIORAL HEALTH CARE PROFESSIONAL– An appropriately credentialed and licensed individual who contracts with DFPS or its Contractors to provide behavioral health services. The Contractor and staff providing direct client services shall be appropriately licensed by the State of Texas in one of the following professions to provide the services specified in the contract. Required qualifications and experience of provider who contracts with DFPS to serve CPS clients:

- (A) Licensed Psychiatrist, M.D.
- (B) Licensed Psychologist
- (C) Licensed Clinical Social Worker (LCSW)
- (D) Licensed Professional Counselor
- (E) Licensed Marriage and Family Therapist

All treatment providers, except medical treatment providers, must have a minimum of two years of experience providing services to families and children involved in abuse/neglect situations, issues closely related to abuse/neglect, or in situations involving separation/attachment issues. Providers who administer and interpret psychological testing must have at least one year of counseling and testing experience.

Persons delivering the therapeutic/counseling services under this contact must have a master's degree in the behavioral sciences, possess appropriate experience serving specialized populations and be licensed, as required by Texas state law, as appropriate to the services to be delivered. All providers and their staff providing direct client services must be appropriately licensed by the State of Texas to provide the services and perform the acts specified in the contract. Any unlicensed individual providing direct client services must be in compliance with all state laws and regulations governing the services provided.

RESIDENTIAL CHILD CARE – The care, custody, supervision, assessment, training, education, or treatment of an unrelated child or children up to the age of 18 years for 24 hours a day that occurs in a place other than the child's own home. Residential childcare also includes care provided in maternity homes and child-placing agencies. DFPS Rules, 40 TAC, §745.35.

RESIDENTIAL CONTRACT MANAGER – DFPS staff responsible for the procurement, management and monitoring of residential child care contracts assigned to them.

RESIDENTIAL TREATMENT CENTER (RTC) – A licensed residential child-care operation that provides care and treatment for 13 or more emotionally disturbed children up to the age of 18 years. DFPS Rules, 40 TAC, §745.37(3)(E).

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SERIOUS INCIDENT – Any non-routine occurrence that has an impact on the care, supervision, or treatment of a child or children. This includes, but is not limited to, suicide attempts, injuries requiring medical treatment, runaways, commission of a crime, and allegations of abuse or neglect or abusive treatment. DFPS TAC §700.32(2).

SERVICE LEVELS – An authorized structure that categorizes client needs into a graduated scale from minimal intervention needed to severe intervention needed. This structure is found in the rules of the Texas Department of Family and Protective Services at DFPS Rules, 40 TAC §700.2301 through §700.2407.

SERVICE LEVEL MONITOR – The contractor engaged by the Department to monitor the Contractor's performance and documentation related to the Service Level requirements set forth in Attachment C.

SERVICE PLAN – The Contractor's developed plan that addresses the services that will be provided to a foster child to meet each child's specific needs while placed in the Contractor's care (aka: treatment plan, facility plan, discharge plan).

SOCIAL SKILLS - Services provided by the Contractor to enable a child to develop skills necessary to function in the community. Social skills include, but are not limited to, the ability to communicate with others, knowledge of community resources, scheduling and attending medical appointments, job interviewing, cultural competency, and the ability to interact in various social situations.

STAFFING – A consultation between professionals to decide on a course of action regarding an operation or other regulation activities. In addition to professionals, staffings may also include invited family members and extended support systems such as occur in family group decision-making conferences, circles of support or permanency planning team meetings. Staffings can include licensing representatives, supervisors, attorneys, or other professionals.

SUBCONTRACTOR –A person or entity that delivers part or all of the program services of the primary contractor and is not an employee of the primary contractor. There is an agreement between the two persons and/or two entities whereby the primary contractor authorizes the person or entity (subcontractor) to deliver the service. There does not have to be any payment for services for the relationship to be considered a subcontract. For purposes of residential contracts, services performed by subcontractors include behavioral health services, foster care payments by Child Placing Agencies, direct service delivery, and management services. Examples of subcontracted management services could include nutritional or case management services. Subcontracts that provide support and ancillary services such as accounting/billing/payroll services or janitorial services are not required to have prior approval or a waiver of the right of approval in writing by the Department.

SUBSTITUTE CARE

- (A) The residential care and support provided to a child in the Department's managing conservatorship who has been placed in a living situation outside the child's own home in order to protect the child from abuse or neglect; and
- (B) The supportive and behavioral health services provided to the child, the child's parents, and the child's substitute caregiver until the child can either:
 - i. Return home safely; or
 - ii. Begin to live in another situation without continuing DFPS supervision.

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THERAPEUTIC CARE – consists of structured, supportive foster care and behavioral health services provided to children with professionally identified emotional or behavioral problems by foster family-homes, foster group-homes, and residential group-care facilities that have been licensed or verified to provide behavioral health services to children in their care.

UNIT OF SERVICE – A single continuous period of up to 24-hours, beginning at midnight, in which at least one or more components of care, as described in section 7 of the Contract, is provided to a child.

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Service Level Descriptions

§700.2301. What is the description of the Basic Service Level?

The Basic Service Level consists of a supportive setting, preferably in a family, that is designed to maintain or improve the child's functioning, including:

- (1) routine guidance and supervision to ensure the child's safety and sense of security;
- (2) affection, reassurance, and involvement in activities appropriate to the child's age and development to promote the child's well-being;
- (3) contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
- (4) access to therapeutic, habilitative, and medical intervention and guidance from professionals or paraprofessionals, on an as-needed basis, to help the child maintain functioning appropriate to the child's age and development.

§700.2303. What are the characteristics of a child that needs the Basic Service Level?

A child needing basic services is capable of responding to limit-setting or other interventions. The children needing basic services may include:

- (1) a child whose characteristics include one or more of the following:
 - (A) transient difficulties and occasional misbehavior;
 - (B) acting out in response to stress, but episodes of acting out are brief; and
 - (C) behavior that is minimally disturbing to others, but the behavior is considered typical for the child's age and can be corrected.
- (2) a child with developmental delays or mental retardation whose characteristics include minor to moderate difficulties with conceptual, social, and practical adaptive skills.

§700.2321. What is the description of the Moderate Service Level?

- (a) The Moderate Service Level consists of a structured supportive setting, preferably in a family, in which most activities are designed to improve the child's functioning including:
 - (1) more than routine guidance and supervision to ensure the child's safety and sense of security;
 - (2) affection, reassurance, and involvement in structured activities appropriate to the child's age and development to promote the child's well-being;
 - (3) contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
 - (4) access to therapeutic, habilitative, and medical intervention and guidance from professionals or paraprofessionals to help the child attain or maintain functioning appropriate to the child's age and development.
- (b) In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs may require intermittent interventions from a skilled caregiver who has demonstrated competence.

§700.2323. What are the characteristics of a child who needs the Moderate Service Level?

A child needing moderate services has problems in one or more areas of functioning. The children needing moderate services may include:

- (1) a child whose characteristics include one or more of the following:
 - (A) frequent non-violent, anti-social acts;
 - (B) occasional physical aggression;
 - (C) minor self-injurious actions; and
 - (D) difficulties that present a moderate risk of harm to self or others.

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- (2) a child who abuses alcohol, drugs, or other conscious-altering substances whose characteristics include one or more of the following:
 - (A) substance abuse to the extent or frequency that the child is at-risk of substantial problems; and
 - (B) a historical diagnosis of substance abuse or dependency with a need for regular community support through groups or similar interventions.
- (3) a child with developmental delays or mental retardation whose characteristics include:
 - (A) moderate to substantial difficulties with conceptual, social, and practical adaptive skills to include daily living and self-care; and
 - (B) moderate impairment in communication, cognition, or expressions of affect.
- (4) a child with primary medical or habilitative needs, whose characteristics include one or more of the following:
 - (A) occasional exacerbations or intermittent interventions in relation to the diagnosed medical condition;
 - (B) limited daily living and self-care skills;
 - (C) ambulatory with assistance; and
 - (D) daily access to on-call, skilled caregivers with demonstrated competency.

§700.2341. What is the description of the Specialized Service Level?

- (a) The Specialized Service Level consists of a treatment setting, preferably in a family, in which caregivers have specialized training to provide therapeutic, habilitative, and medical support and interventions including:
 - (1) 24-hour supervision to ensure the child's safety and sense of security, which includes close monitoring and increased limit setting;
 - (2) affection, reassurance, and involvement in therapeutic activities appropriate to the child's age and development to promote the child's well-being;
 - (3) contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
 - (4) therapeutic, habilitative, and medical intervention and guidance that is regularly scheduled and professionally designed and supervised to help the child attain functioning appropriate to the child's age and development.
- (b) In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs may require regular interventions from a caregiver who has demonstrated competence.

700.2343 What are the characteristics of a child that needs the Specialized Service Level?

A child needing specialized services has severe problems in one or more areas of functioning. The children needing specialized services may include:

- (1) a child whose characteristics include one or more of the following:
 - (A) unpredictable non-violent, anti-social acts;
 - (B) frequent or unpredictable physical aggression;
 - (C) being markedly withdrawn and isolated;
 - (D) major self-injurious actions to include recent suicide attempts; and
 - (E) difficulties that present a significant risk of harm to self or others.
- (2) a child who abuses alcohol, drugs, or other conscious-altering substances whose characteristics include one or more of the following:
 - (A) severe impairment because of the substance abuse; and
 - (B) a primary diagnosis of substance abuse or dependency.
- (3) a child with developmental delays or mental retardation whose characteristics include one or more of the following:

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- (A) severely impaired conceptual, social, and practical adaptive skills to include daily living and self-care;
 - (B) severe impairment in communication, cognition, or expressions of affect;
 - (C) lack of motivation or the inability to complete self-care activities or participate in social activities;
 - (D) inability to respond appropriately to an emergency; and
 - (E) multiple physical disabilities including sensory impairments.
- (4) a child with primary medical or habilitative needs whose characteristics include one or more of the following:
- (A) regular or frequent exacerbations or interventions in relation to the diagnosed medical condition;
 - (B) severely limited daily living and self-care skills;
 - (C) non-ambulatory or confined to a bed; and
 - (D) constant access to on-site, medically skilled caregivers with demonstrated competencies in the interventions needed by children in their care.

700.2361 What is the description of the Intense Service Level?

- (a) The Intense Service Level consists of a high degree of structure, preferably in a family, to limit the child's access to environments as necessary to protect the child. The caregivers have specialized training to provide intense therapeutic and habilitative supports and interventions with limited outside access, including:
- (1) 24-hour supervision to ensure the child's safety and sense of security, which includes frequent one-to-one monitoring with the ability to provide immediate on-site response.
 - (2) affection, reassurance, and involvement in therapeutic activities appropriate to the child's age and development to promote the child's well-being;
 - (3) contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child, to maintain a sense of identity and culture;
 - (4) therapeutic, habilitative, and medical intervention and guidance that is frequently scheduled and professionally designed and supervised to help the child attain functioning more appropriate to the child's age and development; and
 - (5) consistent and frequent attention, direction, and assistance to help the child attain stabilization and connect appropriately with the child's environment.
- (b) In addition to the description in subsection (a) of this section, a child with developmental delays or mental retardation needs professionally directed, designed and monitored interventions to enhance mobility, communication, sensory, motor, and cognitive development, and self-help skills.
- (c) In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs requires frequent and consistent interventions. The child may be dependent on people or technology for accommodation and require interventions designed, monitored, or approved by an appropriately constituted interdisciplinary team.

700.2363 What are the characteristics of a child that needs the Intense Service Level?

A child needing intense services has severe problems in one or more areas of functioning that present an imminent and critical danger of harm to self or others. The children needing intense services may include:

- (1) a child whose characteristics include one or more of the following:
 - (A) extreme physical aggression that causes harm;
 - (B) recurring major self-injurious actions to include serious suicide attempts;
 - (C) other difficulties that present a critical risk of harm to self or others; and
 - (D) severely impaired reality testing, communication skills, cognitive, affect, or personal hygiene.

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- (2) a child who abuses alcohol, drugs, or other conscious-altering substances whose characteristics include a primary diagnosis of substance dependency in addition to being extremely aggressive or self-destructive to the point of causing harm.
- (3) a child with developmental delays or mental retardation whose characteristics include one or more of the following:
 - (A) impairments so severe in conceptual, social, and practical adaptive skills that the child's ability to actively participate in the program is limited and requires constant one-to-one supervision for the safety of self or others; and
 - (B) a consistent inability to cooperate in self-care while requiring constant one-to-one supervision for the safety of self or others.
- (4) a child with primary medical or habilitative needs that present an imminent and critical medical risk whose characteristics include one or more of the following:
 - (A) frequent acute exacerbations and chronic, intensive interventions in relation to the diagnosed medical condition;
 - (B) inability to perform daily living or self-care skills; and
 - (C) 24-hour on-site, medical supervision to sustain life support.

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100 Supervision

§B100 What type of supervision is provided to a child at the Basic Service Level?

- B100.01** The caregiver provides a supportive setting, preferably a family that is designed to maintain or improve the child's functioning by establishing clear rules appropriate to the developmental and functional levels of the child.
- B100.02** The caregiver establishes a clear system of rewards and consequences.
- B100.03** The caregiver supervises a child through guidance to ensure the child's safety and sense of security.

§M100 What type of supervision is provided to a child at the Moderate Service Level?

The caregiver provides supervision that is required at the Basic Service Level

- M100.01** The caregiver provides more than routine supervision with additional structure and support, preferably in a family-like setting. The supervision should include structured daily routines with limit-setting.
- M100.02** For a child with developmental delays, mental retardation, primary medical or habilitative needs, the caregiver provides regular daily supervision.
- M100.03** For a child with primary medical or habilitative needs the caregiver provides, as appropriate, intermittent interventions which typically consist of verbal guidance, assistance, and monitoring from a caregiver.

§S100 What type of supervision is provided to a child at the Specialized Service Level?

In addition to the supervision required at the Moderate Service Level:

- S100.01** The provider has a written policy statement describing how supervision is provided and explaining how the program is structured to stabilize or improve the child's functioning.
- S100.02** The provider has specialized training to provide therapeutic and habilitative support and interventions in a treatment setting.
- S100.03** The provider has an adequate number of caregivers available at all time to meet a child's needs, taking into account the child's age, medical, physical and mental condition, and other factors that affect the amount of supervision required.
- S100.04** The provider has written plans for the direct, continuous observation of a child who presents a significant risk of harm to self or others.
- S100.05** For a child with developmental delays or mental retardation the caregiver provides close daily supervision.
- S100.06** For a child with primary medical or habilitative needs the caregiver provides constant supervision and, as appropriate, extensive intervention which typically consists of physical intervention, assistance, and monitoring from a caregiver.

§I100 What type of supervision is provided to a child at the Intense Service Level?

In addition to the supervision required at the Specialized Service Level;

- I100.01** The caregiver has specialized training to provide intense therapeutic and habilitative support and interventions in a highly structured treatment setting with little outside access.
- I100.02** An adequate number of caregivers are available to provide twenty-four hour supervision.
- I100.03** For a child with developmental delays or mental retardation the caregiver provides twenty-four hour supervision.
- I100.04** For a child with primary medical or habilitative needs the caregiver provides twenty-four hour close supervision and, as appropriate, frequent and continuous interventions which typically consist of hands-on physical intervention, assistance, and monitoring from a caregiver.

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101 Child-To-Caregiver Ratio

§B101 What child-to-caregiver ratio must be provided for a child at the Basic Service Level?

The child-to-caregiver ratio must meet the applicable licensing standards.

§M101 What child-to-caregiver ratio must be provided for a child at the Moderate Service Level?

The child-to-caregiver ratio must meet the applicable licensing standards.

§S101 What child-to-caregiver ratio must be provided for a child at the Specialized Service Level?

The child-to-caregiver ratio must meet the applicable licensing standards.

S101.01 There must be a written staffing plan documenting the ability to provide awake caregivers throughout the night whenever necessary to meet the needs of a particular child.

§I101 What child-to-caregiver ratio must be provided for a child at the Intense Service Level?

- I101.01** During all waking hours the caregiver's child-to-caregiver ratio must be no more than 5 to 1.
- I101.02** During sleep hours the caregiver's child-to-caregiver ratio must meet the applicable licensing standards.
- I101.03** There are enough caregivers, to provide 24-hour supervision to ensure the child's safety and sense of security, which includes frequent one-to-one monitoring with the ability to provide immediate on-site response.
- I101.04** The staffing patterns and assignments are documented in writing. The documentation includes the child-to-caregiver ratios, hours of coverage, and plans for providing backup caregivers in emergencies.
- I101.05** The written staffing plan documents the ability to provide 1 to 1 child to caregiver ratio for twenty-four hours whenever necessary to meet the needs of a particular child.

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200 – Medical

§B200 What medical and dental services are provided to a child at the Basic Service Level?

- B200.01** The caregiver arranges for medical and dental services as determined by an agreement between the caregiver and FPS. The medical and dental services include routine services, annual check-ups, and services that are medically necessary.
- B200.02** The caregiver documents in the child's record that the child received these services.
- B200.03** The caregiver ensures that all the medications the child needs are administered as prescribed by the physician.

§M200 What medical and dental services are provided to a child at the Moderate Service Level?

The caregiver arranges for or ensures the same medical and dental services that are required at the Basic Service Level.:

- M200.01** For a child, receiving psychotropic medication, the child's condition must be monitored by a physician, as often as clinically necessary and appropriate.
- M200.02** For a child, with developmental disabilities, mental retardation, primary medical or habilitative needs, the caregiver arranges, as appropriate, for licensed nursing services, assistance with mobility, and routine adjustment or replacement of medical equipment.

§S200 What medical and dental services are provided to a child at the Specialized Service Level?

The provider arranges for or ensures the same medical and dental services that are required at the Moderate Service Level.

- S200.01** The provider has a written plan, agreement, or contract with medical personnel to provide routine medical, nursing and psychiatric services based on the needs of the child as identified in the child's service plan. The plan or agreement for medical, nursing and psychiatric services shall include provisions for timely access to services in emergencies. The plan or agreement must also be sufficient to ensure appropriate monitoring of chronic but stable physical illnesses.
- S200.02** For a child with developmental disabilities, mental retardation, primary medical or habilitative needs the provider also arranges, as appropriate, for: consistent and frequent medical attention; a skilled caregiver to provide medical assistance; an on-call nurse to be available; assistance with mobility; and administering of life-support medications and treatments.

§I200 What medical and dental services are provided to a child at the Intense Service Level?

The provider arranges for or ensures the same medical and dental services that are required at the Specialized Service Level.

- I200.01** In addition, the provider has a written plan, agreement, or contract with medical personnel to provide twenty-four hour, on-call medical, nursing and psychiatric services based on the needs of the child as identified in the child's service plan. The plan or agreement for medical, nursing and psychiatric services shall include provisions for timely access to services in emergencies. The plan or agreement must also be sufficient to ensure appropriate monitoring of chronic illnesses.
- I200.02** For a child with developmental disabilities, mental retardation, primary medical or habilitative needs, the provider also arranges, as appropriate, for twenty-four hour medical or nursing supervision; 24 hour availability of nursing, medical, and psychiatric services; and 1 to 1 supervision during the provision of medical and dental services.

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300-Recreation

§B300 What recreational and leisure-time services are provided to a child at the Basic Service Level?

- B300.01** The caregiver ensures that opportunities to participate in community activities, such as school sports or other extracurricular school activities, church activities, or local social events, are available to the child.
- B300.02** The caregiver organizes family activities that identify, recognize and reinforce the support that is available to the child.

§M300 What recreational and leisure-time services are provided to a child at the Moderate Service Level?

In addition to the recreation and leisure-time services required at the Basic Service Level also:

- M300.01** The caregiver arranges and supervises structured daily routines for the child that includes recreational and leisure-time activities.
- M300.02** The caregiver ensures the activities are designed to meet the child's therapeutic, developmental, and medical needs.
- M300.03** The caregiver documents the daily routine and the recreational and leisure-time activities the child participated in.
- M300.04** The caregiver allows enough flexibility in the daily routine and the activities for the child to manage his time based on his individual goals.
- M300.05** The caregiver provides activities that are modified to meet any restrictions or limitations, due to a child's developmental disability, mental retardation, or medical condition.

§S300 What recreational and leisure-time services are provided to a child at the Specialized Service Level?

In addition to the recreation and leisure time-services required at the Moderate Service Level:

- S300.01** The structured daily routine and the recreational and leisure-time activities are designed to address the needs of the children in care.
- S300.02** The therapeutic value of each activity based on the child's service plan is documented.
- S300.03** If the child has primary medical or habilitative needs, recreational and leisure-time activities may require medical and physical supports.

§I300 What recreational and leisure-time services are provided to a child at the Intense Service Level?

In addition to the recreation and leisure-time services required at the Specialized Service Level,

- I300.01** An individualized service plan is designed by an interdisciplinary team of professionals who are qualified to address the child's individual needs. The individual recreation plan must specify the structured daily routine and the recreational and leisure-time activities and must be included in the child's service plan.
- I300.02** If the child has primary medical or habilitative needs, the recreational and leisure-time activities may require 1-to-1 medical and physical supports.

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400 – Education

§B400 What educational services are provided to a child at the Basic Service Level?

- B400.01** Access to a free and appropriate education within the limits of state and federal law is arranged and ensured for each child.
- B400.02** Reasonable support and assistance will be provided for each child who qualifies as a special education student under the Individual with Disabilities Education Act to ensure that the appropriate educational and related services, including Early Childhood Intervention, are available in the least restrictive environment appropriate. This may include the necessity to participate in the Admission, Review and Dismissal Committee to develop the Individual Education Plan explaining how the student will be educated.

§B401 What type of school does a child need at the Basic, Moderate, Specialized and Intense Service Levels?

A child needs:

- B401.01** a public school accredited by the Texas Education Agency (TEA);
- B401.02** a special "nonpublic-school" with an educational program approved by TEA;
- B401.03** a private or other nonpublic school accredited under the requirements of the Texas Private School Accreditation Commission (TPSAC) a private or other nonpublic school that has applied for accreditation under the requirements of TPSAC.

§M400 What educational services are provided to a child at the Moderate Service Level?

In addition to the educational services required at the Basic Service Level,

- M400.01** Additional structure and educational support is provided.

§S400 What educational services are provided to a child at the Specialized Service Level?

In addition to the educational services required at the Moderate Service Level.

- S400.01** The caregiver must coordinate the child's educational and related services with the child's service plan, and document their consistency.
- S400.02** The caregiver must designate a liaison with the child's school.
- S400.03** The caregiver must document the liaison's involvement in the child's schooling.
- S400.04** The caregiver must document a written description of the relationship between the provider and the school district; or a written agreement between the provider and the school district outlining the responsibilities of each party; and including procedures for resolving conflicts.

§I400 What educational services are provided to a child at the Intense Service Level?

In addition to the educational services required at the Specialized Service Level,

- I400.01** One to one support, as appropriate, is provided by caregivers knowledgeable and trained to deal with the child's special needs and to encourage the child to participate in the education process.

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500 - Casework and Support Services

§B500 What casework and support services are provided at the Basic Service Level?

Services that are designed to maintain and improve the child's functioning are provided in a family setting.

- B500.01** Assistance and support in developing or maintaining social skills appropriate to the child's age and development is provided.
- B500.02** Affection, reassurance and involvement in activities appropriate to the child's age and development to promote the child's well-being must be provided.
- B500.03** Support in helping the child adjust to the current placement must be provided.
- B500.04** Access to therapeutic, habilitative and medical support addressing the child's particular needs, as specified in the child's service plan must be provided. If therapeutic habilitative and medical support services are provided, they must be documented.

§M500 What casework and support services are provided at the Moderate Service Level?

In addition to the casework and support services that are required at the Basic Service Level, additional structure and support is provided in a family-like setting.

- M500.01** The provider also ensures that all caregivers receive support and direction from someone who is qualified to supervise their functioning as a caregiver.
- M500.02** The provider also ensures completion of a diagnostic assessment on each child within 30 days of admission. The assessment must address the child's strengths and needs in the following areas: physical; psychological; behavioral; family; social; and educational.
- M500.03** The provider ensures provision of intermittent therapeutic, habilitative and medical interventions in an environment designed to help the child attain or maintain functioning appropriate to the child's age and development.
- M500.04** The provider also ensures provision of individual, group, and family therapy for those children who need therapy by professional therapists or counselors or paraprofessional staff under the direct supervision of professional therapists or counselors.
- M500.05** The provider also ensures documentation of the provider's philosophy and program model governing therapeutic interventions and treatments and ensures that the therapeutic or habilitative program addresses the child's individual needs.
- M500.06** The provider ensures a written schedule of structured daily routines that is consistent with the provider's programs of therapeutic support.
- M500.07** If the child qualifies for substance abuse services, the provider arranges for a substance abuse assessment and intensive therapeutic interventions. The therapeutic interventions may be provided on an outpatient basis and may include individual, family, or group therapy.

§S500 What casework and support services are provided at the Specialized Service Level?

In addition to the casework and support services that is required at the Moderate Service Level,

- S500.01** Therapeutic, habilitative and medical interventions that are regularly scheduled, and professionally designed and supervised to help the child attain functioning appropriate to the child's age and development must be provided.
- S500.02** Individual, group, and family therapy by professional therapists or counselors for those children who need therapy, must be provided.
- S500.03** If the child qualifies for substance abuse services, the provider arranges for the child to participate in a substance abuse treatment program. The program may be either residential or nonresidential.

§I500 What casework and support services are provided at the Intense Service Level?

In addition to the casework and support services required at the Specialized Service Level,

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1500.01 The child is provided with frequent and intense therapeutic, habilitative and medical interventions that are individually designed to stabilize the child's condition.

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501 - Service Plans

§B501 What are the service plan requirements at the Basic Service Level?

- B501.01** A service plan must be developed within 30 calendar days of the child's admission.
- B501.02** The service plan must be based on the child's plan for permanency.
- B501.03** The service plan must identify strengths and document strategies to address the child's medical and dental needs, developmental, educational and vocational needs, including life skills appropriate to the child's age and development, family contact needs; social needs; and emotional needs.
- B501.04** The caregiver and the child, as appropriate, actively participate in the development, implementation, and periodic review of the service plan.
- B501.05** The provider must periodically review service plans according to the appropriate licensing standard.

§M501 What are the service plan requirements at the Moderate Service Level?

In addition to the service plan requirements at the Basic Service Level,

- M501.01** The provider must have a case manager to coordinate implementation of the service plan.
- M501.02** The provider must develop a service plan based on the diagnostic needs assessment for each child within 30 calendar days of the child's admission. This plan must include:
- (A) an estimate of the length of time the child will remain in care;
 - (B) a description of the goals of service;
 - (C) specific instructions for caregivers;
 - (D) a transition plan; and
 - (E) documentation of:
 - (i) the plan having been shared with the child and the child's parents or managing conservator; and
 - (ii) the child's care to date.
- M501.03** The provider must, when reviewing a service plan:
- (A) evaluate the services to date that have been provided to the child in each domain or function; and
 - (B) identify any additional need that has arisen since the previous service plan was developed.

§S501 What are the service plan requirements at the Specialized Service Level?

In addition to the service plan requirements at the Moderate Service Level,

- S501.01** An initial service plan for each child is developed within 72 hours of the child's admission.
- S501.02** The diagnostic needs assessment and service plan for each child are developed by an interdisciplinary team or a full-time staff member with three years of experience in treating children with similar characteristics who has a master's degree in a mental health field from an accredited college or university and is licensed as a therapist or counselor or has a professional medical license.

§I501 What are the service plan requirements at the Intense Service Level?

In addition to the service plan requirement at the Specialized Service Level, the provider must expand the service plan to cover all of the child's waking hours and include:

- I501.01** There must be a description of the emotional, behavioral, and physical conditions that require Intense services.
- I 501.02** a description of the emotional, behavioral, and physical conditions the child must achieve and maintain to be assigned to a lower Service Level.

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- 1501.03** a description of the special treatment program and other services and activities that are planned to help **the child achieve and maintain a condition allowing a lower Service Level.**
- 1501.04** criteria for re-evaluating the child's condition after 90 days and deciding whether to continue the placement at the Intense Service Level; continue the placement at a lower Service Level; transfer the child to a less restrictive setting; or refer the child to an inpatient hospital.
- 1501.05** The provider must ensure that an interdisciplinary team of professionals develop, review, and supervise each child's service plan.

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502 Training

§B502 What are the training requirements at the Basic Care Level?

B502.01 Each family unit must receive at least 20 hours of training every year to help them understand the needs and characteristics of children in care provide the care and emotional support that children need and appropriately manage children's behavior.

Note: First-aid and cardiopulmonary-resuscitation training cannot be counted toward meeting this annual training requirement. However, hours earned renewing First-aid and cardiopulmonary resuscitation may be counted toward the annual requirement.

§M502 What are the training requirements at the Moderate Service Level?

In addition to the training requirements at the Basic Service Level,

M502.01 Each caregiver must receive pre-service training in areas appropriate to the needs and characteristics of children in care.

M502.02 The number of hours of annual training required at the Moderate Service Level is 30 hours per caregiver. These hours of training must help the caregiver understand the provider's therapeutic and habilitative treatment modalities service programming and behavior management programs.

M502.03 All caregivers who administer psychotropic medications must receive training on psychotropic medications.

M502.04 Training on psychotropic medication must be conducted by a licensed physician, a registered nurse, or a pharmacist.

M502.05 The trainer assesses each participant, after the psychotropic medication training, to ensure that the participant has learned the course content.

M502.06 The training course provided to caregivers identification of the psychotropic medications; basic pharmacology (the actions and side effects of, and possible adverse reactions to, various medications); techniques and methods of administering medications; and related policies and procedures.

Note: The training received on psychotropic medication may be counted toward the annual training requirement. A provider will be exempt from this training requirement if the provider has a written policy statement specifying that the provider does not accept or maintain children on psychotropic medications.

§S502 What are the training requirements at the Specialized Service Level?

In addition to the training requirements at the Moderate Service Level,

S502.01 New caregivers without previous experience in a residential childcare may not be assigned sole responsibility for any child until the new caregiver has been supervised for at least 40 hours while conducting direct child-care duties. An experienced caregiver must be physically available to each new caregiver at all times, until the new caregiver acquires the supervised experience. The provider must document the supervised child-care experience of every caregiver who provides direct care to children.

S502.02 All caregivers, except caregivers in foster homes verified by child-placing agencies, must receive 50 hours of training each year.

S502.03 Caregivers in foster homes verified by child-placing agencies must meet the following requirements: for homes with two or more caregivers, each caregiver must receive at least 30 hours of training; OR for homes with one caregiver, the caregiver must receive at least 50 hours of training.

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§503 Personnel

§B503 What are the personnel requirements at the Basic Service Level?

Providers must ensure that all caregivers and staff members meet all appropriate licensing and contract requirements.

§M503 What are the personnel requirements at the Moderate Service Level?

In addition to the personnel requirements at the Basic Service Level, the provider must also meet the following requirements:

- M503.01** The staff includes at least one case manager.
- M503.02** The casework and clinical supervisory staff have at least one year of experience in providing services to children who have been removed from their homes.
- M503.03** Each staff member with primary administrative and clinical responsibility for managing the therapeutic interventions and programs:
 - (A) is a psychiatrist; or
 - (B) is a psychologist; or
 - (C) has a master's degree in social work or another field of human services, and is an appropriately licensed and qualified paraprofessional or professional under the program model governing the provider's therapeutic interventions and treatments; or
 - (D) has a bachelor's degree in social work or another field of human services, and at least three years of experience in providing care to children who have been removed from their homes; or
 - (E) has a bachelor's degree in a field other than human services, and at least five years of experience in providing care to children who have been removed from their homes, including at least two years of clinical supervisory experience.
- M503.04** Interventions, such as individual, group, and family therapy are conducted by professional therapists or paraprofessional staff under the direct supervision of professional therapists.
- M503.05** The provider documents the treatment-plan strategies developed for, and the hours of therapeutic services and types of intervention provided to, the children in care.
- M503.06** The provider documents the number of paraprofessional or professional staff scheduled to provide therapeutic interactions.
- M503.07** The provider has enough appropriately qualified paraprofessional or professional staff available on a full-time, part-time, or consulting basis to assess and address the needs of all the children in care.
- M503.08** The provider has a professional-staffing plan that: includes a detailed description of the qualifications, responsibilities, and authority of every paraprofessional or professional position; indicates whether each such position is filled on a full-time, part-time, or consulting basis; and specifies the frequency and hours of service for each position.
- M503.09** The provider has ensured that the professional-staffing plan assigns responsibilities for conducting diagnostic assessments, developing and reviewing service plans, and providing treatment services.

§S503 What are the personnel requirements at the Specialized Service Level?

In addition to the personnel requirements at the Moderate Service Level,

- S503.01** The provider arranges for interventions such as individual, group, and family therapy to be conducted by professional therapists; or behavior or medical intervention as directed by the service plan.

§I503 What are the personnel requirements at the Intense Service Level?

In addition to the personnel requirements at the Specialized Service Level,

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- 1503.01** The provider ensures that a physician recommends and approves services at the time of the initial diagnosis and at each review.
- 1503.02** The individual treatment program is developed by an interdisciplinary team to address the child's intense needs.

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Definitions

Definitions of Words and Terms Related to Service Level of Care System

What do certain words and term in this contract attachment mean?

The following words and terms have the stated meanings:

- 1) Caregiver: A person whose duties include the supervision, guidance, and protection of a child or children. See FPS Rules, 40 TAC §745.21(4).
- 2) Case Manager: A person who provides casework services to children in residential care. Casework consists of the planning and coordination of services to a child and family based on the child's and the family's current needs and functioning.
- 3) Certified facility: A child-care facility or child-placing agency licensed or regulated by a state agency that must comply with all regulations that apply to licensed operations. See the Texas Human Resources Code §42.052.
- 4) Child-Placing Agency: (CPA): A person, including an organization, other than the parents of a child, who plans for the placement of or places a child in a child-care operation or adoptive home. A CPA is a licensed residential child-care operation that may verify and regulate its own homes subject to FPS minimum standards. See the Texas Human Resources Code §42.002(12), and FPS Rules, 40 TAC §745.21(9) and §745.37(2)(I).
- 5) Child: A person under 18 years of age or who is under the age of 22 years and enrolled in high school.
- 6) Child-care facility: An establishment subject to regulation by the Licensing Division of FPS that provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care facility does not include child-placing agencies, listed family homes, or maternity homes. See FPS Rules, 40 TAC §745.21(7) and the Texas Human Resources Code §42.002(3).
- 7) Chronic Physical Condition: [See 25 TAC Part 1, Chapter 38, Rule 38.2(11)] a disease or disabling condition of the body, of a bodily tissue or of an organ which will last or is expected to last for at least 12 months; that results, or without treatment, may result in limits to one or more major life activities; and that requires health and related services of a type or amount beyond those required by children generally. Such a condition may exist with accompanying developmental, mental, behavioral, or emotional conditions, but is not solely a delay in intellectual development or solely a mental, behavioral and/or emotional condition.
- 8) Cultural Competency: The ability of individuals and systems to provide services effectively to people of various cultures, races, ethnic backgrounds, and religions in a manner that

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recognizes, values, affirms, and respects the worth of the individuals and protects and preserves their dignity.

- 9) **Developmental Delay or Chronic Developmental Condition:** [See 25 TAC Part 1, Chapter 38, Rule 38.2(10)] A disability manifested during the developmental period for a child with special health care needs that results in impaired intellectual functioning or deficiencies in essential skills, that is expected to continue for a period longer than one year, and that causes a person to need assistance in the major activities of daily living and/or in meeting personal care needs. For the purpose of this chapter, a chronic developmental condition must include physical manifestations and may not be solely a delay in intellectual, mental, behavioral and/or emotional development.
- 10) **FPS:** Family and Protective Services.
- 11) **Interdisciplinary Team:** a team of professionals that includes representation from at least three disciplines of study.
- 12) **License:** A type of permit issued by Licensing stating that an operation has met minimum standards and may operate. Licenses are issued to all operations except listed family homes, registered family homes, certified operations, and CPA homes.
- 13) **Licensee:** The holder of a license.
- 14) **Licensing:** The Licensing Division of the Texas Department of Protective and Regulatory Services (FPS).
- 15) **Managing conservator:** A person responsible for a child as the result of a district court order pursuant to the Texas Family Code, Chapter 153. [See 40 TAC §700.501(9)].
- 16) **Medically Complex or Medically Fragile:** A term describing a child who has a Chronic Physical Condition.
- 17) **Medically necessary:** [See TDH rules at 25 TAC §35.2(42))] A term that describes health services that are documented and:
 - (A) reasonable and necessary to prevent illnesses or medical conditions or to provide early screenings, interventions, and/or treatments for condition(s) that cause suffering or pain, cause physical deformity or limitations in function, threaten to cause or worsen a disability, cause illness or infirmity, or endanger life;
 - (B) provided at appropriate locations and at the appropriate Levels of Care for the treatment of the medical condition(s);
 - (C) consistent with health care practice guidelines and standards that are issued by professionally recognized health care organizations or governmental agencies;
 - (D) consistent with the diagnosis(es) of the condition(s); and
 - (E) no more intrusive or restrictive than necessary to provide a proper balance of safety, effectiveness, and efficiency.
- 18) **Placement Agreement:** The agreement between a substitute care provider and FPS that defines some of the roles and responsibilities of the substitute care provider and authorizes the substitute care provider to obtain or provide child-specific services. The agreement consists of the following forms: CPS Form 2085 FC "Placement Authorization Form for Foster

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Care/Residential Care," CPS Form 2085A "Authorization for Medical, Dental and Psychological Care" and CPS Form 2085LR "Placement Authorization Legal Risk."

- 19) Provider: A person or entity that provides services to children in residential care. The term provider includes caregivers and licensees.
- 20) Permanency: Under the Texas Government Code, the concept "Permanency planning means a philosophy and planning process that focuses on the outcome of family support by facilitating a permanent living arrangement with the primary feature of an enduring and nurturing parental relationship. It is the policy of the state to strive to ensure that the basic needs for safety, security, and stability are met for each child in Texas. A successful family is the most efficient and effective way to meet those needs. Source: Texas Government Code, §§531.151(4)–531.152.
- 21) Primary Medical Needs: Specialized care and services needed by children who are medically complex or medically fragile. [40 TAC §711.1322(d)]
- 22) Psychiatrist: a licensed physician with advanced training in the diagnosis and treatment of mental and emotional disorders.
- 23) Psychologist: a person who holds a license to engage in the practice of psychology issued under {Occupations Code} §501.252. [Source: Occupations Code §501.002(5)] Braces added.
- 24) Supervise (children): Awareness of and responsibility for a child's ongoing activity. Supervision requires caregivers to have knowledge of program and children's needs and to be accountable for service delivery. The operation is responsible for providing the degree of supervision indicated by a child's age; developmental level; and physical, emotional and social needs.
- 25) Therapist or Practitioner of the Healing Arts: a medical doctor including a psychiatrist, licensed clinical psychologist, registered nurse, licensed masters level social worker, licensed professional counselor (per memo dated August 4, 1995 from Pat K. Devin, Deputy Director, Office of Protective Services for Families and Children, to all Residential Providers).

Residential Child Care Contract Attachment "D"

Intermittent Alternative Care

The Department may allow Contracted Child Placing Agencies and Independent foster homes to utilize Intermittent Alternate Care to:

- i.) Provide foster parents additional supports for child-care responsibilities;
- ii.) Increase the retention of foster parents;
- iii.) Decrease the number of moves children experience; and
- iv.) Promote the overall development and permanency needs for children in foster care.

Child Placing Agencies and Independent foster homes that are permitted to use Intermittent Alternate Care must do so according to the following guidelines:

Intermittent Alternate Care is:

A planned alternative 24-hour care provided for a child by a licensed or certified child-placing agency and independent foster home as part of the agency's regulated child care. The purpose is to provide relief to the primary caregiver. For the purpose of this contract, an Intermittent Alternate Care episode is one that lasts more than 72 hours. An episode lasting less than 72 hours is not considered Intermittent Alternate Care.

A) The following requirements must be met by Contracted Child-Placing Agencies and Independent Foster Homes when providing Intermittent Alternate Care:

- i. Intermittent Alternate Care may not be used if it could be detrimental to the child.
- ii. Contractor must follow all requirements of the applicable minimum standards for all children in care, including children admitted for Intermittent Alternate Care. This includes compliance with capacity, child-caregiver ratios, and supervision standards;
- iii. Contractor must ensure that all Intermittent Alternate Care providers used by their foster homes fall into one of the following classes of providers:
 - (a) Foster parents verified by DFPS or another licensed child-placing agency
 - (b) Foster parents licensed by the DFPS Child Care Licensing Division
 - (c) Facilities that provide child-care services and have been licensed or registered through the DFPS Child Care Licensing Division;
 - (d) Businesses that have a Home and Community-Support Services License from or are verified through the Texas Department of Aging and Disability Services (DADS);
 - (e) An approved individual who meets a minimum set of requirements. These requirements include:
 - (1) Criminal background checks on household members age 14 and older;
 - (2) Child abuse and neglect checks on all household members age 14 and older;
 - (3) Proof of current infant/child/adult CPR and first aid certification for the provider;
 - (4) Proof of negative tuberculosis tests for all household members, as required by the applicable minimum standards; and
 - (5) Agreement to follow the contractor's discipline and confidentiality policies. (CPS Policy 7462.1)
- iv. Contractor must document the appropriateness of the Intermittent Alternate Care placement to ensure the health and safety of all children in the care of the Intermittent Alternate Care provider.
- v. Contractor must approve each episode of Intermittent Alternate Care in their homes and each time one of their homes uses Intermittent Alternate Care for a child in care.

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- v.) Contractor must obtain written approval from the child's caseworker before placing the child in Intermittent Alternate Care.
 - vi.) Contractor must ensure that each child placed in one of their homes is provided with appropriate sleeping arrangements when placed in Intermittent Alternate Care, including comfortable bedding and behavioral, gender and age appropriate living arrangements in accordance with 42. Intermittent Alternate Care services, is provided with appropriate supervision at all times to ensure their health and safety.
- B) To ensure continuity of care the following information must be provided to the Intermittent Alternate Care provider:
- i. Specific needs of the children, including, but not limited to:
 - ii. Medical care currently provided;
 - iii. Psychiatric care currently provided (including medication regimen and medication instructions);
 - iv. Psychological care currently provided;
 - v. Sleeping instructions;
 - vi. Discipline information;
 - viii. Relevant appointments, such as family/sibling visits;
 - ix. Other pertinent information that would benefit the Intermittent Alternate Care provider; and
 - x. Any expectations the Contractor may have of the Intermittent Alternate Care provider.
- C) **Length of stay in Intermittent Alternate Care:**
- (i) Intermittent Alternate Care may not last for longer than 14-day period for each child.
 - (ii) If Intermittent Alternate Care is needed for more than 14 days, Contractor must contact the Department's caseworker or the caseworker's supervisor as soon as it's determined the child needs Intermittent Alternate Care for more than 14 days in order to secure a new placement for the child.
 - (iii) When a child completes an Intermittent Alternate Care episode, the child may not return to Intermittent Alternate Care for at least 10 days.
 - (iv) A foster home providing Intermittent Alternate Care services must allow a minimum of 10 days between the completion of one Intermittent Alternate Care episode and the beginning of the next episode. (CPS Policy 7462.2)
 - (v) Subsection C (iv) is not applicable to verified foster homes that exclusively provide Intermittent Alternate Care.
 - (vi) The Department reserves the right to permit an increased length of stay when it determines that it is in the child's best interest and has been approved in writing by the CPS Supervisor or designee.

**Residential Child Care Contract
Attachment "E"**

Special Terms and Conditions

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Residential Child Care Contract Attachment “F”

Outcome Measures

Measure: All children are safe in care.

Performance Period – The contractor’s performance on this outcome will be measured throughout the contract term.
Remedies – Refer to Term 54
Indicator - Percent of children in contracted residential care placements and under conservatorship who were not a confirmed victim of abuse or neglect during the reporting period.
Target – 100%
Purpose. The purpose of this measure is to evaluate the Contractor’s success at protecting children in its care. This outcome is directly related to the mission of DFPS to protect children from abuse/neglect as well as one of the outcomes measured by the Child and Family Services Review (CFSR) of the US Health and Human Services Administration for Children and Families (www.acf.hhs.gov/programs/cb/) , “Children are first and foremost protected from abuse and neglect.”
<p>Definitions for this Outcome –</p> <ul style="list-style-type: none"> • <i>Children in substitute</i> care means children (under age 18) who are under DFPS conservatorship and received residential services from the contractor, including those in foster or group care. • A child is considered to be a <i>victim</i> when confirmed abuse or neglect of the child is perpetrated while residing at a licensed foster care operation. <i>Confirmed victimizations</i> of abuse/neglect are determined by an investigation resulting in a disposition of Reason to Believe (RTB) and entered in the data system. These include Priority One and Priority Two investigations of abuse, neglect or exploitation of a child, as defined in policy in sections 6310 and 6320 of the Licensing Policy and Procedures Handbook (LPPH). • A victimization will be counted when the determination is made or, if an appeal is requested, only after the report is substantiated by the Licensing Administrative Review of Investigative Findings. • The <i>reporting</i> will usually be quarterly and annually, updated quarterly during the fiscal year and at the time of the annual report
<p>Data Source –</p> <p>Information Management Protecting Adults and Children in Texas (IMPACT); information used for the reporting period:</p> <ul style="list-style-type: none"> • Facilities (operations) as described in 40 TAC §745.37(3)(A-I), with an active contract; • Number of placements in substitute care that were active at any point during the reporting period; • Placements of DFPS children in substitute care in a contracted facility; and • Number of confirmed victimizations at a contracted facility.

Residential Child Care Contract Attachment "F"

Methodology –

The numerator is the count of confirmed Residential Childcare Licensing (RCCL) investigations of the contractor involving a child who is/was under DFPS conservatorship, for which a disposition of RTB has been upheld during the reporting period.

The denominator is the total number of children in DFPS conservatorship and in substitute care served by the contractor during the reporting period.

Contract Output Measures.

- a) Output #1. Children in Substitute Care have up-to-date service plans and records.
Indicator. The percentage of children in Substitute Care served by the Contractor during the evaluation period whose service plans meet the requirements of the applicable Service Level and have been reviewed in accordance with the frequency described in the applicable section of 40 TAC Chapter 720, Subchapter H.
Target. 100%
- b) Output #2. Children in Substitute Care receive all services described in their service plans in a timely manner.
Indicator. The percentage of children in Substitute Care served by the Contractor during the evaluation period who receive all services described in their service plan with the frequency described in such plan.
Target. 100%
- c) Output #3. Children in Substitute Care receive timely medical and dental checkups.
Indicator. The percentage of children in Substitute Care served by the Contractor during the evaluation period who receive the medical and dental services described in Section 11 within 30 days of the scheduled due date.
Target. 100%