

**COMMONWEALTH OF VIRGINIA  
CHILD CARE SUBSIDY PROGRAM  
CHILD CARE CENTER VENDOR AGREEMENT**

This Agreement ("Agreement") shall govern the purchase of child care services from the Vendor on behalf of parents eligible for child care assistance through the Child Care Subsidy Program (the "Program"), as herein described, and provides as follows:

Vendor Id	Vendor Type
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**1. Vendor Information.** The Vendor asserts and certifies the following information:

<b>Legal Business Name</b>		
<b>Last Name</b>	<b>First Name</b>	
Address		
City	State	Zip
Email		

**2. Purpose.**

This Agreement is a contract between VDSS and the Vendor for the provision of child care services to be rendered by the Vendor to child care recipients of local departments of social services who are eligible for child care assistance through the Virginia Child Care Subsidy Program. The parties acknowledge that this Agreement and the services provided by the Vendor are governed by and subject to the federal and state laws and regulations for the Child Care and Development Block Grant (42 U.S.C. §§ 9858 et seq., 45 C.F.R. §§98.1 et seq.), the child care provisions of the Block Grant for Temporary Assistance for Needy Families (42 U.S.C. §§ 601 et seq., Va. Code §§ 63.2-600 et seq.), and the Child Care Program (22 VAC 40-661), and to the guidelines established in the Child Care Subsidy Vendor Guide and the Virginia Electronic Child Care system ("VA-ECC") Manuals, as amended from time to time.

**3. Term of Agreement.**

This Agreement shall be in effect from the date a completed, signed and dated agreement is received by VDSS and will remain in effect through 6/30/2024 or until such time as a new agreement is entered into. Signing this agreement negates any other agreement that may be in place. The Agreement may be renewed in writing by mutual agreement of the parties, within 90 days prior to the expiration hereof, for two successive one-year terms upon the end of the initial term.

**4. Termination of Agreement.**

- 4.1. This Agreement may be terminated by VDSS if any of the following occur:
- 4.1.1. The Vendor's license/certificate/permit/exemption to operate a child care facility is revoked, suspended, or denied. Payment to the Vendor shall not be issued for services rendered after the last day on which the Vendor's license/certificate/permit/exemption was still in effect.
  - 4.1.2. The Vendor's business location changes; ownership of the Vendor's business is assigned, sold, or otherwise transferred; the Vendor's business structure changes; the Vendor's employer identification number changes; the Vendor does not provide supporting tax identification documents such as a copy of the social security card, a copy of the IRS SS4 form or a copy of the IRS 147 C notice; or the Vendor's legal operating status becomes invalid for any reason. Payment to the Vendor shall not be issued for services rendered after the occurrence of these events.
  - 4.1.3. The Vendor commits fraud; provides false information to VDSS or the local department of social services; fails to notify VDSS of a change in circumstances that affects payments received by the Vendor; accepts payments that the Vendor knows, or should reasonably have known, that Vendor is not entitled to such payments; makes a claim for payment to which the Vendor is not entitled pursuant to the terms of this Agreement and all applicable rules, laws and regulations. The Vendor shall repay any amounts overpaid due to such actions unless otherwise provided by court order, if any. The Vendor, its owners, members or principles if the Vendor is corporation, partnership, or limited liability company, shall be permanently disqualified from participating in the Program upon the first finding of any action described herein this paragraph committed by the Vendor; or
  - 4.1.4. The Vendor is in violation of paragraphs, 6.8, 9.5, or 10.11, or any other paragraph that expressly provides for termination.
- 4.2. This Agreement may be terminated by VDSS for the Vendor's violation or repeated violations of any term of this Agreement or of any state laws and regulations related to the Program and to the licensing or the exemption there from of child care providers, including but not limited to, the provision and maintenance of background checks of the Vendor's employees, volunteers and other individuals who come into contact with children.
- 4.3. Upon such termination of this Agreement by VDSS pursuant to paragraphs 4.1 and 4.2, VDSS may disqualify the Vendor from future participation in the Program permanently or for a determinate period of time. Such disqualification shall apply to any person having any ownership interest in the Vendor. The Vendor may

appeal the termination of this Agreement and Program disqualification pursuant to section 11 herein. The Vendor shall not receive any further Program subsidy payments as of the effective date of termination by VDSS whether or not the

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Vendor appeals the termination. VDSS shall conduct business only with responsible vendors. It is the intent of this policy to prevent excluded vendors from substituting others as surrogates to continue the practices that caused VDSS to exclude the vendor.

- 4.4. This Agreement may be terminated by the Vendor with 7 days advance written notice to VDSS. Upon such termination, the Vendor shall immediately notify all parents or families receiving the Child Care Subsidy Program assistance for whom the Vendor provides child care services of its termination of this Agreement.

## **5. Suspension of Payments and Enrollment.**

If the Division of Licensing Programs (DOLP) issues a notice of intent to suspend, revoke or deny the vendor's license/certificate/exemption, no new children eligible for subsidy services may enroll in the vendor's child care program after such action is taken against the facility.

If DOLP issues a Provisional License to the vendor's child care program, no new children eligible for subsidy services may enroll in the child care program during the provisional period (up to 6 months).

If VDSS receives a tax intercept for a vendor from the Internal Revenue Service or the Virginia Department of Taxation, payments from VDSS to the vendor can be reduced, depleted, or delayed to satisfy the federal and state payment intercept requirement. In some cases, it may delay any remaining payment to the vendor by up to 10 business days from the day of anticipated deposit.

## **6. Program Participation Requirements**

- 6.1. Vendor shall have a working telephone at each site where child care is provided.
- 6.2. The Vendor shall comply with all applicable federal and state laws and regulations, including, but not limited to, laws and regulations related to the licensing or exemptions of child care providers; state regulations, policies, and guidelines for the Child Care Subsidy Program as set forth by VDSS; state and local health and safety requirements related to child care providers; and §63.2-1509 of the Code of Virginia for the reporting of suspected abuse or neglect of a child. The Vendor shall be subject to at least one annual inspection by VDSS to ensure compliance with all such laws, regulations, and policies. Such inspection may be unannounced.
- 6.3. The Vendor shall keep all records, including but not limited to attendance and payment records, pertaining to the children receiving child care assistance up to date and accessible to VDSS. The Vendor must make payment records available to parents upon their request for payments made on behalf of their children.
- 6.4. The Vendor agrees to retain all books, records, and other documents relative to this Agreement for five (5) years after final payment for auditing purposes by any local, state or federal government agency. Failure to provide records may subject the Vendor to repayment of all subsidy monies received during the

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period of time in question. The Vendor agrees that VDSS, its authorized agent, and/or State, Federal and local fraud investigators and auditors shall have full access to and the right to examine and/or remove any said materials during said period. If an audit or investigation is begun before the five-year retention period ends, records must be kept until the completion of the audit. Should an audit by authorized local, state or federal officials result in disallowance of amounts previously paid to the Vendor, the Vendor shall reimburse the VDSS upon demand.

- 6.5. The Vendor shall allow parents of the children served unlimited access to their own children while under the Vendor's care.
- 6.6. The Vendor shall allow staff from VDSS and the local department of social services unlimited access to the children in care when the vendor has a current purchase of service order (POSO) for one or more children who receive child care assistance. If, after two failed attempts to conduct an unannounced subsidy inspection during the vendor's reported days/hours of operation, and subsequent contact with VDSS staff is not made by the vendor by telephone or email within 48 hours of an attempted inspection, the subsidy record will be CLOSED and the vendor will need to reapply for vendor approval.
- 6.7. The Vendor shall notify the VDSS Division of Child Care and Early Childhood Development (CCECD) immediately at (833) 551-7794 if it ceases to operate at its physical address designated herein or its legal operating status changes or becomes invalid. The Vendor shall notify the VDSS CCECD of any change in name, tax identification number, address, telephone number, email address or in authorized representative within 3 business days.
- 6.8. The Vendor shall provide the child care services under this Agreement. The Vendor shall not sell, assign, subcontract, or otherwise transfer any interest or duties and responsibilities under this Agreement. Payment for the services rendered pursuant to this Agreement shall be made only to the Vendor named in this Agreement for care provided at the location identified in this Agreement.
- 6.9. The Vendor shall notify the local department of social services immediately for any of the following:
  - 6.9.1. A child receiving child care assistance does not attend on the first authorized day of care.
  - 6.9.2. A child receiving child care assistance is officially withdrawn from enrollment.
  - 6.9.3. A child receiving child care assistance is absent for more than five consecutive days. VDSS will pay for up to five days of care after the last day of attendance when the child is unexpectedly withdrawn without prior notice. Payment of any fees not paid by VDSS is the responsibility of the parent.
  - 6.9.4. The parent does not have a VA-ECC card within one week of enrollment.

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6.9.5. The parent is unable or unwilling to use the VA-ECC card.

6.10. All vendors must be in compliance with the inspection requirements (22 VAC 40665-470-830) found at:

[http://dss.virginia.gov/family/cc/approved\\_subsidy\\_vendors.cgi](http://dss.virginia.gov/family/cc/approved_subsidy_vendors.cgi), in addition to the regulatory requirements of their specific licensing, certifying, and/or permitting agency. Failure of the Vendor to maintain compliance shall be grounds for termination of this Agreement.

6.11. Vendors must provide the VDSS a copy of the social security card, a copy of the IRS SS4 form or a copy of the IRS 147 C notice associated with the entity's tax filing status when applying to become a Child Care Subsidy Vendor, whenever the entity name, address or filings status changes, and whenever requested by VDSS.

## **7. Program Training and Notice of Program Changes by VDSS.**

7.1. The vendor and/or designee shall complete Virginia Preservice Training for Child Care Staff prior to the submission of this Agreement and ensure all staff members complete the training within the first 90 days of subsidy vendor approval.

7.2. The vendor and/or designee shall complete the Annual Health and Safety Update Course each year and ensure all staff members complete the training annually.

7.3. VDSS shall provide the Vendor information or training on the use and handling of the point-of-service ("POS") hardware devices, including providing the necessary information to contact the POS hardware and system provider (i.e. Conduent) in the event of malfunction of the POS hardware or service. Should VDSS contract with another POS hardware and system provider, VDSS shall promptly notify the Vendor and provide any necessary further training or information pertaining to the POS hardware and system.

7.4. VDSS shall provide notice to the Vendor of any changes or amendments to state regulations, policies or guidelines for the Child Care Subsidy Program. Such notice may be by electronic communication.

## **8. Rates.**

8.1. Maximum Reimbursable Rates ("MRR") have been established for child care services for each locality in the state according to type of care provided. VDSS shall pay the rates the Vendor charges the general public up to the MRR for the locality in which the Vendor is located, less any parent or guardian co-payments, where applicable. The Purchase of Services Order ("POSO") shall state the rate to be paid to the Vendor. The MRR may be adjusted from time to time only by VDSS in accordance with state law or regulation and are published in the appendix of the Child Care Subsidy Program Guidance Manual available on the VDSS public website.

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Payments to the Vendor shall be subject to the terms regarding holidays and absent days stated herein this Section where applicable.

The rates and number of authorized days for which the Vendor may be paid shall be stated on the Purchase of Services Order ("POSO") entered into by the Vendor and local department of social services. Child care services shall not be provided prior to receiving a POSO for the child or prior to verification of an approved authorization in the VA-ECC Web Portal. Any services provided prior to the issuance of a POSO may not be paid by the Program.

The MRR have been established for both Level 1 and Level 2 providers. Level 2 providers are paid at a higher rate than Level 1 providers, based on the level of regulatory oversight. Specific rate information can be found at: [http://dss.virginia.gov/family/cc/approved\\_subsidy\\_vendors.cgi](http://dss.virginia.gov/family/cc/approved_subsidy_vendors.cgi) under the forms and manuals tab.

- 8.2. The Vendor shall not bill VDSS and VDSS shall not pay the Vendor at a rate higher than that charged to the general public.
- 8.3. VDSS shall not pay a rate higher than the MRR for the locality in which the Vendor is located. Any amount the Vendor charges the general public above the amount of the MRR may be charged to the family. For children who meet the definition of children with special needs in 22VAC40-665-10 of the Virginia Administrative Code, payment of up to two times the amount of the MRR for the child's age shall be allowed when it is appropriate as determined by the local department of social services in consultation with the parent(s), the Vendor, and appropriate medical or mental health professional.
- 8.4. The Vendor shall provide VDSS written notice of rates on the form provided by the VDSS annually. Such information may result in a change in the authorized payment amounts as stated on the POSO(s) due to federal funding regulations.

A rate must be submitted for all care levels in which the vendor expects to have children served during the year. **If no rate is submitted for the age category, the vendor will not receive payments for that age category.**

If the vendor does not submit a rate form by the required deadline each year, the vendor will no longer be eligible to be a subsidy vendor.

**Level 2 Vendors: *Licensed Child Day Centers and US Department of Defense Approved Centers***

8.5. The Vendor shall accept only one registration fee per child per program fiscal year up to \$100 if such is charged to the general public.

8.6. VDSS shall pay for the following ten holidays when the Vendor is closed only if the Vendor charges the general public for such holidays:

New Year's Day	Labor Day
Martin Luther King, Jr. Day	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

8.7. VDSS will not pay for days when the Vendor is closed and unavailable to parents with the exception of the holidays listed in paragraph 8.6.

8.8. VDSS will pay for up to 36 absent days per child per fiscal year (June 1 – May 31) while the child is still enrolled, subject to paragraph 6.9.3. The total number of allowable absent days will be available upon case approval and at the beginning of each fiscal year thereafter.

**Level 1, *Religious Exempt Child Care Centers and Certified Pre-schools***

8.9. VDSS shall pay for the following ten holidays when the Vendor is closed only if the Vendor charges the general public for such holidays:

New Year's Day	Labor Day
Martin Luther King, Jr. Day	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

8.10. VDSS will not pay for days when the child is not present with the exception of the holidays listed in paragraph 8.9.

8.11. VDSS will not pay any vendor activity or registration fees.

**Level 1, *Local Government Approved Recreation Programs***

8.12. VDSS shall not pay for any days the child is not present and not receiving care by the Vendor.

8.13. Program funds shall not be used, and VDSS shall not pay any vendor activity or registration fees.

**9. Attendance.**

- 9.1. The Vendor shall keep attendance records current and in accordance with this Agreement. Records that are not accessible, not current, or are unverifiable could result in overpayment subject to repayment by the Vendor to VDSS.
- 9.2. The Vendor shall retain all original attendance records and reports required by this Agreement for a period of 5 years.
- 9.3. The Vendor shall make all attendance records accessible for inspection by the local department of social services and/or its authorized agents, VDSS staff and/or its authorized agents, and any local, state or federal auditors upon request.
- 9.4. Each child's parent or guardian shall record the child's arrival and departure into the VA-ECC system using the point-of-service (POS) hardware device issued to the Vendor or the interactive voice response (IVR) telephone system utilizing the Vendor's telephone that is registered with the Program.
- 9.5. The Vendor shall not report attendance using Vendor Attendance Reports except under the circumstances listed in paragraph 9.6. Excessive or unauthorized use of Vendor Attendance Reports may result in nonpayment, the termination of this Agreement and/or disqualification of the Vendor from future participation in the Program.
- 9.6. The Vendor forfeits payment for services if the original signed/dated Vendor Attendance Reports used in accordance with this section are not received by VDSS within 30 days of the end of the service period that is being reported. A service period is either the first through the fifteenth or the sixteenth through the last day of the month.

The Vendor shall allow staff from VDSS and the local department of social services to inspect the vendor's facility for VA-ECC cards or any billing information. Upon discovery of any such materials that indicate fraudulent or questionable billing practices, VDSS and the local department of social services shall have the right to seize VA-ECC cards and/or the POS hardware and to be given copies of billing records.

Vendor Attendance Reports will be accepted by VDSS for entry into the VA-ECC system under the following circumstances only:

- 9.6.1. VA-ECC Card: The parent/family has not yet been issued their VA-ECC swipe card. Attendance can be recorded manually using the Vendor Attendance Report prior to the parent's receipt of their VA-ECC swipe card. If the parent does not have a VA-ECC swipe card within one week, the local department of social services must be notified per subsection 6.9.

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9.6.2. POS/IVR Problems: The POS device has not yet been installed or the POS/IVR system was not functioning for the parent/guardian to check in/out. In the event this occurs, the Vendor shall report the system or device malfunction to the manufacturer within 24 hours and shall document the making of such report.

9.6.3. Retroactive Authorization: If a local department of social services issues a POSO with an effective beginning date prior to the date of issuance, authorized attendance recorded outside of the nine-day back swipe limit, defined as the current day plus previous eight days, may be reported manually.

Vendor attendance reports will not be processed if submitted for invalid reasons.

9.7. Only parents, guardians and alternate cardholders named by the parent(s) of children receiving child care assistance are authorized to possess and swipe the VA-ECC card issued to them on the Vendor's POS machine or use the IVR system to report attendance. **The Vendor shall not be in possession of or swipe any parents' or guardians' VA-ECC card or use the IVR system to report attendance; nor shall the Vendor ask the cardholder for his Personal Identification Number (PIN).**

9.8. The Vendor shall not ask or require a parent or guardian to swipe or otherwise report attendance for a day the child/children does/do not attend except as listed in paragraphs 8.6, 8.8 and 8.9.

9.9. The Vendor shall ensure that claimed attendance submitted via the VA-ECC system is correct and shall void any incorrect transactions within the nine-day swipe limit, defined as the current day plus previous eight days.

9.10. The Vendor shall not move the POS device to another facility.

9.11. The Vendor shall follow the instructions included in the POS User Manual and/or the IVR User Manual and train all staff on the proper use and requirements of the POS device.

## 10. **Billing/Payments.**

10.1. VDSS shall provide prompt payment to the Vendor for services rendered pursuant to this Agreement.

10.2. The provision of services authorized by the POSO is considered to be acceptance of that POSO.

10.3. VDSS payments to the Vendor for child care services rendered shall be according to the rates stated on the POSO in accordance with all terms of this Agreement, less any monthly co-payment to be made by the parents or guardians, if applicable. Payments to the Vendor shall be based on the agreed rate and the

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number of days the child actually attended, subject to the terms regarding holidays and absences in section 8.

- 10.4. Payment is restricted to services provided at the location specified on the POSO.
- 10.5. The Vendor shall maintain a bank account with which to receive payments by direct deposit if the Vendor is organized as a corporation, partnership, estate, trust, government entity, non-profit organization, or tax-exempt charitable organization under Internal Revenue Code § 501(c)(3). If the Vendor is an individual or operates as a sole proprietorship, the Vendor may receive payment by debit card or by direct deposit.
- 10.6. All incorrect and/or incomplete attendance transactions must be reconciled and verified prior to payment being made.
- 10.7. Payment for attendance submitted via Vendor Attendance Reports shall be issued by VDSS up to thirty days after complete Vendor Attendance Reports forms are received. VDSS may at its discretion review Vendor records to verify the accuracy and/or completeness of manual attendance report forms received. If VDSS determines that the Vendor is submitting Vendor Attendance Reports forms for any reason other than for those circumstances stated in paragraph 9.6, this Agreement may be terminated and VDSS shall have no obligation to make any payments for the period covered by such manual attendance report forms.
- 10.8. If the Vendor disputes the amount of payment made for a reported time period, the Vendor must submit a written statement to the VDSS Division of Child Care and Early Childhood Development detailing the dispute within thirty (30) days from the date the payment was received. Such written statement shall include the reasons the Vendor disputes the payment amount and shall be accompanied by any documentation to support the Vendor's claim. If the Vendor fails to submit such a written statement within the thirty-day time period, the payment made for such reported time period shall be deemed final.
- 10.9. In instances when the vendor charges the difference between the vendor's rates and the MRR, the parents shall be responsible for paying the Vendor any rates that exceed the local MRR. The vendor must have a written agreement with the parent, at the time of the child's enrollment, for payment of any rates and/or fees that exceed the allowable charges if that is the vendor's policy. It is the vendor's responsibility to collect any past due payments or outstanding balances.
- 10.10. The Vendor shall not charge or otherwise hold the parents or guardians of the children served by the Program financially liable or responsible for any amounts of Program subsidy payments not made by VDSS due to the Vendor's failure to comply with the terms of this Agreement.

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- 10.11. The Vendor shall repay the full amount of any overpayments made by VDSS to the Vendor that are not the result of fraud or intentional misrepresentation. The Vendor may continue to participate in the subsidy program as long as the Vendor enters a repayment agreement with the VDSS Division of Child Care and Early Childhood Development and payments are made according to such agreement.

**11. Appeals.**

- 11.1. The Vendor may appeal decisions by VDSS regarding: (i) payment for services rendered hereunder, subject to the provisions of paragraph 10.6, (ii) termination of this Agreement, and (iii) disqualification of the Vendor from future participation in the Program.
- 11.2. To initiate an appeal of a VDSS decision, the Vendor shall notify VDSS in writing that it is appealing the decision within 30 days of the date of the written notice of VDSS' decision.
- 11.3. Upon receiving the Vendor's notice of appeal, VDSS shall hold an informal conference at which the Vendor may provide such further information or present any additional facts for VDSS to reconsider its action. VDSS shall render a decision within 15 business days from the conclusion of the informal conference. The Vendor may waive the holding of the informal conference and request the formal hearing described in paragraph 11.4 in its written notice of appeal to VDSS.
- 11.4. The Vendor may appeal the decision from the informal conference by requesting an administrative hearing within 30 days of the date of the decision from the informal conference. The administrative hearing shall be held in accordance with §2.2-4020 of the Code of Virginia and shall be presided over by a hearing officer designated by the Supreme Court of Virginia pursuant to subsection A of §2.24024 of the Code of Virginia. Within 30 days of the administrative hearing, the hearing officer shall recommend a decision to the Commissioner of the Virginia Department of Social Services. The Commissioner shall issue a final decision within 30 days of receipt of the hearing officer's recommended decision in accordance with subsection C of §2.2-4021 of the Code of Virginia.
- 11.5. The Vendor may seek court review of the Commissioner's decision pursuant to the applicable sections of the Virginia Administrative Process Act (§§ 2.2-4025 *et seq.* of the Code of Virginia).

The parties agree that this shall be the sole remedy for disputes under this Agreement and thereby waive their right for judicial review in the courts of the Commonwealth of Virginia except as provided herein.

**12. General Conditions.**

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- 12.1. **INDEMNIFICATION:** The Vendor shall indemnify and hold VDSS and the local department of social services harmless from any and all claims for damages, either in law or equity, directly or indirectly, arising out of or by virtue of the actions or inactions of the Vendor or its agents, servants, or employees in the provision of child care services in accordance with this Agreement. This paragraph does not apply to child care facilities operated by a local government.
- 12.2. **AUTHORITIES:**
- 12.2.1. Nothing herein shall cause the Vendor or its agents and employees to be deemed employees or agents of VDSS during the term of this Agreement. VDSS will issue IRS Form 1099 annually to report payments to the Vendor that total at least \$600 if applicable. Neither party shall make any commitments that will bind the other party beyond the scope of services contained herein.  
Note: Form 1099 is not issued for nonprofit agencies or corporations.
- 12.2.2. The Vendor certifies that if organized as a stock or nonstock corporation, limited liability company, business trust, limited partnership, or registered limited liability partnership, it is authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into an agreement with a public body pursuant to the Virginia Public Procurement Act shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the agreement. A public body may void any agreement with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- 12.3. **NONTRANSFERABILITY: This agreement is not assignable or transferable. The Vendor shall not assign, sublet, subcontract, or otherwise transfer its rights, duties, and obligations hereunder to another person or entity. Should ownership of the Vendor's business change, be sold, or otherwise transferred, this Agreement shall terminate and the person or entity receiving, purchasing or gaining such ownership must enter into a new agreement with VDSS in order to participate in the Program.**
- 12.4. **DISCRIMINATION:** The Vendor shall not discriminate against any recipient/child because of race, religion, color, sex, national origin, age, disability, gender identify, religion, reprisal and, where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or any other basis prohibited by state law relating to discrimination.
- 12.5. **CONFIDENTIALITY:** All information and data obtained as to personal facts and circumstances related to children and their parents or guardians shall be kept confidential by the parties, during and following the term of this Agreement,

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and shall not be disclosed without the individual's and VDSS's written consent and only in accordance with federal law or the Code of Virginia. Vendors who utilize, access, or store personally identifiable information as part of the performance of this Agreement shall safeguard this information and immediately notify VDSS of any breach or suspected breach in the security of such information. Vendors shall allow the VDSS to both participate in the investigation of incidents and exercise control over decisions regarding external reporting.

- 12.6. **PERFORMANCES:** All services provided by the Vendor pursuant to this Agreement shall be performed to the satisfaction of VDSS and the local department of social services, and in accordance with the applicable federal, state, and local laws, ordinances, rules and regulations. Vendor shall not receive payment for work found by VDSS and/or the local department of social services to be unsatisfactory, or performed in violation of federal, state or local laws, ordinances, rules or regulations.
- 12.7. **MODIFICATION OF AGREEMENT:** VDSS may issue written modifications to this Agreement, to include but not limited to, the scope of work, deliverables, and compensation. Any and all modifications to this Agreement shall be in writing and signed by the parties named below or their official designees.
- 12.8. **AVAILABILITY OF FUNDS:** The Vendor acknowledges that the Child Care Subsidy Program, as described in Section 2 herein, is funded in part or in full by federal monies pursuant to the Child Care and Development Block Grant (42 U.S.C. §§ 9858 et seq., 45 C.F.R. §§98.1 et seq.) and the child care provisions of the Block Grant for Temporary Assistance for Needy Families and that such federal funds are available for a limited period of time as proscribed by federal law and regulation. The Vendor further acknowledges that some portions of the Child Care Subsidy Program may be funded by a combination of state and federal monies with state monies made available in accordance with Virginia law and regulation, including appropriations acts. VDSS shall be bound to the terms herein under this Agreement only to the extent that such state and federal funds are made available by such state and federal laws and regulations and within such limited periods of time as proscribed therein.
- 12.9. **DRUG-FREE WORKPLACE:** During the performance of this Agreement, the Vendor agrees to provide a drug-free environment. For the purposes of this section, "drug-free environment" means the site for the care of children provided by the Vendor in accordance with this Agreement, in which the Vendor is prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Agreement.
- 12.10. **SMOKE FREE ENVIRONMENT:** Vendors certify that they will comply with the requirements of Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), which requires that smoking not be permitted in any portion of any indoor facility owned or leased or

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granted for by an entity and used routinely or regularly for the provisions of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

12.11. SEVERABILITY: If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions of this Agreement, which shall be given effect without regard to the invalid provision or application.

13. **Backup Withholding.**

The parties acknowledge that a backup withholding of 24% of the vendors payment, as required by the Internal Revenue Service, will be withheld when incorrect or unverifiable vendor name and/or tax identification number is provided to VDSS.

**Vendors must provide the VDSS a copy of the social security card, IRS SS4 form or a copy of the IRS 147C notice associated with the entity's tax filing status when applying to become a Child Care Subsidy Vendor, whenever the entity name , address, or filing status changes, and whenever requested by VDSS.**

14. **Vendor Representative/Designee.**

The Vendor may designate a representative for any matter related to the Child Care Subsidy Program, but such representative shall not be an individual or entity that has been disqualified from the Program.

EXECUTION: IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

As an authorized representative of the program, I certify that I have read, understand and will comply with all vendor responsibilities contained in this vendor agreement; I will maintain compliance with all applicable subsidy inspection requirements and any applicable licensing requirements; and, I will maintain a copy of this agreement in my child care files for a minimum of five (5) years.

Vendor:	Commonwealth of Virginia
Address:	Department of Social Services
	801 East Main Street
	Richmond, VA 23219-2901
	Authorized Representative
	Title:
	Date:
Authorized Representative	
Title:	
Date:	