



BRITISH
COLUMBIA

FAMILY CARE HOME AGREEMENT

THIS AGREEMENT dated for reference the _____ day of _____, _____.

BETWEEN:

**A DIRECTOR DESIGNATED UNDER SECTION 91 OF THE CHILD,
FAMILY AND COMMUNITY SERVICE ACT**

(the "**Director**")

AND:

(the "**Caregiver(s)**")

The Director and the Caregiver(s) agree as follows:

DEFINITIONS

1.01 In this agreement:

- (a) "**Caregiver's Documents**" means
 - (i) all accounting and administrative records, books of account, invoices, receipts or vouchers produced or received by the Caregiver(s) or any Subcontractor as a result of this agreement, and
 - (ii) any published or unpublished materials including without limitation, all books, articles, screenplays or software written or otherwise created directly or indirectly by the Caregiver(s) which materials incorporate or are centered on the experiences of the Caregiver(s) in respect of the Caregiver's Services, provided that the Director's Documents are not published.
 - (iii) The Caregiver(s) shall at all times comply with section 8.03 if the Caregiver(s) publishes any material described in section 1.01(a)(ii).

- (iv) any documents specified as "Caregiver's Documents" in a Service Schedule whether complete or not;
- (b) **"Documents"** means the Caregiver's Documents and the Director's Documents;
- (c) **"Director's Documents"** means all documents, other than Caregiver's Documents, produced or received by the Caregiver(s) or any Subcontractor as a result of this agreement including findings, software, data, specifications, drawings, case files, reports and documents, whether complete or not;
- (d) **"Schedule"** means:
 - (i) Schedule A is the "Service Schedule" attached to this Agreement;
 - (ii) Schedule B is the "Payment Schedule" attached to this Agreement;
 - (iii) Schedule C is the "Insurance Schedule" attached to this Agreement;
 - (iv) Schedule D is the "Obligations of the Caregiver(s)" attached to this Agreement;
 - (v) Schedule E is the "Obligations of the Director" attached to this Agreement;
- (e) **"Caregiver Services"** means those services described in the applicable Services Schedule;
- (f) **"Plan of Care"** means a comprehensive plan of care for a particular child developed and authorized by the Director, following consultation with the Caregiver(s), which includes the child's name, gender and date of birth, and addresses the current status of the child's physical and emotional state and level of development, the child's family and social relationships, including visits and contact with parents and family members, the child's educational requirements, the child's health and health care, the child's cultural heritage, social, recreational, and religious activities, the child's views regarding the Plan of Care. Additionally, the Plan of Care must describe the child's needs and what services will be provided to meet those needs.
- (g) **"Subcontractor"** means a subcontractor retained by the Caregiver(s) to perform any of the Caregiver Services, but does not include persons hired by the Caregiver(s) to transport the child to and from the Caregiver's residence, other foster parents temporarily fulfilling the Caregiver's responsibilities, baby sitters or homemakers.
- (h) **"Term"** means the term of this agreement described in section 2.01.
- (i) **"Province"** means His Majesty the King in right of the Province of British Columbia as represented by the Minister of Children and Family Development.

- (j) **"Privacy Training"** means the Province's online privacy and information sharing training course.

TERM

- 2.01 Regardless of the date of execution or delivery of this agreement, the term of this agreement starts on the _____ and ends on the _____.

SERVICES

- 3.01 The Caregiver(s) must provide the Services in accordance with the provisions of this agreement.
- 3.02 Unless the parties otherwise arrange, the Caregiver(s) must supply and, as described in the Services Schedule, pay the costs associated with providing the Caregiver Services.
- 3.03 The Caregiver(s) must comply with all standards and policies, developed by the Director in consultation with the BC Federation of Foster Parent Associations (BCFFPA) and provided by the Director, respecting:
- the Caregiver(s) duties in providing care to a child;
 - the Director's review or investigation of concerns regarding a child's care; and
 - dispute resolution.
- 3.04 The Director may from time to time, in writing or verbally give reasonable instructions to the Caregiver(s) as to the performance of the Services. The Caregiver(s) must comply with those instructions but may, if circumstances permit, determine the manner in which the instructions are carried out.
- 3.05 In cases of emergency verbal instructions given by the Director shall be complied with immediately by the Caregiver(s) and confirmed in writing within a reasonable period by the Director. In non-emergency circumstances, if verbal instructions are considered by the Caregiver(s) not to be in the best interest of the child, the Caregiver(s) shall verbally so advise the Director. In these circumstances, the verbal instruction will not take effect until such time as the Director has confirmed the instruction in writing.
- 3.06 The Caregiver(s) must, upon the reasonable request of the Director, fully inform to the best of the Caregiver(s) knowledge and belief, the Director of the work the Caregiver(s) did in connection with providing the Services. If this information has not been communicated to the director during the Term, the Caregiver(s) obligations under this section will continue in force after this agreement ends.

PAYMENT

- 4.01 The Director must provide funding to the Caregiver(s) for the provision of the Caregiver(s) Services in the amounts set out in the Payment Schedule. The Director may agree to provide additional funding for a specific child as contemplated by the Payment Schedule.
- 4.02 The Caregiver(s) must provide an invoice and if requested to do so, receipts in relation to payments other than the regular payments described in the Payment Schedule.
- 4.03 The payment of money under this agreement is subject to the Financial Administration Act, which makes any payment subject to an appropriation being available in the fiscal year of the Director during which payment becomes due.
- 4.04 Unless otherwise specified in this agreement, all references to money are to Canadian dollars.
- 4.05 If applicable, the Province will pay GST on the contract payments made under this agreement
- 4.06 If, due to administrative error, the Director pays the Caregiver(s) money either after this agreement is terminated or in excess of the funding amounts set out in the Payment Schedule, this money paid in error is an overpayment and the Caregiver(s) is liable to repay to the government the amount or value of the overpayment.
- 4.07 The Caregiver(s) will promptly inform the Director of any overpayment the Caregiver(s) receives from the Director even if the overpayment occurred after this agreement has been terminated.
- 4.08 The amount or value of the overpayment that the Caregiver(s) is liable to repay is a debt due to the government and the government may do one or more of the following:
 - recover the amount owed as a debt due to the government in accordance with the Financial Administration Act; or
 - reduce future payments to the Caregiver(s) under this Agreement until the amount owed is recovered.

REPORTS AND RECORDS

- 5.01 The Caregiver(s) must produce and deliver to the Director statements and other reports in accordance with the applicable Schedules. This obligation will continue in force after the agreement ends if the Caregiver(s) has not produced and delivered the required statements and reports prior to the ending of the agreement.
- 5.02 The Caregiver(s) must permit the Director to inspect the Caregiver(s) premises and the Documents and to copy the Documents, provided the Director has given the Caregiver(s) reasonable notice.

OWNERSHIP AND COPYRIGHT

- 6.01 The Caregiver(s) acknowledges and agrees that the Director exclusively owns:
- (a) the Director's Documents;
 - (b) any property provided by the Director to the Caregiver(s) or a Subcontractor for the purposes of this agreement unless the Director has indicated in writing that the property provided is to be owned by the Caregiver(s) or Subcontractor, as applicable; and
 - (c) any property specified in a Service Schedule as property to be owned by the Director.
- 6.02 Upon the Director's request, the Caregiver(s) must deliver to the Director any of the Director's Documents and any property described in this section as requested as soon as it is practical to do so. The Caregiver(s) may copy and retain any of the Director's Documents prior to delivering the same to the Director provided that, together with the Director's Documents, the Caregiver(s) delivers a list identifying the documents copied and retained. For so long as the Caregiver(s) retains copies of the Director's Documents, the Caregiver(s) obligations to ensure confidentiality of the Director's documents will continue in force even after this agreement ends.
- 6.03 Subject to applicable law (including the *Child, Family and Community Service Act* and the *Freedom of Information and Protection of Privacy Act*), the Director must give the Caregiver(s) access to the Director's Documents (including the right to copy them) after their delivery to the Director under section 6.02.
- 6.04 The copyright in the Director's Documents belongs exclusively to the Director. If any Director's Documents are created under the terms of this agreement by the Caregiver(s), a Subcontractor or any of their employees, then upon the Director's request, the Caregiver(s) must sign documents provided by the Director which will perfect the Director's ownership and right to use such Director's Documents.
- 6.05 Subject to sections 5.01 and 5.02 the Director acknowledges and agrees that the Caregiver(s) exclusively owns the Caregiver(s) documents including copyright therein.

SERVICE EVALUATION

- 7.01 The Caregiver(s) must participate in a service evaluation process applicable to the Caregiver Services as developed from time to time by the Director in consultation with the Caregiver(s), upon receiving reasonable notice from the Director and at reasonable times.

PERSONAL INFORMATION

- 8.01 In sections 8.02 and 8.03, “personal information” has the same meaning as in the *Freedom of Information Act*.
- 8.02 Any personal information in the Director’s Documents collected by the Caregiver(s) is collected on behalf of the Director.
- 8.03 The Caregiver(s) must not disclose personal information relating to a child that is in, or has been in the Caregiver(s) care, or that child’s family except to the Director, to a person designated by the Director, unless compelled to do so pursuant to the Supreme Court Rules, a court order or subpoena. However the Caregiver(s) may disclose as much information on a need to know basis, to persons such as other caregivers, teachers and health care providers.
- 8.04 The Director may issue instructions to the Caregiver(s) so that the Director is able to comply with their duties under Part 3 of the *Freedom of Information and Protection of Privacy Act* or Part 5 of the *Child and Family Community Service Act*, in relation to any personal information in the possession of the Caregiver(s) or a Subcontractor to which that Part applies, and the Caregiver(s) must comply with those instructions.
- 8.05 By signing this agreement, the Caregiver(s) is consenting to the Director disclosing the Caregiver(s) name, address and phone number to the BC Federation of Foster Parent Associations.

INSURANCE AND INDEMNITY

- 9.01 The Director and the Caregiver(s) agree to the provisions of the Insurance Schedule outlined in Schedule C to this Agreement.
- 9.02 The Caregiver(s) will indemnify and save harmless the Director, the Crown and its employees and agents (each an "indemnified person") from any losses, claims, damages, action, causes of action, costs and expenses that an indemnified person may sustain, incur, suffer, or be put to at any time either before or after this Agreement ends, which are based upon, arise out of or occur directly or indirectly, by reason of a finding by a court, or an admission of liability by the Caregiver(s) that the Caregiver(s) sexually, physically, or mentally abused a child placed in the Caregiver(s) care by the Director. The obligations of the Caregiver(s) under this section will apply, and will continue in force, despite any liability that may also be imposed on an indemnified person, as a result of, but not limited to, a finding of vicarious liability, breach of a non-delegable duty, breach of fiduciary duty or negligence on the part of an indemnified person.
- 9.03 The Director will arrange to indemnify the Caregiver(s) for specified legal defence costs as determined by the Province if and when a child in care brings unfounded allegations of criminal or intentional acts against the Caregiver(s).

ASSIGNMENT AND SUBCONTRACTING

- 10.01 The Caregiver(s) must not assign any of their rights under this agreement without the prior written consent of the Director.
- 10.02 The Caregiver(s) must not, without the prior written consent of the Director, subcontract any of the Services. If the Director consents to a subcontractor performing any or all of the Caregiver's Services, the Caregiver(s) must ensure that any Subcontractor fully complies with this agreement in performing the subcontracted Services.
- 10.03 The Caregiver(s) must not provide any services to any person in circumstances which, in the reasonable opinion of the Director, could give rise to a conflict of interest between the duties of the Caregiver(s) to that person and the duties of the Caregiver(s) to the Director under this agreement.
- 10.04 The Caregiver(s) must not do anything that would result in personnel it hires being considered the employees of the Director.
- 10.05 The Caregiver(s) must not, at any time before or after this agreement ends, commit or purport to commit the Director to pay any money except as authorized by this agreement.

ENDING OF AGREEMENT

- 11.01 This agreement will end upon any of the following events:
 - (a) a party has failed to comply with this agreement in any material respect and the other party has given the party failing to comply written notice that, for that reason, the agreement has ended or the agreement will end on a specified date and that date has arrived;
 - (b) a party has given to the other party at least 60 days written notice that this agreement is to end and that period of notice has elapsed.
- 11.02 If this agreement ends under section 11.01 other than by reason of the Caregiver's failure to comply with this agreement, the Director must pay to the Caregiver(s) that portion of the payments described in the applicable Payment Schedule which equals the portion of the Services that were completed in accordance with this agreement before this agreement ended and the Director will be under no further obligation under this agreement to the Caregiver(s).
- 11.03 Upon the ending of this agreement the Caregiver(s) will, if the Caregiver(s) has not earlier done so on the request of the Director under sections 3.05 and 6.02 respectively, forthwith:
 - (a) fully inform the Director of the work the Caregiver(s) has done in connection with providing the Services; and

(b) deliver to the Director all the Director's Documents.

11.04 The notices described in section 11.01(b) and 11.03(b) may be given for any reason and at any time.

11.05 A party ending this agreement under section 11.01(a) may pursue other remedies as well.

NOTICES

12.01 Any consent, approval, written instruction or other notice to be given under this agreement, to be effective, must be in writing and delivered personally, by courier or prepaid registered mail to the following addresses:

Address for notices to the Director

Address for notices to the Caregiver

12.02 Any notice mailed in accordance with section 11.01 is deemed to be received 10 business days after mailing. For the purpose of this section, a "business day" is any day which is not a Saturday, a Sunday or a statutory holiday in British Columbia.

12.03 A party may give notice to the other party of a substitute address from time to time.

MISCELLANEOUS

13.01 A waiver by either party of any provision of this agreement or of any breach by the other party of this agreement is effective only if it is in writing and signed by the waiving party and is not a waiver of any other provision or any other breach.

13.02 No modification of this agreement is effective unless it is in writing and signed by both the Caregiver(s) and the Director.

13.03 This agreement and any modification of it constitute the entire agreement between the parties as to performance of the Services.

13.04 The Caregiver(s) must comply with all applicable laws.

- 13.05 The Caregiver(s) is an independent contractor and not an employee, agent, or partner of the Director.
- 13.06 The Director must, both before and after this agreement ends, make available to the Caregiver(s) all information in possession of the Director which the Director reasonably considers to be required by the Caregiver(s) to perform the Services and in particular, the Director will make available to the Caregiver(s), all information which may be relevant to the health and safety and potential legal liability of the Caregiver(s).
- 13.07 Time is of the essence in this agreement.
- 13.08 At no time before or after this agreement ends, does this agreement operate as a permit, license, approval or other statutory authority which the Caregiver(s) may be required to obtain from the Province or any agency controlled by the Province, and nothing in this agreement will interfere with the exercise by the Province or any agency controlled by the Province of any statutory power or duty.
- 13.09 This agreement rescinds and replaces any previous agreements between the parties respecting the Services which would otherwise be in effect during the Term.
- 13.10 Any provision in the body of this agreement will prevail over a conflicting provision in a schedule to this agreement to the extent necessary to resolve the conflict unless the conflicting provision provides otherwise.

PRIVACY TRAINING

- 14.01 The Ministry will pay the direct costs of the Privacy Training, the Contractor, must ensure that:
- (a) All existing employees, agents, volunteers and sub-contractors who collect, create, or access Personal Information, complete Privacy Training within 3 months of this Agreement coming into force if they have not already done so;
 - (b) All new employees, agents, volunteers and sub-contractors engaged subsequent to the signing of this Agreement who will collect, create or access Personal Information have completed the provincially required Privacy Training prior to accessing Personal Information; and,
 - (c) A log is maintained with the names of all employees, agents, volunteers and sub-contractors who collect, create, or access Personal Information which indicates the status of their completion of the Privacy Training including date of completion. The Contractor must make this log available to the Province upon request.

INTERPRETATION

15.01 This agreement is governed by and is to be construed in accordance with the laws of British Columbia.

15.02 In this agreement the words "including" and "includes" are not intended to be limiting.

15.03 In this agreement, unless the context otherwise requires:

- (a) references to sections by number are to sections of this agreement; and
- (b) where a period "starts" or "ends" on a date, the period includes that date;
- (c) references to this agreement include all the schedules attached to this agreement;
- (d) references to days are to calendar days.

15.04 The headings in this agreement are included for convenience only and do not form part of this agreement.

The parties have executed this agreement as follows:

SIGNED on behalf of the
Director by an authorized representative

Signature of Authorized Representative

Date: _____

Printed name of Authorized Representative

SIGNED by the Caregiver(s)

Signature of Caregiver

Date: _____

Printed name of Caregiver