

Ohio Department of Job and Family Services  
AGREEMENT FOR TITLE IV-E AGENCIES AND PROVIDERS FOR THE PROVISION OF  
CHILD PLACEMENT

This Agreement sets forth the terms and conditions between the parties for placement services for children who are in the care and custody of the Agency named below.

This Agreement is between\_\_\_\_, A Title IV-E Agency, hereinafter "Agency," whose address is:

IV-E Agency Name  
Street/Mailing Address  
City, State Zip Code

And \_\_\_\_\_ hereinafter "Provider," whose address is:

Provider  
Street/Mailing Address  
City, State Zip Code

Collectively the "Parties."

## Table of Contents

|                           |  |
|---------------------------|--|
| ARTICLE I                 | SCOPE OF PLACEMENT SERVICES                    |
| Section 1.01              | FOR AGREEMENTS COMPETITIVELY PROCURED          |
| Section 1.02              | FOR AGREEMENTS NOT COMPETITIVELY PROCURED      |
| Section 1.03              | EXHIBITS                                       |
| ARTICLE II                | TERM OF AGREEMENT                              |
| ARTICLE III               | ORDER OF PRECEDENCE                            |
| ARTICLE IV                | DEFINITIONS GOVERNING THIS AGREEMENT           |
| ARTICLE V                 | PROVIDER RESPONSIBILITIES                      |
| ARTICLE VI                | AGENCY RESPONSIBILITIES                        |
| ARTICLE VII               | INVOICING FOR PLACEMENT SERVICES               |
| ARTICLE VIII              | REIMBURSEMENT FOR PLACEMENT SERVICES           |
| ARTICLE IX                | TERMINATION, BREACH AND DEFAULT                |
| ARTICLE X                 | RECORDS RETENTION AND CONFIDENTIALITY          |
| ARTICLE XI                | PROVIDER ASSURANCES AND CERTIFICATIONS         |
| ARTICLE XII               | INDEPENDENT CONTRACTOR                         |
| ARTICLE XIII              | AUDITS AND OTHER FINANCIAL MATTERS             |
| ARTICLE XIV               | GRIEVANCE/DISPUTE RESOLUTION PROCESS           |
| ARTICLE XV                | AMENDMENTS                                     |
| ARTICLE XVI               | NOTICE   |
| ARTICLE XVII              | CONSTRUCTION                                   |
| ARTICLE XVIII             | NO ASSURANCES                                  |
| ARTICLE XIX               | CONFLICT OF INTEREST                           |
| ARTICLE XX                | INSURANCE                                      |
| ARTICLE XXI               | INDEMNIFICATION AND HOLD HARMLESS              |
| ARTICLE XXII              | SCREENING AND SELECTION                        |
| ARTICLE XXIII             | PROHIBITION OF CORPORAL & DEGRADING PUNISHMENT |
| ARTICLE XXIV              | EXCLUDED PARTIES LIST                          |
| ARTICLE XXV               | PUBLIC RECORDS                                 |
| ARTICLE XXVI              | CHILD SUPPORT ENFORCEMENT                      |
| ARTICLE XXVII             | DECLARATION OF PROPERTY TAX DELINQUENCY        |
| ARTICLE XXVIII            | SUBCONTRACTING AND DELEGATION                  |
| ARTICLE XXIX              | PROPERTY OF AGENCY                             |
| ARTICLE XXX               | WAIVER   |
| ARTICLE XXXI              | NO ADDITIONAL WAIVER IMPLIED                   |
| ARTICLE XXXII             | COUNTERPARTS                                   |
| ARTICLE XXXIII            | APPLICABLE LAW AND VENUE                       |
| ADDENDA TO THIS AGREEMENT |  |

## RECITALS

WHEREAS, the Agency is responsible under Ohio Revised Code (ORC) Title 51, Chapter [5153](#) for the provision of protective services for dependent, neglected, and abused children; and,

WHEREAS, the Agency is authorized under ORC Title 51, Chapter [5153.16](#) to provide care and services which it deems to be in the best interest of any child who needs or is likely to need public care and services; and,

WHEREAS, the Provider is an organization duly organized and validly existing and is qualified to do business under the laws in the State of Ohio or in the state where the placement facility or foster home is located and has all requisite legal power and authority to execute this Agreement and to carry out its terms, conditions and provisions; and is licensed, certified or approved to provide placement and related services to children in accordance with Ohio law or the state where the placement facility or foster home is located.

NOW, THEREFORE, in consideration of the mutual promises and responsibilities set forth herein, the Agency and Provider agree as follows:

### Article I. SCOPE OF PLACEMENT SERVICES

- A. In addition, to the services described in Exhibit I-Scope of Work, Provider agrees to provide and shall provide the placement and related services specified in each Individual Child Care Agreement (ICCA) for children in the care and custody of the Title IV-E Agency. The ICCA shall be consistent with current federal, state and local laws, rules and regulations applicable to the Provider's license or certified functions and services. If an Agreement and ICCA both exist, the Agreement supersedes.

#### Section 1.01 FOR AGREEMENTS COMPETITIVELY PROCURED

- A. Without limiting the services set forth herein, Provider will provide the Services pursuant to and consistent with the Requests for Proposals (RFP) and the Provider's Proposal submitted in response to the RFP, the Provider agrees to provide and shall provide the placement and related services described in Exhibit I-Scope of Work.

#### Section 1.02 FOR AGREEMENTS NOT COMPETITIVELY PROCURED

- A. The Provider agrees to provide and shall provide the placement and related services described in the Exhibit I- Scope of Work.

#### Section 1.03 EXHIBITS

- A. The following exhibits are deemed to be a part of this Agreement as if fully set forth herein:
1. Exhibit I – Scope of Work;
  2. Exhibit II – Request for Proposals (if applicable);
  3. Exhibit III – Provider's Response to the Request for Proposals (if applicable); and
  4. Exhibit IV – Title IV-E Schedule A Rate Information

### Article II. TERM OF AGREEMENT

This Agreement is in effect from **<Begin Date>** through **<End Date>**, unless this Agreement is suspended or terminated pursuant to Article IX prior to the termination date

In addition to the initial term described above, this Agreement may be extended, at the option of the Agency and upon written agreement of the Provider. Notice of Agency's intention to extend the Agreement

shall be provided in writing to Provider no less than 90 calendar days before the expiration of any Agreement term then in effect. (If a previous Request for Proposal [RFP] allows, the Agreement may be extended for a period of time to ensure adequate completion of the Agency's competitive procurement process at the rates existing for the term then in effect.)

### **Article III. ORDER OF PRECEDENCE**

This Agreement and all Exhibits are intended to supplement and complement each other and shall, where possible, be so interpreted. However, if any provision of this Agreement irreconcilably conflicts with an Exhibit, this Agreement takes precedence over the Exhibit(s).

In the event there is an inconsistency between the Exhibit(s), the inconsistency shall be resolved in the following order:

- A. Exhibit I: Scope of Work; then
- B. Exhibit II: Request for Proposals (if applicable); then
- C. Exhibit III: Provider's Proposals (if applicable); then
- D. Exhibit IV: Title IV-E Schedule A Rate Information.

### **Article IV. DEFINITIONS GOVERNING THIS AGREEMENT**

The following definitions govern this Agreement:

- A. Agreement means this Agreement, addenda and exhibits thereto.
- B. Material Breach shall mean an act or omission that violates or contravenes an obligation required under the Agreement and which, by itself or together with one or more other breaches, has a negative effect on, or thwarts the purpose of the Agreement as stated herein. A Material Breach shall not include an act or omission, which has a trivial or negligible effect on the quality, quantity, or delivery of the goods and services to be provided under the Agreement.
- C. Child(ren) means any person under eighteen years of age or a mentally or physically handicapped person under twenty-one years of age in the Agency's custody and under the care of the Provider for the provision of placement services.
- D. All other definitions to be resolved through Federal Regulations, Ohio Administrative Code ([OAC](#)) [5101:2-1-01](#) and any related cross-references.

### **Article V. PROVIDER RESPONSIBILITIES**

- A. Provider agrees to participate with Agency in the development and implementation of the Case Plan and ICCA including participation in case reviews and / or semi-annual administrative reviews, and the completion of reunification assessments for the children in placement with the Provider. Parties shall make best efforts to share information timely regarding participants and contact information involved with planning efforts related to children and families.
- B. Provider agrees to provide services agreed to in the Case Plan and ICCA (i.e., transportation of children for routine services, including, but not limited to, court hearings, medical appointments, school therapy, recreational activities, visitations/family visits, unless otherwise negotiated in writing as an attachment to this Agreement). Any disputes involving services or placement will be resolved through mutual-agreement and modification to the ICCA. Provider agrees the Agency is the final authority in the process. The cost of providing these services is to be included in the Agency approved per diem.

- C. Provider agrees to ensure that any and all persons who may act as alternative caregivers or who have contact with the children are suitable for interaction pursuant to all applicable federal, state and local laws and regulations.
- D. Provider agrees that all caregivers must be approved by the Agency.
- E. Provider agrees to submit a progress report as negotiated by the parties for each child. The progress report will be based on the agreed upon services to be delivered to the child and/or family and will include documentation of services provided to the child and/or discharge summary. If Monthly Progress Reports are not received within 90 calendar days following the month of service provision, payment may be withheld at the Agency's discretion.
1. Monthly Progress Reports shall be submitted by the 20<sup>th</sup> of the month following the month of service.
  2. The Monthly Progress Report will include the following medical related information:
    - a. Service type (i.e. medical, dental, vision, etc.);
    - b. Date(s) of service;
    - c. Reason for visit (i.e. routine, injury, etc.);
    - d. Practitioner name, address and contact number;
    - e. Name of hospital, practice, urgent care, etc.;
    - f. Prescribed medications and dosages;
    - g. Date(s) medication(s) were prescribed or changed; and
    - h. Changes to medications.
- F. Placement changes, emergency or non- emergency, shall occur only with the approval of the Agency. The following information shall be provided to the Agency for all placement changes: Name, address and phone number of the new foster home or other out-of-home care setting; the license / home study of the new care provider within 24 hours, excluding weekends and holidays.
- G. Provider agrees to notify all Agencies who have children placed in the same caregiver's home/group home/CRC when any child residing in the placement is critically injured or dies in that location. Notification will be made to the Agencies' Child Abuse / Neglect Hotline number or assigned Caseworker immediately.
- H. Notification to the Agency of Emergency Critical Incidents shall occur ASAP but no later than one hour of the Incident becoming known. Notification will be made to the Agency via the Agency's Child Abuse Neglect Hotline or assigned Caseworker or by other established system. Critical incidents are those incidents defined in the Ohio Administrative Code that are applicable to the licensed or certified program (ODJFS [5101:2-7-14](#), [5101:2-9-23](#), ODMHAS [5122-30-16](#), [5122-26-13](#); DODD [5123:2-17-02](#)):

Emergency Critical Incidents include but are not limited to the following:

1. Absent Without Leave (AWOL);
  2. Child Alleging Physical or Sexual Abuse / Neglect;
  3. Death of Child;
  4. Illicit drug / alcohol use; Abuse of medication or toxic substance;
  5. Sudden injury or illness requiring an unplanned medical treatment or visit to the hospital;
  6. Perpetrator of Delinquent / Criminal Act (Assault, Dangerous Behaviors, Homicidal Behaviors);
  7. School Expulsion / Suspension (formal action by school);
  8. Self-Injury (Suicidal Behaviors, Self-Harm Requiring External Medical Treatment, Hospital or ER);
  9. Victim of assault, neglect, physical or sexual abuse; and
  10. The filing of any law enforcement report involving the child.
- I. The Provider also agrees to notify the Agency within Twenty-four (24) hours, of any non-emergency Incident. Non-emergency Incident's include but are not limited to the following:

1. When physical restraint is used / applied; and
2. Medication lapses or errors.

Notification will be made to the Agency via the Agency's Child Abuse Neglect Hotline / assigned Caseworker or by other established notification system.

- J. Documentation of emergency and non-emergency Incident's as identified in "H and I" above shall be provided to the Agency via email, Fax or other established notification system within 24 hours excluding weekends and holidays.
- K. The Provider agrees to submit each child's assessment and treatment plans as completed but no later than the 30th day of placement. Provider further agrees to provide treatment planning that will include, but is not limited to, education on or off site, preparation for integration into community based school or vocational/job skills training, community service activities, independent living skills if age 14 or older, monitoring and supporting community adjustment.
- L. The Provider agrees to participate in joint planning with the Agency regarding modification to case plan services. Provider agrees that while the Provider may have input into the development of the child's case plan services and the ICCA, any disputes involving services or placement will be resolved through mutual-agreement and modification to the ICCA. Provider agrees the Agency is the final authority in the process.
- M. The Provider shall participate in a Placement Preservation meeting if requested by the Agency prior to issuing a notice of removal of a child. A placement Preservation meeting shall be held within seven (7) business days of said request. Unless otherwise mutually agreed upon a minimum of thirty (30) calendar days' notice shall be given if placement preservation is unable to be achieved. A Discharge Plan Summary shall be provided no later than fifteen (15) calendar days after the date of discharge in accordance with the applicable licensed or certified program. (OAC [5101:2-5-17](#); OAC [5122-30-22](#), [5122-30-04](#); OAC [5123:2-3-05](#)).
- N. The Provider shall work in cooperation and collaboration with the Agency to provide information for each child's Lifebook and will fully comply with the provision of [OAC 5101:2-42-67](#) as applicable to private Providers. Provider's contribution to the Agency Lifebook for a child shall be for the episode of care with the Provider.
- O. The Provider agrees to provide Independent Living Services as set forth in accordance with [OAC 5101:2-42-19](#) for all children age 14 and above.
- P. When applicable, due to the Provider being part of a managed care agreement as defined in [OAC 5101:2-1-01](#), the Provider agrees to visit with the child face-to-face in the foster home, speak privately with the child and to meet with the caregiver at least monthly in accordance with rule [5101:2-42-65](#) of the Administrative Code.
- Q. The Provider agrees to maintain its licenses and certifications from any source in good standing. The Provider shall report to Agency in writing any change in licensure or certification that negatively impacts such standing immediately if the negative action results in a temporary license, suspension of license or termination of license.
- R. Provider agrees that the reasonable and prudent parent standard training required by SEC. 471. [42 U.S.C. 671] of the Social Security Act and in accordance to [OAC 5101:2-5-33](#), [OAC 5101:2-9-02](#) or [OAC 5101:2-9-03](#) has been completed.
- S. The Provider shall notify Agency of any changes in its status, such as intent to merge with another business or to close, no later than forty-five (45) business days prior to the occurrence.

- T. The Provider agrees that the Agency shall have access to foster parent home studies and recertifications for foster parents caring for children in placement, subject to confidentiality considerations. The Provider shall submit to Agency a copy of the current foster home license at the time of placement and recertification. Provider also agrees to notify Agency within twenty-four (24) hours of any change in the status of the foster home license.
- U. When there is a rule violation of a caregiver, a copy of the corrective action plan, if applicable, must be submitted to the Agency when the investigation is complete.
- V. The Provider agrees to notify the Agency of scheduling no less than fourteen (14) calendar days prior to all formal meetings (e.g. FTMs, Treatment Team Meetings, etc.).
- W. The Provider agrees to adhere to the following Medical / Medication guidelines:
1. To provide over-the-counter medications and/or supplies as part of the per diem of care;
  2. To comply with the medical consent process as identified by Agency;
  3. Only the Agency can give permission for the administering or change (addition or elimination) of psychotropic medication and its ongoing management; and
  4. Provide an initial placement medical screening within 72 hours of child's placement into a placement resource under the Provider's operation and/or oversight.
- X. To arrange for required health care / medical examinations within time frames required by [OAC 5101:2-42-66.1](#); and, provide reports from the health care providers to the agency within 30 days of occurrence if the appropriate releases of information have been obtained by the Provider.
- Y. The Network Provider agrees to notify the Agency if placement resource is currently under investigation for license violations, misconduct toward children, or other third-party investigation.
- Z. The Provider will immediately notify the Agency:
1. If the Provider is out of compliance with any licensing authority rules or the placement resource is under investigation for license violations or misconduct toward children. Immediately is defined as within one hour of knowledge of the non-compliance issue.
  2. Child Abuse / Neglect Hotline or assigned Caseworker of any allegations of abuse or neglect made against the Caregiver within one hour of gaining knowledge of the allegation.
  3. Of any corrective action and the result of the correction action plan. The Provider will submit a comprehensive written report to the agency within sixty (60) days of the rules violation.
  4. Within twenty-four (24) hours any time there is an event which would impact the placement resource license.

## Article VI. AGENCY RESPONSIBILITIES

- A. Agency certifies that it will comply with the Multiethnic Placement Act, 108 STAT. 3518, as amended by Section 1808 of the Small Business Jobs Protection Act of 1996, 110 STAT. 1755, which prohibits any Agency from denying any person the opportunity to become an adoptive or foster parent on the basis of race, color, national origin, or delaying or denying the placement of a child for adoption or into foster care on the basis of race, color, or national origin of the adoptive or foster parent or of the child involved.
- B. The Agency shall provide to the Provider within thirty (30) calendar days of placement or within a reasonable time thereafter as agreed to by the parties, a copy of each child's social history, medical history, and Medicaid card once obtained by the Agency for new cases, or at time of placement for existing cases. Agency shall make best efforts to share information timely regarding participants and contact information involved with planning efforts related to children and families.
- C. Agency agrees to participate in the development of the treatment plan of each child placed with

the Provider. The Agency acknowledges that clinical treatment decisions must be recommended by licensed clinical professionals. Agency and Provider acknowledge that disagreement with a treatment decision may be taken through the dispute resolution process contained in Article XIV of this Agreement.

- D. Agency agrees to visit with the child in accordance with rule [5101:2-42-65](#) of the Ohio Administrative Code.
- E. Agency agrees to participate in periodic meetings with each child's treatment team for case treatment plan development, review, and revision. The Agency agrees to participate in the development of the treatment plan of each child placed with the Provider by the Agency.
- F. Agency certifies that it will comply with Every Student Succeeds Act (34 CFR part 200) and will work with local school districts in developing individualized plans to address the transportation needed for a child to remain in the school of origin. Agency agrees to arrange for the transfer of each child's school records to the child's new school upon placement but not later than ten (10) business days. The Agency agrees to work with the Provider for the timely enrollment of the child in the receiving school district. The Agency has the final responsibility to obtain the child's school records and to enroll the child in the receiving school district.
- G. The Agency shall provide an opportunity for the Provider to give input in the development, substantive amendment or modification of case plans. The Agency agrees to notify the Provider of scheduling no less than seven (7) calendar days prior to all formal meetings (e.g. SARs, court hearings, family team conferences, etc.).
- H. The Agency shall participate in a Placement Preservation meeting if requested by the Provider prior to issuing a notice of removal of a child. The Agency shall provide a minimum of thirty (30) calendar days' notice for planned removals, to the Provider for each child who is being terminated from placement with the Provider, unless so ordered by a court of competent jurisdiction.
- I. Agency agrees to provide the Provider with an emergency contact on a twenty-four (24) hour, seven (7) day per week basis.
- J. The Agency represents:
1. It has adequate funds to meet its obligations under this Agreement, subject to the availability of funds as referenced in Article VIII (I);
  2. It intends to maintain this Agreement for the full period set forth herein and has no reason to believe that it will not have sufficient funds to enable it to make all payments due hereunder during such period; and
  3. It will make its best effort to obtain the appropriation of any necessary funds during the term of this Agreement.
- K. The Agency will provide information about the child being referred for placement in accordance with [OAC 5101:2-42-90](#). Prior to a child's placement in alternative care or respite, [OAC 5101:2-42-90 \(D\)](#) requires the Agency to share with care givers information that could impact the health, safety, or well-being of the child or others in the home.

## Article VII. INVOICING FOR PLACEMENT SERVICES

- A. The Provider agrees to submit a monthly invoice following the end of the month in which services were provided. The invoice shall be for services delivered in accordance with Article I of this Agreement and shall include:
1. Provider's name, address, telephone number, fax number, federal tax identification number, Title IV-E Provider number, if applicable and Medicaid Provider number, if



- applicable;
- 2. Billing date and the billing period;
- 3. Name of child, date of birth of child, and the child's Statewide Automated Child Welfare Information System (SACWIS) person I.D. number;
- 4. Admission date and discharge date, if available;
- 5. Agreed upon per diem for maintenance and the agreed per diem administration; and
- 6. Invoicing procedures may also include the per diems associated with the following if applicable and agreeable to the Agency and Provider:
  - a. Case Management; allowable administration cost;
  - b. Transportation, allowable maintenance cost;
  - c. Transportation; allowable administration cost;
  - d. Other Direct Services; allowable maintenance cost;
  - e. Behavioral health care; non-reimbursable cost; and
  - f. Other costs - (any other cost the Title IV-E Agency has agreed to participate in); non-allowable/ non-reimbursable cost.

B. Provider warrants and represents claims made for payment for services provided are for actual services rendered and do not duplicate claims made by Provider to other sources of public funds for the same service.

### **Article VIII. REIMBURSEMENT FOR PLACEMENT SERVICES**

- A. The maximum amount payable pursuant to this Agreement is **<Agreement Amount>**.
- B. In accordance with Schedule A of this Agreement, the per diem for maintenance and the per diem for administration will be paid for each day the child was in placement. The first day of placement will be paid regardless of the time the child was placed. The last day of placement will not be paid regardless of the time the child left the placement.
- C. In accordance with Schedule A of this Agreement and in addition to Maintenance and Administration, the Agency may agree to pay a per diem for Case Management, Other Direct Services, Transportation Administration, Transportation Maintenance, Behavioral Health Care and Other. All other services and/or fees to be paid for shall be contained in the Addendum of this Agreement.
- D. To the extent that the Provider maintains a foster care network, the agreed upon per diem for maintenance shall be the amount paid directly to the foster parent. Maintenance includes the provision of food, clothing, shelter, daily supervision, graduation expenses, a child's personal incidentals, and liability insurance with respect to the child, reasonable cost of travel to the child's home for visitation and reasonable cost of travel for the child to remain in the school the child was enrolled in at the time of placement. Payment for private agency staff transporting a child to a home visit or keeping the child in their home school will be paid in accordance with Schedule A (Transportation Maintenance) of this Agreement.
- E. If the plan as determined by the Agency is to return the child to placement with the Provider, the Agency may agree to pay for the days that a child is temporarily absent from the direct care of the Provider, as agreed to by the parties in writing.
- F. The service provider is required to utilize Medicaid-approved healthcare providers in the appropriate managed care network for the provision of mental health, dental and/or medical services (hereafter referred to collectively as "medical services") to children in the custody of Agency. The Service Provider will report applicable Medicaid/insurance information to the healthcare providers and instruct healthcare providers to seek payment from Medicaid or any other available third-party payer for medical services rendered to children in agency custody. Agency will not pay for the provision of any medical services to children in agency custody unless the agency Executive Director or authorized designee has provided specific prior written authorization for such medical services and associated costs.

- G. The Agency agrees to pay the Provider for all services agreed to on Schedule A and in the Addendum to this Agreement, where applicable, that have been provided and documented in the child's case file. Agency shall make best efforts to make payment of undisputed charges within thirty (30) business days of receipt.
- H. In the event of a disagreement regarding payment, Agency shall withhold payment only for that portion of the placement with which it disagrees. Agency will use best efforts to notify the Provider of any invoice discrepancies. Agency and Provider will make every effort to resolve payment discrepancies within 60 calendar days. Payment discrepancies brought to the Agency after 60 days will be reviewed on a case by case basis.
- I. This Agreement is conditioned upon the availability of federal, state, or local funds appropriated or allocated for payment for services provided under the terms and conditions of this Agreement. By sole determination of the Agency, if funds are not sufficiently allocated or available for the provision of the services performed by the Provider hereunder, the Agency reserves the right to exercise one of the following alternatives:
1. Reduce the utilization of the services provided under this Agreement, without change to the terms and conditions of the Agreement; or
  2. Issue a notice of intent to terminate the Agreement.

The Agency will notify the Provider at the earliest possible time of such decision. No penalty shall accrue to the Agency in the event either of these provisions is exercised. The Agency shall not be obligated or liable for any future payments due past a child's date of discharge or for any damages as a result of termination under this section.

Any denial of payment for service(s) rendered may be appealed in writing and will be part of the dispute resolution process contained in Article XIV.

## **Article IX. TERMINATION; BREACH AND DEFAULT**

- A. This Agreement may be terminated for convenience prior to the expiration of the term then in effect by either the Agency or the Provider upon written notification given no less than sixty (60) calendar days in advance by certified mail, return receipt requested, to the last known address of the terminated party shown hereinabove or at such other address as may hereinafter be specified in writing.
- B. If Provider fails to provide the Services as provided in this Agreement for any reason other than Force Majeure, or if Provider otherwise Materially Breaches this Agreement, the Agency may consider Provider in default. Agency agrees to give Provider thirty (30) calendar days written notice specifying the nature of the default and its intention to terminate. Provider shall have seven (7) calendar days from receipt of such notice to provide a written plan of action to Agency to cure such default. Agency is required to approve or disapprove such plan within five (5) calendar days of receipt. In the event Provider fails to submit such plan or Agency disapproves such plan, Agency has the option to immediately terminate this Agreement upon written notice to Provider. If Provider fails to cure the default in accordance with an approved plan, then Agency may terminate this Agreement at the end of the thirty (30) calendar day notice period.
- C. Upon the effective date of the termination the Provider agrees that it shall cease work on the terminated activities under this Agreement, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report as of the date of discharge of the last child describing the status of all work under this Agreement, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as the Agency may require. The Agency agrees to remove all children in placement immediately with the Provider, consistent with the effective termination date. In all instances of termination, the Provider and Agency agree that

they shall work in the best interests of children placed with the Provider to secure alternative placements for all children affected by the termination

- D. In the event of termination, the Provider shall be entitled to reimbursement, upon submission of an invoice, for the agreed upon per diem incurred prior to the effective termination date. The reimbursement will be calculated by the Agency based on the per diem set forth in Article VIII. The Agency shall receive credit for reimbursement already made when determining the amount owed to the Provider. The Agency is not liable for costs incurred by the Provider after the effective termination date of the discharge of the last child.
- E. Notwithstanding the above, Agency may immediately terminate this Agreement upon delivery of a written notice of termination to the Provider under the following circumstances:
1. Improper or inappropriate activities,
  2. Loss of required licenses;
  3. Actions, inactions or behaviors that may result in harm, injury or neglect of a child;
  4. Unethical business practices or procedures;
  5. Any other event that Agency deems harmful to the well-being of a child; or
  6. Loss of funding as set forth in Article VIII.
- F. If the Agreement is terminated by Agency due to breach or default of any of the provisions, obligations, or duties embodied contained therein by the Provider, Agency may exercise any administrative, agreement, equitable, or legal remedies available, without limitation. Any extension of the time periods set forth above shall not be construed as a waiver of any rights or remedies the Agency may have under this Agreement.
- G. In the event of termination under this ARTICLE, both the Provider and the placing Agency shall make good faith efforts to minimize adverse effect on children resulting from the termination of the Agreement.

## **Article X. RECORDS RETENTION, CONFIDENTIALITY AND DATA SECURITY REQUIREMENTS**

- A. The Provider agrees that all records, documents, writings or other information, including, but not limited to, financial records, census records, client records and documentation of legal compliance with Ohio Administrative Code rules, produced by the Provider under this Agreement, and all records, documents, writings or other information, including but not limited to financial, census and client used by the Provider in the performance of this Agreement are treated according to the following terms:
1. All records relating to costs, work performed and supporting documentation for invoices submitted to the Agency by the Provider along with copies of all Deliverables, as defined in Article XXIX, submitted to the Agency pursuant to this Agreement will be retained for a minimum of three (3) years after reimbursement for services rendered under this Agreement.
  2. If an audit, litigation, or other action is initiated during the time period of the Agreement, the Provider shall retain such records until the action is concluded and all issues resolved or three (3) years have expired, whichever is later.
  3. All records referred to in Section A 1) of this Article shall be available for inspection and audit by the Agency or other relevant agents of the State of Ohio (including, but not limited to, the County Prosecutor, the Ohio Department of Job and Family Services (ODJFS), the Auditor of the State of Ohio, the Inspector General of Ohio, or any duly authorized law enforcement officials), and the United States Department of Health and Human Services within a reasonable period of time.
- B. The Provider agrees to keep all financial records in a manner consistent with Generally

Accepted Accounting Principles.

- C. The Provider agrees to comply with all federal and state laws applicable to the Agency and the confidentiality of the children and families. Provider understands access to the identities of any Agency's child and families shall only be as necessary for the purpose of performing its responsibilities under this Agreement. No identifying information on child(ren) served will be released for research or other publication without the express written consent of the Agency. Provider agrees that the use or disclosure of information concerning the child for any purpose not directly related to the administration of this Agreement is prohibited. Provider shall ensure all the children's and families' documentation is protected and maintained in a secure and safe manner.
- D. The Provider agrees to comply with all applicable state and federal laws related to the confidentiality and transmission of medical records, including, but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- E. Although information about and generated under this Agreement may fall within the public domain, the Provider shall not release information about or related to this Agreement to the general public or media verbally, in writing, or by any electronic means without prior approval from the Agency unless the Provider is required to release requested information by law. Agency reserves the right to announce to the general public and media: award of the Agreement, Agreement terms and conditions, scope of work under the Agreement, Deliverables, as defined in Article XXIX, and results obtained under the Agreement, impact of Agreement activities, and assessment of the Provider's performance under the Agreement. Except where Agency approval has been granted in advance, the Provider shall not seek to publicize and will not respond to unsolicited media queries requesting: announcement of Agreement award, Agreement terms and conditions, Agreement scope of work, government-furnished documents the Agency may provide to the Provider to fulfill the Agreement scope of work, Deliverables required under the Agreement, results obtained under the Agreement, and impact of Agreement activities.
- F. If contacted by the media about this Agreement, both parties agree to notify the other in lieu of responding immediately to media queries. Nothing in this section is meant to restrict the Provider from using Agreement information and results to market to specific business prospects.
- G. Client data must be protected and maintained in a secure and safe manner whether located in Provider's facilities, stored in the Cloud, or used on mobile devices outside Provider's facility. Security of Provider's network, data storage, and mobile devices must conform to generally recognized industry standards and best practices. Maintenance of a secure processing environment includes, but is not limited to, network firewall provisioning, intrusion detection, antivirus protection, regular third-party vulnerability assessments, and the timely application of patches, fixes and updates to operating systems and applications.
- H. Provider agrees that it has implemented and shall maintain during the term of this Agreement the highest standard of administrative, technical, and physical safeguards and controls to:
1. Ensure the security and confidentiality of data;
  2. Protect against any anticipated security threats or hazards to the security or integrity of data; and
  3. Protect against unauthorized access to or use of data. Such measures shall include at a minimum:
    - a. Access controls on information systems, including controls to authenticate and permit access to data only to authorized individuals and controls to prevent Provider employees from providing data to unauthorized individuals who may seek to obtain this information (whether through fraudulent means or otherwise);
    - b. Firewall protection;
    - c. Encryption of electronic data while in transit from Provider networks to external networks;
    - d. Measures to store in a secure fashion all data which shall include multiple levels of

- authentication;
  - e. Measures to ensure that data shall not be altered or corrupted without the prior written consent of the Agency;
  - f. Measures to protect against destruction, loss or damage of data due to potential environmental hazards, such as fire and water damage.
- I. Immediately upon discovery of a confirmed or suspected breach involving data, Provider will notify Agency no later than twenty-four (24) hours after Provider knows or reasonably suspects a breach has or may have occurred. Provider shall promptly take all appropriate or legally required corrective actions, and shall cooperate fully with the Agency in all reasonable and lawful efforts to prevent, mitigate or rectify such data breach. In the event of a suspected breach, Provider shall keep the Agency informed of the progress of its investigation until the uncertainty is resolved.
- J. In the event the Provider does not carry the appropriate cyber security insurance to cover a security breach, the Provider shall reimburse the Agency for actual costs incurred, including, but not limited to, providing clients affected by a security breach with notice of the breach, and/or complimentary access for credit monitoring services, which the Agency, deems necessary to protect such affected client.
- K. In the event the Agency discontinues operation, all child records for residential or any other placement settings shall be provided to the custodial agency. If the setting is licensed by ODJFS, licensing records shall be sent to:
- ODJFS  
ATTN: Licensing  
P.O. Box 183204  
Columbus, OH 43218-3204

## **Article XI. PROVIDER ASSURANCES AND CERTIFICATIONS**

- A. As applicable to the Provider's license and/or certification, the Provider certifies compliance with [ORC 2151.86, 5103.0328, 5103.0319](#) and applicable OAC Sections as defined in Article XXII of this Agreement concerning criminal record checks, arrests, convictions and guilty pleas relative to foster caregivers, employees, adult household members, volunteers and interns who are involved in the care for a child. Provider is responsible for any penalties, financial or otherwise, that may accrue because of noncompliance with this provision.
- B. To the extent that the Provider maintains a residential center or group home, the Provider agrees to comply with the provisions of their licensing Agency that relates to the operation, safety and maintenance of residential facilities. Specifically, Provider agrees that no firearm or other projectile weapon and no ammunition for such weapons will be kept on the premises.
- C. Provider certifies compliance with Drug Free Work Place Requirements as outlined in 45 C.F.R. Part 76, Subpart F.
- D. Provider certifies compliance with 45 C.F.R. Part 80, Non-Discrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964.
- E. Provider certifies compliance with 45 C.F.R. Part 84, Non-Discrimination on the Basis of Handicap in Programs or Activities Receiving Federal Assistance.
- F. Provider certifies compliance 45 C.F.R. Part 90, Non-Discrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance.
- G. Provider certifies compliance with the American with Disabilities Act, Public Law 101-336.

H. Provider certifies that it will:

1. Provide a copy of its license(s), certification, accreditation or a letter extending an expiring license, certification, or accreditation from the issuer to the Agency prior to the signing of the Agreement.
2. Maintain its license(s), certification, accreditation and that upon receipt of the renewal of its license, certification, and/or accreditation or upon receipt of a letter extending an expiring license, certification, and/or accreditation from the issuer, a copy of the license, certification and/or accreditation will be provided to the Agency within ten (10) business days of receipt by the Provider.
3. Provider shall immediately notify the Agency of any action, modification or issue relating to said licensure, accreditation or certification.

I. Provider certifies that it will not deny or delay services to eligible persons because of the person's race, color, religion, national origin, gender, orientation, disability, or age.

J. The Provider shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented in Department of Labor regulation 41 CFR part 60.

K. Provider further agrees to comply with [OAC 5101:9-2-01](#) and [OAC 5101:9-2-05\(A\)\(4\)](#), as applicable, which require that persons with limited English proficiency (LEP) can meaningfully access services. To the extent Provider provides assistance to an LEP Child through the use of an oral or written translator or interpretation services in compliance with this requirement, the LEP Child shall not be required to pay for such assistance.

L. To the extent applicable, the Provider certifies compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h) Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 C.F.R. Part 15).

M. The Provider certifies compliance, where applicable, with 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 (Pub. L. 94-163, 89 Stat. 871).

N. The Provider certifies that all approvals, licenses, or other qualifications necessary to conduct business in Ohio have been obtained and are current.

O. Provider shall comply with the Small Business Job Protection Act (Public Law ("P.L.") 104-188), the Multiethnic Placement Act of 1994 (P.L. 103-382), Titles IV-B (42 U.S.C. 620 et seq.) and IV-E (42 U.S.C. 670 et seq.) of the Social Security Act ("the Act"), the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), Section 471(a) of Title IV-E of the Act (42 U.S.C. 671(a)), and 45 C.F.R. 1356, including all rules, regulations and guidelines issued by federal and state authorities, [OAC 5101:9-4-07](#) and [OAC 5101:2-47-23.1](#).

## Article XII. INDEPENDENT CONTRACTOR

A. The Provider and the Agency agree that no employment, joint venture, or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this Agreement.

B. The Provider and the Agency agree that the Provider is an independent contractor and assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers' compensation, unemployment compensation, and insurance premiums received for services or Deliverables rendered hereunder.

C. The Provider and the Agency agree that no person and/or entities entering into this Agreement, nor

any individual employed by any person or entity entering in to this Agreement, are public employees for purposes of contributions to Ohio Public Employees Retirement system by virtue of any work performed or services rendered in accordance with this Agreement.

### **Article XIII. AUDITS AND OTHER FINANCIAL MATTERS**

- A. Provider agrees to submit to Agency a copy of the independent audit it receives in accordance with [ORC section 5103.0323](#).
- B. Upon request from the Agency, Provider shall submit a copy of the most recent Federal income tax return and related schedules filed with the Internal Revenue Service (IRS).
- C. If Provider participates in the Title IV-E program, Provider agrees to timely file its Title IV-E cost report with all required items as outlined in [OAC 5101:2-47-26.2](#) to ODJFS. Provider agrees that in the event a cost report cannot be timely filed, an extension shall be requested prior to the December 31st filing deadline.
- D. If a Provider participates in the Title IV-E program, an Agreed Upon Procedures engagement must be conducted by a certified public accountant for the Provider's cost report in accordance with [OAC 5101:2-47-26.2](#). The procedures are conducted to verify the accuracy of costs used to establish reimbursement ceilings for maintenance and administration costs of children in care. Any overpayments or underpayment of federal funds to the Title IV-E Agency due to adjustments of cost report reimbursement ceiling amounts as a result of an audit, shall be resolved in accordance with [ORC 5101.11](#), [5101.14](#), and [OAC 5101:2-47-01](#).
- E. Upon request from the Agency, the Provider shall submit a copy of the JFS 02911 and Agreed Upon Procedures.
- F. For financial reporting purposes and for Title IV-E cost reporting purposes, Provider agrees to follow the cost principles set forth in the following OAC Sections and publications:
  1. [OAC 5101:2-47-11](#): "Reimbursement for foster care maintenance costs for children's residential centers, group homes, maternity homes, residential parenting facilities, and purchased foster care homes";
  2. [OAC 5101:2-47-26.1](#): "Public children services agencies (PCSA), private child placing agencies (PCPA), private noncustodial agencies (PNA), residential care facilities, substance use disorder (SUD) residential facilities: Title IV-E cost report filing requirements, record retention requirements, and related party disclosure requirements";
  3. [OAC 5101:2-47-26.2](#): "Cost Report Agreed Upon Procedures Engagement".
  4. JFS 02911 Single Cost Report Instructions; and
  5. For Private Agencies: 2 CFR part 225, Cost Principles for State, Local, and Indian Tribal Governments.
  6. For Public Agencies: 2 CFR part 230, Cost Principles for Non-Profit Organizations.
  7. 2 CFR part 200.501, Audit Requirements.

### **Article XIV. GRIEVANCE /DISPUTE RESOLUTION PROCESS**

In the event a dispute arises under the provisions of this Agreement, the parties shall follow the procedures set forth below:

1. The party complaining of a dispute shall provide written notice of the nature of the dispute to the other party to this Agreement. A copy of the notice shall be sent to the Director or designee of the Agency and to the Executive Director or designee of the Provider. Within ten (10) business days of receiving the notice of a dispute, the parties involved in the dispute between the Agency and the Provider shall attempt to resolve the dispute.

2. If the parties are unable to resolve the dispute in one (1) business day, the highest official or designee of the Agency shall make the final determination within twenty (20) business days, which will be non-binding.
3. Neither party will be deemed to have waived any other rights or remedies available to them by initiating, participating in or completing this process.

## **Article XV. AMENDMENTS**

This Agreement, Addenda, and all Exhibits hereto constitutes the entire Agreement and may be amended only with a written amendment signed by both parties; however, it is agreed by the parties that any amendments to laws or regulations cited herein will result in the correlative modification of this Agreement, without the necessity for executing written amendments. The impact of any applicable law, statute, or regulation not cited herein and enacted after the date of execution of this Agreement will be incorporated into this Agreement by written amendment signed by both parties and effective as of the date of enactment of the law, statute, or regulation. Any other written amendment to this Agreement is prospective in nature.

## **Article XVI. NOTICE**

Unless otherwise set forth herein, all notices, requests, demands and other communications pertaining to this Agreement shall be in writing and shall be deemed to have been duly given if delivered or mailed by certified or registered mail, postage pre-paid:

If to Agency, to      Title IV-E Agency  
                                  Street Address  
                                  City, State, Zip

If to Provider, to      Provider  
                                  Street Address  
                                  City, State, Zip

## **Article XVII. CONSTRUCTION**

This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Ohio. Should any portion of this Agreement be found to be unenforceable by operation of statute or by administrative or judicial decision, the operation of the balance of this Agreement is not affected thereby; provided, however, the absence of the illegal provision does not render the performance of the remainder of the Agreement impossible.

## **Article XVIII. NO ASSURANCES**

- A. Provider acknowledges that, by entering into this Agreement, Agency is not making any guarantees or other assurances as to the extent, if any, that Agency shall utilize Provider's services or purchase its goods. In this same regard, this Agreement in no way precludes, prevents, or restricts Provider from obtaining and working under additional arrangement(s) with other parties, assuming the work in no way impedes Provider's ability to perform the services required under this Agreement. Provider warrants that at the time of entering into this Agreement, it has no interest in nor shall it acquire any interest, direct or indirect, in any agreement that will impede its ability to provide the goods or perform the services under this Agreement.
- B. This Agreement, Addenda, and all Exhibits embodies the entire agreement of the Parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or Agreements, either written or oral, between the parties to this Agreement. Also, this Agreement shall not be modified in any manner except by an



instrument, in writing, executed by both the parties.

## Article XIX. CONFLICT OF INTEREST

- A. Provider agrees that the Provider, its officers, members and employees, currently have no, nor will they acquire, any interest, whether personal, professional, direct or indirect, which is incompatible, in conflict with or which would compromise the discharge and fulfillment of Provider's functions, duties and responsibilities hereunder. If the Provider, or any of its officers, members or employees acquire any incompatible, conflicting, or compromising personal or professional interest, the Provider shall immediately disclose, in writing, such interest to the Agency. If any such conflict of interest develops, the Provider agrees that the person with the incompatible, conflicting, or compromising personal or professional interest will not participate in any activities related to this Agreement.
- B. Provider agrees: (1) to refrain from promising or giving to Agency employees anything of value to manifest improper influence upon the employee; (2) to refrain from conflicts of interest; and, (3) to certify that Provider complies with [ORC 102.03, 102.04, 2921.42, 2921.43](#).
- C. The Provider further agrees that there is no financial interest involved on the part of the Agency or the respective county authority(ies) governing the agency. The Provider has no knowledge of any situation which would be a conflict of interest. It is understood that a conflict of interest occurs when an Agency employee or county official will gain financially or receive personal favors as a result of signing or implementation of this agreement. The Provider will report the discovery of any potential conflict of interest to the Agency. Should a conflict of interest be discovered during the term of this agreement, the Agency may exercise any right under the agreement, including termination of the agreement.

## Article XX. INSURANCE

The Provider shall purchase and maintain for the term of this Agreement insurance of the types and amounts identified herein. Maintenance of the proper insurance for the duration of the Agreement is a material element of the Agreement.

Provider agrees to procure and maintain for the term of this Agreement the insurance set forth herein. The cost of all insurance shall be borne by Provider. Insurance shall be purchased from a company licensed to provide insurance in Ohio. Insurance is to be placed with an insurer provided an A.M. Best rating of no less than A-. Provider shall purchase the following coverage and minimum limits:

- A. Commercial general liability insurance policy with coverage contained in the most current Insurance Services Office Occurrence Form CG 00 01 or equivalent with limits of at least One Million Dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate and at least One Hundred Thousand Dollars (\$100,000.00) coverage in legal liability fire damage. Coverage will include:
1. Additional insured endorsement;
  2. Product liability;
  3. Blanket contractual liability;
  4. Broad form property damage;
  5. Severability of interests;
  6. Personal injury; and
  7. Joint venture as named insured (if applicable).

Endorsements for physical abuse claims and for sexual molestation claims must be a minimum of Three Hundred Thousand Dollars (\$300,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate.

- B. Business auto liability insurance of at least One Million Dollars (\$1,000,000.00) combined single limit,

on all owned, non-owned, leased and hired automobiles. If the Agreement contemplates the transportation of the users of County services (such as but not limited to Agency consumers) "Consumers" and Provider provides this service through the use of its employees' privately-owned vehicles "POV", then the Provider's Business Auto Liability insurance shall sit excess to the employees "POV" insurance and provide coverage above its employee's "POV" coverage. Provider agrees the business auto liability policy will be endorsed to provide this coverage.

- C. Professional liability (errors and omission) insurance of at least One Million Dollars (\$1,000,000.00) per claim and in the aggregate.
- D. Umbrella and excess liability insurance policy with limits of at least One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate, above the commercial general and business auto primary policies and containing the following coverage:
1. Additional insured endorsement;
  2. Pay on behalf of wording;
  3. Concurrency of effective dates with primary;
  4. Blanket contractual liability;
  5. Punitive damages coverage (where not prohibited by law);
  6. Aggregates: apply where applicable in primary;
  7. Care, custody and control – follow form primary; and
  8. Drop down feature.

The amounts of insurance required in this section for General Liability, Business Auto Liability and Umbrella/Excess Liability may be satisfied by Provider purchasing coverage for the limits specified or by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than the limits specified in General Liability, Business Auto Liability and Umbrella/Excess Liability when added together.

- E. Workers' Compensation insurance at the statutory limits required by ORC.
- F. The Provider further agrees with the following provisions:
1. All policies, except workers' compensation and professional liability, will endorse as additional insured the Board of County Commissioners, and Agency and their respective officials, employees, agents, and volunteers, including their Board of Trustees if applicable. The additional insured endorsement shall be on an ACORD or ISO form.
  2. The insurance endorsement forms and the certificate of insurance forms will be sent to the Agency Director or Designee. The forms must state the following: "Board of County Commissioners, and Agency and their respective officials, employees, agents, and volunteers are endorsed as additional insured as required by agreement on the commercial general, business auto and umbrella/excess liability policies."
  3. Each policy required by this clause shall be endorsed to state that coverage shall not be canceled or materially changed except after thirty (30) calendar days prior written notice given to the Agency Director or Designee.
  4. Provider shall furnish the Agency with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received by the Agency before the Agreement commences. The Agency reserves the right at any time to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
  5. Failure of the Agency to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Agency to identify a deficiency from evidence provided shall not be construed as a waiver of Provider's obligation to maintain such insurance.
  6. Provider shall declare any self-insured retention to the Agency pertaining to liability insurance. Provider shall provide a financial guarantee satisfactory to the Agency

- guaranteeing payment of losses and related investigations, claims administration and defense expenses for any self-insured retention.
7. If Provider provides insurance coverage under a "claims-made" basis, Provider shall provide evidence of either of the following for each type of insurance which is provided on a claims-made basis: unlimited extended reporting period coverage which allows for an unlimited period of time to report claims from incidents that occurred after the policy's retroactive date and before the end of the policy period (tail coverage), or; continuous coverage from the original retroactive date of coverage. The original retroactive date of coverage means original effective date of the first claim-made policy issued for a similar coverage while Provider was under Agreement with the County on behalf of the Agency.
  8. Provider will require all insurance policies in any way related to the work and secured and maintained by Provider to include endorsements stating each underwriter will waive all rights of recovery, under subrogation or otherwise, against the County and the Agency. Provider will require of subcontractors, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section.
  9. Provider, the County, and the Agency agree to fully cooperate, participate, and comply with all reasonable requirements and recommendations of the insurers and insurance brokers issuing or arranging for issuance of the policies required here, in all areas of safety, insurance program administration, claim reporting and investigating and audit procedures.
  10. Provider's insurance coverage shall be primary insurance with respect to the County, the Agency, their respective officials, employees, agents, and volunteers. Any insurance maintained by the County or the Agency shall be excess of Provider's insurance and shall not contribute to it.
  11. If any of the work or Services contemplated by this Agreement is subcontractors, Provider will ensure that any subcontractors comply with all insurance requirements contained herein.
  12. If the Agreement provider is a government entity, insurance requirements will be fulfilled under the County Risk Sharing Authority (CORSA).

## **Article XXI. INDEMNIFICATION & HOLD HARMLESS**

- A. To the fullest extent permitted by and in compliance with applicable law, Provider agrees to protect, defend, indemnify and hold harmless the Agency and the Board of County Commissioners, their respective members, officials, employees, agents, and volunteers (the "Indemnified Parties") from and against all damages, liability, losses, claims, suits, actions, administrative proceedings, regulatory proceedings/hearings, judgments and expenses, subrogation (of any party involved in the subject of this Agreement), attorneys' fees, court costs, defense costs or other injury or damage (collectively "Damages"), whether actual, alleged or threatened, resulting from injury or damages of any kind whatsoever to any business, entity or person (including death), or damage to property (including destruction, loss of, loss of use of resulting without injury damage or destruction) of whatsoever nature, arising out of or incident to in any way, the performance of the terms of this Agreement including, without limitation, by Provider, its subcontractor(s), Provider's or its subcontractor(s)' employees, agents, assigns, and those designated by Provider to perform the work or services encompassed by the Agreement. Provider agrees to pay all damages, costs and expenses of the Indemnified Parties in defending any action arising out of the aforementioned acts or omissions.
- B. Each Party agrees to be responsible for any personal injury or property damage caused solely by its negligent acts or omissions as determined by a court of competent jurisdiction, or as the parties may otherwise mutually agree in writing.
- C. This Article is not applicable to Agreements between governmental entities.

## **Article XXII. SCREENING AND SELECTION**

- A. Criminal Records Check

1. Provider warrants and represents it will comply with Article XI as it relates to criminal record checks. Provider shall insure that every individual subject to a BCII check will sign a release of information to allow inspection and audit of the above criminal records transcripts or reports by the Agency or a private vendor hired by the Agency to conduct compliance reviews on their behalf.
2. Provider shall not assign any individual to work with or transport children until a BCII report and a criminal record transcript has been obtained.
3. Except as provided in Section C below, Provider shall not utilize any individual who has been convicted or plead guilty to any violations contained in [ORC 5153.111\(B\)\(1\)](#), [ORC 2919.24](#), and [OAC Chapters 5101:2-5, 5101:2-7, 5101:2-48](#).
4. Provider agrees to be financially responsible for any audit findings resulting in financial penalty due to lack of compliance with the criminal records checks requirements in [OAC Chapters 5101:2-5, 5101:2-7, 5101:2-48](#).

#### B. Transportation of Child

1. The caregiver shall ensure the transportation of children in care will be reliable, legal and safe transportation with safety restraints, as appropriate for the child and must be in compliance with applicable local, state and Federal transportation laws:
  - a. Maintenance of a current valid driver's license and vehicle insurance.
  - b. All children being transported by Provider must follow Ohio's Child Passenger Safety Law as defined in ORC 4511.81.
  - c. No child that is a passenger and is required to have a seat restraint can be transported by said provider until these requirements are met.
2. In addition to the requirements set forth above, Provider shall not permit any individual to transport children if:
  - a. The individual has a condition which would affect safe operation of a motor vehicle;
  - b. The individual has six (6) or more points on his/her driver's license; or
  - c. The individual has been convicted of, or pleaded guilty to, a violation of section 4511.19 (Operating vehicle under the influence of alcohol or drugs – OVI or OVUAC) of the Revised Code if the individual previously was convicted of or pleaded guilty to two or more violations within the three years immediately preceding the current violation.

#### C. Rehabilitation

1. Notwithstanding the above, Provider may make a request to the Agency to utilize an individual if Provider believes the individual has met the rehabilitative standards of [OAC 5101:2-7-02](#) as follows:
  - a. If the Provider is seeking rehabilitation for a foster caregiver, a foster care applicant or other resident of the foster caregiver's household, Provider must provide written verification that the rehabilitation standards of [OAC 5101:2-7-02](#) have been met.
  - b. If the Provider is seeking rehabilitation for any other individual serving a child in care, Provider must provide written verification from the individual that the rehabilitative conditions in accordance with [OAC 5101:2-5-09](#) have been met.
2. The Agency shall review the facts presented and may allow the individual to work with, volunteer with or transport children on a case-by-case basis. It is the Agency's sole discretion to permit a rehabilitated individual to work with, volunteer with or transport children.

#### D. Verification of Job or Volunteer Application:

Provider shall check and document each applicant's personal and employment references, general work history, relevant experience, and training information. Provider further agrees it will not employ an individual in relation to this Agreement unless it has received satisfactory employment references, work history, relevant experience, and training information.

**Article XXIII. PROHIBITION OF CORPORAL & DEGRADING PUNISHMENT**

Agency prohibits the use of corporal or degrading punishment against children served by Agency and must comply with requirements in [OAC 5101:2-7-09](#), [5101:2-9-21](#), and [5101:2-9-22](#).

**Article XXIV. FINDING FOR RECOVERY**

ORC 9.24 prohibits public agencies from awarding an Agreement for goods, services, or construction, paid for in whole or in part from federal, state and local funds, to an entity against whom a finding for recovery has been issued if the finding is unresolved. By entering into this Agreement, Provider warrants and represents that they do not have an unresolved finding for recovery. Provider shall notify the Agency within ten (10) business days of its notification should the Provider be issued such finding by the Auditor of State.

**Article XXV. PUBLIC RECORDS**

This Agreement is a matter of public record under the Ohio public records law. By entering into this Agreement, Provider acknowledges and understands that records maintained by Provider pursuant to this Agreement may also be deemed public records and subject to disclosure under Ohio law. Upon request made pursuant to Ohio law, the Agency shall make available the Agreement and all public records generated as a result of this Agreement.

**Article XXVI. CHILD SUPPORT ENFORCEMENT**

Provider agrees to cooperate with ODJFS and any Ohio Child Support Enforcement Agency (CSEA) in ensuring Provider and Provider's employees meet child support obligations established under state or federal law. Further, by executing this Agreement, Provider certifies present and future compliance with any court or valid administrative order for the withholding of support which is issued pursuant to the applicable sections in [ORC Chapters 3119, 3121, 3123, and 3125](#).

**Article XXVII. DECLARATION OF PROPERTY TAX DELINQUENCY**

After award of an Agreement, and prior to the time the Agreement is entered into, the successful Provider shall submit a statement in accordance with ORC Section [5719.042](#). Such statement shall affirm under oath that the person with whom the Agreement is to be made was not charged at the time the bid was submitted with any delinquent personal property taxes on the general tax list of personal property of any county in which the taxing district has territory or that such person was charged with delinquent personal property taxes on any such tax list, in which case the statement shall also set forth the amount of such due and unpaid delinquent taxes any due and unpaid penalties and interest thereon. If the statement indicates that the taxpayer was charged with any such taxes, a copy of the statement shall be transmitted by the fiscal officer to the county treasurer within thirty days of the date it is submitted.

A copy of the statement shall also be incorporated into the Agreement, and no payment shall be made with respect to any contract to which this section applies unless such statement has been so incorporated as a part thereof.

**Article XXVIII. SUBCONTRACTING AND DELEGATION**

The performance of any duty, responsibility or function which is the obligation of the Provider under this Agreement may be delegated or subcontracted to any agent or subcontractor of Provider if Provider has obtained the prior written consent of the Agency for that delegation subcontract. Provider is responsible for ensuring that the duties, responsibilities or functions so delegated or subcontracted are performed in accordance with the provisions and standards of this Agreement, and the actions and omissions of any such agent or subcontractor shall be deemed to be the actions and omissions of Provider for purposes of this Agreement.

## **Article XXIX. PROPERTY OF AGENCY**

The Deliverable(s) and any item(s) provided or produced pursuant to this Agreement (collectively called "Deliverables") will be considered "works made for hire" within the meaning of copyright laws of the United States of America and the State of Ohio. The Agency is the sole author of the Deliverables and the sole owner of all rights therein. If any portion of the Deliverables are deemed not to be a "work made for hire," or if there are any rights in the Deliverables not so conveyed to the Agency, then Provider agrees to and by executing this Agreement hereby does assign to the Agency all worldwide rights, title, and interest in and to the Deliverables. The Agency acknowledges that its sole ownership of the Deliverables under this Agreement does not affect Provider's right to use general concepts, algorithms, programming techniques, methodologies, or technology that have been developed by Provider prior to this Agreement or that are generally known and available. Any Deliverable provided or produced by Provider under this Agreement or with funds hereunder, including any documents, data, photographs and negatives, electronic reports/records, or other media, are the property of the Agency, which has an unrestricted right to reproduce, distribute, modify, maintain, and use the Deliverables. Provider shall not obtain copyright, patent, or other proprietary protection for the Deliverables. Provider shall not include in any Deliverable any copyrighted material, unless the copyright owner gives prior written approval for the Agency and Provider to use such copyrighted material. Provider agrees that all Deliverables will be made freely available to the general public unless the Agency determines that, pursuant to state or federal law, such materials are confidential or otherwise exempt from disclosure.

## **Article XXX. SEVERABILITY**

If any term of this Agreement or its application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

## **Article XXXI. NO ADDITIONAL WAIVER IMPLIED**

If the Agency or Provider fails to perform any obligations under this Agreement and thereafter such failure is waived by the other party, such waiver shall be limited to the specific matter waived and shall not be deemed to waive any other failure hereunder, nor a waiver of a subsequent breach of the same provision or condition. Waivers shall not be effective unless in writing.

## **Article XXXII. COUNTERPARTS**

This Agreement may be executed as an original document only, or simultaneously in two or more counterparts, each of which shall be deemed an original, and each of these counterparts shall constitute one and the same instrument. It shall not be necessary in making proof of this Contract to produce or account for more than one such counterpart. An electronic signature or a scanned or otherwise reproduced signature shall be a binding signature and carry the same legal force as the original.

## **Article XXXIII. APPLICABLE LAW AND VENUE**

This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of Ohio. Any legal action brought pursuant to this agreement will be filed in the Ohio courts, and Ohio law as well as Federal law will apply.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of the signature of the parties.

SIGNATURE OF PARTIES:

IV-E agency/Network Provider

Agreement Begin-End Dates

Provider  
Printed Name

Date

Agency  
Printed Name

Date