

COMMUNITY CARE FOR THE AGED AND DISABLED CONTRACT

STATE OF TEXAS §
COUNTY OF TRAVIS §

Contractor: Olugbemisola Olaoye, Omoyiol Olaoye dba F.K. Bold Health Care Services ;
6633 Hillcroft No 128, Houston, Texas 77081, Region 06, Vendor No. 0624

[Legal Name of Entity, including "Doing Business As" (DBA), 4-Digit Vendor Number, Region No., Address of Entity (Street, City, State, ZIP)]

The Texas Department of Human Services (Department), and the above Contractor, hereby make and enter into

this contract for the consideration set forth below, effective the 1st day of September 19 97.

I.

Department is responsible for administering public welfare programs under Titles XIX and XX of the Social Security Act, and Title 2, Texas Human Resources Code. Department wishes to purchase for eligible clients Services of the type furnished by Contractor. Contractor has filed an application to furnish such Services. Department and Contractor mutually agree to the terms and conditions set forth below:

- (1) to the terms and conditions set forth in the Provider Manual, a copy of which has been furnished to Contractor and that is incorporated herein by reference as part of this contract;
- (2) to any subsequent revisions to the Provider Manual that are provided to Contractor; and,
- (3) to the pertinent rules published by Department.

II. The Contractor Agrees:

- A. To provide Emergency Response; Day Activity and Health Services; Home Delivered Meals; Services to Persons with Disabilities; Residential Care; Primary Home Care (and Family Care) Services as specified by the program Provider Manual for eligible clients referred by Department;
- B. To accept the vendor payment that is now in effect, or as it may hereafter be amended, as payment in full for Services and to make no additional charges to the client, any member of the client's family, or any other source;
- C. To provide Services for eligible clients in the same manner and to the same degree that these services are provided to the general public. This requirement shall not be considered as altering any other requirements specified in the plan of operation, provider manual, and/or this contract;
- D. That no advertising will be used to influence client's free choice of Services. The solicitation of clients for Services by coercion or harassment by or through the agreement or request of the Contractor will be considered non-compliance with this contract;
- E. To establish and maintain compliance with all of the provisions of this contract, the provider manual and revisions, policy clarifications, applicable federal laws and regulations, and regulations published in the **Texas Register**, including any subsequent additions, deletions, and amendments to those regulations;
- F. To secure the confidentiality of records and other information relating to clients in accordance with applicable federal law, rules, and regulations, as well as applicable State laws and regulations. This provision shall not be construed as limiting Department's right of access to client [recipient] case records or other information relating to clients;
- G. To place in all literature describing its services covered under this contract prominent notices acknowledging Department's funding to Contractor. A copy of the notice shall be placed in Contractor's annual report;
- H. To keep the information in Contractor's application current with the understanding that the application and its attachments are hereby incorporated by reference and a part of the contract and that failure to keep the information current constitutes a breach of the contract;
- I. To allow Department personnel, Department representatives, Texas Attorney General personnel including Medicaid Fraud Control Unit personnel, and personnel of the U.S. Department of Health and Human Services to have immediate access to the files of Contractor:
 - (1) relating in any way to eligible clients;
 - (2) relating in any way to the provision of Services;
 - (3) that contain fiscal information; and/or,
 - (4) that relate to a Department selected sample of de-identified, non-Medicaid patients of Contractor.

Contractor shall cooperate in review of such files by the persons specified (including locating and retrieving needed documents);

- J. To ensure that, in connection with services, neither the facility nor the facility employees, agents, or representatives solicit or accept gifts, favors, or any other item of value from the client or other person on behalf of the client;
- K. To admit and retain only clients whose needs can be met through services from Contractor's staff in cooperation with other community resources; and to comply with the requirements of Texas Human Resources Code, Chap. 102 (Rights of the Elderly), as applicable;
- L. To provide services to clients only in those areas specified in the contract, as appropriate;

- M. To disclose to Department or to the U.S. Department of Health and Human Services, the name of any person who has an ownership or control interest in or is an agent or managing employee of Contractor who has been convicted of a criminal offense related to the person's involvement in any program under Titles XVIII, XIX, or XX of the Social Security Act since the inception of these programs;
- N. To notify Department in writing of any change in ownership of Contractor at least 30 days prior to the change. A change in ownership includes any change in the business organization of the contractor that directly or indirectly changes the legal entity responsible for fulfillment of the contract;
- O. To refrain from entering into any subcontract(s) for Services without prior approval, or waiver of the right of prior approval, in writing by Department of the qualifications of the subcontractor(s) to perform and meet the standards fixed by this contract. All subcontracts entered into by Contractor shall be written and shall be subject to the requirements of Title XX of the Social Security Act, as amended, and of this contract. Contractor agrees that it shall be responsible to Department for the performance of any subcontractor;
- P. To pay for all reasonable expenses of Department, including the cost of the Department's legal counsel, incident to the enforcement of payment of all obligations of Contractor by any action or participation in, or in connection with: (1) a case or proceeding under Chapters 7, 11, and/or 13 of the U.S. Bankruptcy Code or any successor statute thereto; and/or, (2) a case or proceeding involving a receiver duly appointed to handle the contractor's business; and/or, (3) a case or proceeding in State court initiated by Department when previous collection attempts have been unsuccessful;
- Q. To provide services in compliance with applicable Federal regulations to include those found in Chapter XIII, Title 45, Code of Federal Regulations, as amended (CFR); Chapter IV, Title 42 CFR; State laws and regulations, and Department policies including service delivery standards; and, the Texas Medicaid Program;
- R. That if it is a corporation, it is either a for-profit corporation that is not delinquent in its franchise tax payments to the State of Texas, or is a non-profit corporation or is otherwise not subject to payment of franchise taxes to the State of Texas;
- S. To comply with the requirement of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for an individual hired on or after November 6, 1986, who will perform any labor or services under this contract;
- T. To comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112), The Americans with Disabilities Act of 1990 (Public Law 101-336), and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts. In addition, Contractor agrees to comply with Title 40, Chapter 73, Texas Administrative Code (relating to compliance with Civil rights laws and regulations): These provide in part that no persons in the United States shall, on the grounds of race, color, national origin, sex, age, disability, political beliefs or religion, be excluded from participation in, or denied, any aid, care, service or other benefits provided by federal and/or State funding, or otherwise be subjected to discrimination. Contractor further agrees to comply with Texas Health and Safety Code, Section (§)85.113 (relating to workplace and confidentiality guidelines regarding AIDS and HIV);
- U. To comply with Executive Order 11246, Titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in U.S. Department of Labor regulations at 41 CFR part 60;
- V. That if the funding under this Contract exceeds \$100,000, it will comply with applicable provisions of the Clean Air Act (42 USC §57401, *et seq.*) and the Federal Water Pollution Contract Act, as amended (33 USC §51251, *et seq.*);
- W. That the following statement required by the Texas Family Code §231.006, is true and correct:

"Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application, is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.";
- X. That it is responsible for its behavior as well as the behavior of its staff and subcontractors to ensure a violence-free contractual relationship. Contractor further understands that any remarks, gestures, or actions toward TDHS employees, volunteers, and/or clients that carry an implied threat of any kind, even if intended to be in jest, will be taken seriously and may lead to corrective action, up to and including revocation of the contract; and,
- Y. To comply with Department regulations regarding funds paid under the appropriate program:
 - (1) To accept as payment in full the contracted unit rate reduced by an amount equivalent to the required percentage of certified local resources;
 - (2) To certify the amount of local financial participation directly supporting the service being purchased on the request for payment submitted to Department for reimbursement;
 - (3) That certified local resources recognized by Department are limited to:
 - a. Cost expenditures by Contractor directly related to the provision of services to eligible clients and the terms of the contract;
 - b. Non-cash expenditures by Contractor directly related to the provision of service to eligible clients under the terms of the contract limited to depreciation and use charges; and,
 - c. The difference between the contracted unit rate and the rate paid by Department.

III. Department Agrees:

- A. To refer to Contractor those eligible clients for Services under this contract as described in the Provider Manual;
- B. To pay Contractor, at the rate determined by Department, for Services for eligible clients as promptly as feasible after Contractor has submitted the proper claim forms and such forms have been approved by Department;

- C. To give Contractor reasonable notice of any impending change in its status as a participating contractor; and,
- D. To provide a fair hearing in accordance with Department policy to Contractor in the event Department suspends payments, suspends or cancels this contract, or assesses an amount due from Contractor.

IV. Department and Contractor mutually agree:

- A. That Department, pursuant to Texas Human Resources Code §32.0125, may assess monetary penalties against Contractor for contract violations as required by 42 USC §1396t(j). Such assessments are to be applied in accordance with Department's rules as published in the Texas Administrative Code and shall be in addition to any other penalties and/or sanctions authorized by federal or State law and regulations;
- B. That vendor payments may be withheld because of irregularity(ies) from any cause until such irregularity(ies) can be adjusted. In addition, Contractor is responsible for payment of any valid audit exceptions found by Department's auditors and/or auditors from the Medicaid Fraud Control Unit, Texas Attorney General's office, the U.S. Department of Health and Human Services, and staff hired by contracted agencies to conduct single audits;
- C. That proper adjustments may be made in the vendor payments from month to month as indicated to compensate for prior overpayment, underpayment, and/or prior payments not made in accordance with contract requirements;
- D. That this contract may be amended by Department's written notice to Contractor in the form of a letter or written amendment. Such letters or amendments shall be incorporated into and become a part of this contract as if set out herein;
- E. That in the event federal and/or State laws or other requirements should be amended or judicially interpreted so as to render the fulfillment of this contract on the part of either party unfeasible or impossible, or if the parties to this contract should be unable to agree upon modifying amendments which would be needed to enable its substantial continuation as the result of amendments or judicial interpretations, then, and in that event, both Contractor and Department shall be discharged from further obligations created under the terms of this contract, except for equitable settlement of the respective accrued interests up to the date of the termination;
- F. That this contract shall be in force subject to the availability of appropriated funds; and that any breach or violations of any of the provisions of the contract or the Provider Manual and its revisions shall make this entire contract, at Department's option, subject to cancellation. This contract also may be canceled by mutual consent, or without mutual consent and without specifying any breach of contract by either party upon giving the other party 60 days advance written notice of intention to cancel;
- G. That Contractor is not eligible for reimbursement for services provided prior to the effective date of the appropriate license;
- H. That as Department amends, modifies, or changes the standards for participation, it shall immediately furnish Contractor a copy of any such change. Contractor shall acknowledge receipt of the Provider Manual, amendments, policy clarification letters, or changes within twenty (20) days from receipt thereof and the signed acknowledgment by Contractor shall become incorporated by reference as a part of this contract. Failure of Contractor to execute and return the acknowledgment to Department may, at Department's option, serve as sufficient justification for termination of the contract;
- I. That Department has authority to monitor and conduct fiscal and/or program audits of both Contractor and its subcontractor(s) to the extent of services provided under the terms of this contract. On site visits as well as access at reasonable times to all books and records will be granted to State or federal auditing agencies, representatives of the U.S. Department of Health and Human Services, and/or Department, when it is deemed necessary by such agencies for purposes of inspection, monitoring, auditing, or evaluating said materials;
- J. That [for Title XX programs] Department shall by Form 2029 (Information Sheet, Purchase of Service Contract) set the rate and/or maximum amount of funds available to be paid to Contractor by Department. Form 2029 is incorporated into and made a part of this contract and is effective for the time period stated on the form. Form 2029 may be amended by Department as necessary to comply with State and federal laws and regulations or renewed by Department by a new Form 2029 and incorporated into and made part of this contract;
- K. That this contract shall not be transferred or assigned without the prior written consent of Department; and,
- L. That by signing this contract, Contractor and Department accept all of the stipulations in the contract and agree to each and every provision herein.

INCORPORATION BY REFERENCE

The following marked or listed certifications(s) is/are on file with both Department and Contractor or subgrantee and is/are hereby incorporated into this contract by specific reference:

Form 2046, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for covered Contracts, dated 12-20-96 ;

Form 2047, Certification Regarding Federal Lobbying, Certification for Contracts, Grants, Loans, and Cooperative Agreement; dated 12-20-96 ; and

Form 4732, Non-Governmental Contractor Certification, dated 12-20-96

APPROVED SERVICE AREA(S)

Legal Name or DBA of Contractor Olugbemisola and Omoyiola Olaoye	Contract No. 0624	Dept. Region No. 06
Contact Person Olu Olaoye	Telephone No. 713/772-1888	

The following counties are covered by this contract effective September 1, 1997

The following counties were added to this contract effective _____

The following counties were deleted from this contract effective _____

COUNTY NAME	COUNTY NO.
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Fort Bend
Harris

079
101

INCORPORATION BY REFERENCE

The following marked or listed certifications(s) is/are on file with both Department and Contractor or subgrantee and is/are hereby incorporated into this contract by specific reference:

- Form 4732, Non-Governmental Contractor Certification, dated 9/1/97 ;
- HCFA Form 1513, Ownership and Control Interest Disclosure Statement, dated 9/1/97 ;
- Form 2031, Corporate Board of Directors Resolution or Equivalent, dated _____ ;
- Form 2037, Contractor Accounting Questionnaire, dated 9/1/97 ; and
- Form 4900, HUB Subcontract Certification dated, 9/1/97 .

The following items (if any) are also incorporated into the contract by specific reference:

Written notice of no binding partnership agreement.

TEXAS DEPARTMENT OF HUMAN SERVICES

Legal Name of Contractor
OLADYE, ObugBemisola

Maria Garcia Montoya 8/15/97
Signature--TDHS Representative Date

[Signature] 05/21/97
Signature--Contractor Representative Date

Name of Person Signing (please type or print)
OLADYE, ObugBemisola
Title
Administrator

Form approved by OGC

OLADYE, ObugBemisola 6/7/97
Signature-- Contractor Representative

STATE OF TEXAS §

COUNTY OF TRAVIS §

TEXAS DEPARTMENT OF HUMAN SERVICES
CONTRACT FOR COMMUNITY CARE PROGRAMS

Legal Name of Provider Agency:				
FK Bold Health Care Inc.				
"Doing Business As" (DBA) Name of Provider Agency (if applicable):				
FK Bold Health Care Services				
Address of Provider Agency (Street, City, State, Zip):				
6420 Richmond Ave., #315 Houston, Texas 77057				
<i>For DHS Use Only:</i>				
Listing of Separate Program Agreements:	DHS Region	Vendor No./Service Group No./Service Code(s)	Agreement Effective Date	Agreement Expiration Date
1. Primary Home Care/Family Care (PHC/FC)	1. 06	1. Vendor No: 001002708 Services Group: 7 Service Code: 17	1. July 1, 2001	1. June 30, 2002

The Texas Department of Human Services, hereinafter referred to as the Department, and the above Provider Agency, hereinafter referred to as the Provider Agency, hereby make and enter into the provisional contract(s) stated above for the consideration set forth below, effective the 1st day of July, 2001 and ending the 30th day of June, 2002.

I.

The Department is responsible for administering home and community based programs under Titles XIX, including Section 1915(c), and XX of the Social Security Act, and Title 2, Texas Human Resources Code. The Department and the Provider Agency mutually agree to the terms and conditions set forth herein and to the provisions of the applicable state and federal regulations, applicable licensure, to the terms and conditions set forth in the appropriate Provider Manual, a copy of which has been furnished to Provider Agency and that is incorporated herein by reference as part of this contract, and to any subsequent additions, deletions or amendments to such regulations, to any policy letters and/or subsequent revisions to the Provider Manual that are provided to Provider Agency, and to the pertinent rules published by Department and/or the single state Medicaid agency. Department and Provider Agency mutually agree to the terms and conditions set forth below:

II.

The Provider Agency agrees:

- A. To provide services in one or more programs as identified in this contract and as defined in the provider manual(s) and to utilize all third party resources available to individuals found eligible by the Department .
- B. To have adequate staff in place to begin delivery of services on the date the contract becomes effective.
- C. To provide services for eligible clients in the same manner and to the same degree that these services are provided to the general public. This requirement shall not be considered as altering any other requirements specified in the plan of operation, provider manual, and/or this contract.
- D. To accept the reimbursement rates which are now in effect, or as may hereinafter be amended, as payment in full for the services specified in this contract to the persons for whom a Medicaid payment is received, and to make no additional charge to the individual, any member of his/her family, or to any other source for any supplementation for such services, unless specifically allowed by Department directives.
- E. That this contract is subject to all state and federal laws and regulations relating to fraud and abuse in health care and the Medicaid program. As required by 42 C.F.R. 431.107, Provider Agency agrees to keep any and all records necessary to disclose the extent of services provided by the Provider Agency to individuals in the Medicaid program and any information relating to payments claimed by the provider for furnishing Medicaid services. Provider Agency also agrees to provide, on request, access to records required to be maintained under 42 C.F.R. 431.107 and copies of those records free of charge to the Department, the Department's agent, the Texas Health and Human Services Commission, the Texas Attorney General's Medicaid Fraud Control Unit, the Health Care Financing Administration, the Texas Department of Insurance, the Federal Bureau of Investigation, and/or the United States Department of Health and Human Services. These records must be retained in the form in which they are regularly kept by the Provider Agency for five (5) years from the date of services. Provider Agency must cooperate and assist the Department and any state or federal agency charged with the duty of identifying, investigating, sanctioning, or prosecuting suspected fraud and abuse. Provider Agency must also allow these agencies and/or their agents access to its premises.
- F. That the Texas Attorney General's Medicaid Fraud Control Unit, Department personnel, Department representatives, Independent Auditors/Evaluators, personnel of the United States Department of Health and Human Services, and the Texas Health and Human Services Commission's Office of Investigations and Enforcement may conduct interviews of Provider Agency personnel, subcontractors and their personnel, witnesses, and patients without the Provider Agency's representative or Provider Agency's legal counsel present unless the person voluntarily requests that the representative be present. Provider's personnel, subcontractors and their personnel, witnesses, and patients must not be coerced by Provider Agency or Provider Agency's representative to accept representation by the Provider Agency and Provider Agency agrees that no retaliation will occur to a person who denies the Provider Agency's offer of representation. Nothing

in this contract limits a person's right to counsel of his or her choice. Requests for interviews are to be complied with in the form and the manner requested. Provider Agency will ensure by contract or other means that its personnel and subcontractors over whom the Provider Agency has control cooperate fully in any investigation conducted by the Texas Attorney General's Medicaid Fraud Control Unit, Department personnel, Department representatives, Independent Auditors/Evaluators, personnel of the United States Department of Health and Human Services, and the Texas Health and Human Services Commission's Office of Investigations. Subcontractors are those persons or entities who provide medical goods or services for which the Provider bills the Medicaid program or who provide billing services in connection with Medicaid-covered services.

- G. To keep financial and supporting documents, statistical records, and any other records pertinent to the services for which a claim or cost report was submitted to the Department or its agent. All statistical and financial information must reflect the application of generally accepted accounting principles (GAAP) unless they conflict with DHS rules, in which case DHS rules take precedence. GAAP are those principles approved by the American Institute of Certified Public Accountants (AICPA). All financial and supporting documentation must be accurate and sufficiently detailed to support the legal, financial, and other statistical information regarding services delivered. All workpapers and records supporting information reported on cost reports, budgets, or other cost surveys must be maintained, including documentation relating to all allocations, cost centers, cost or statistical line items, surveys, and schedules. The records and documents must be kept for a minimum of 3 years and 90 days after the end of the federal fiscal year in which services were provided. If any litigation, claim, or audit involving these records begins before the expiration of the three year period, the Provider Agency must keep the records and documents for not less than 3 years and 90 days or until all litigation, claims, or audit findings are resolved, whichever is longer. The case is considered resolved when a final order is issued in litigation, or when the Department and Provider Agency enter into a written agreement.
- H. To comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112), The Americans with Disabilities Act of 1990 (Public Law 101-336), and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts. In addition, the Provider Agency agrees to comply with Title 40, Chapter 73, of the Texas Administrative Code. These provide in part that no persons in the United States shall, on the grounds of race, color, national origin, age, sex, disability, political beliefs or religion be excluded from participation in, or denied, any aid, care, services or other benefits provided by federal and/or state funding, or otherwise be subjected to any discrimination.

The Provider Agency agrees to comply with Health and Safety Code Section 85.113 (relating to workplace and confidentiality guidelines regarding AIDS and HIV).

A religious organization that contracts with the Department does not by contracting with the Department lose exemption provided under Section 702 of the Civil Rights Act (42 U.S.C. §2000E-1(a)) regarding employment practices. A religious or charitable organization is eligible to be a Provider Agency on the same basis as any other private organization. The Provider Agency retains its independence from State and local governments, including the Provider Agency's control over the definition, development, practice, and expression of its charitable or religious beliefs. Except as provided by federal law, the Department shall not interpret this contract to require a charitable or religious organization to alter its form of internal governance or remove religious art, icons, scripture, or other symbols. Furthermore if a religious or charitable organization segregates the government funds provided under the contract, then only the financial assistance provided by these funds will be subject to audit. However, neither the Department's selection of a charitable or faith-based Provider Agency of social services nor the expenditure of funds under this contract is an endorsement of the Provider Agency's charitable or religious character, practices, or expression. The purpose of this contract is the provision of social services; no State expenditures have as their objective the funding of sectarian worship, instruction, or proselytization. A charitable or faith-based provider of social services under this contract shall reasonably apprise all assisted individuals of the following: "Neither the Department's selection of a charitable or faith-based provider of social services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expressions. No provider of social services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider agency because of its religious character, you may

request assignment to a different provider agency. If you believe that your rights have been violated, please discuss the complaint with your provider agency or notify your appropriate case manager."

Section 104 of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996. 42 U.S.C. §604a, sets forth certain additional rights and responsibilities for charitable and faith-based providers of social services, certain additional rights of assisted individuals, and certain additional responsibilities of the Department to these providers and assisted individuals. This contract is subject to those additional rights and responsibilities.

- I. To comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for an individual hired on or after November 6, 1986, who will perform any labor or services under this contract.
- J. To pay to the Department any amounts the Provider Agency receives from the Department for services under this contract which are in excess of the amounts provided herein, within time limits set by the Department.
- K. To ensure the confidentiality of individual client records and other information relating to the client in accordance with applicable federal law, rules, and regulations, as well as applicable State laws and regulations. This provision shall not be construed as limiting the Department's right of access to client case records or other information relating to clients.
- L. To sign a computer security agreement ensuring data security, protecting privacy, and ensuring confidentiality and integrity of client, employee, and administrative information on automated systems.
- M. To submit all claims for reimbursement through the Department's billing system in a format acceptable to the Department and in accordance with the claims billing procedures in the provider manual.
- N. To submit claims for payment in accordance with billing guidelines and procedures promulgated by the Department, including electronic claims. Provider Agency certifies that information submitted regarding claims will be true and accurate, complete and that such information can be verified by source documents from which data entry is made by the Provider Agency. Further, Provider Agency understands that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
- O. To require any entities with whom it holds personal service agreements or subcontracts which are related to this contract to execute documents committing such entities to comply with the requirements of this contract.
- P. To refrain from entering into any subcontract(s) for Services without prior approval, or waiver of the right of prior approval, in writing by Department of the qualifications of the subcontractor(s) to perform and meet the standards fixed by this contract. All subcontracts entered into by Provider Agency shall be written and shall be subject to the requirements of this contract. Provider Agency agrees that it shall be responsible to the Department for the performance of any subcontractor.
- Q. That the Department may withhold payments, in whole or in part, if necessary because of irregularity(ies) or difference(s) from whatever cause until such irregularity(ies) or difference(s) can be adjusted. In addition, the Provider Agency is responsible for payment of any valid audit exceptions found by the Department, the Medicaid Fraud Control Unit of the Texas Attorney General's office, the United States Department of Health and Human Services and staff hired by provider agencies to conduct single audits.
- R. That the Department may apply, at its discretion, sanctions for failure to comply with contract requirements, including but not limited to:

1. placing a hold on client referrals.
2. withholding a Provider Agency's vendor payments.
3. initiating contract termination.
4. recouping overpayments.

- S. That proper adjustments may be made in the vendor payments from month to month to compensate for prior overpayment, underpayment, and/or prior payments not made in accordance with contract requirements.
- T. To comply with Executive Order 1111246, Titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in U.S. Department of Labor Regulation at 42 C.F.R. Part 60.
- U. That if the funding under this Contract exceeds \$100,000, it will comply with applicable provisions of the Clean Air Act (42 USC §§ 7401, et seq.) and the Federal Water Pollution Control Act, as amended (33 USC §§1251 et seq.).
- V. That it is responsible for the behavior of its staff and subcontractors to ensure a violence-free contractual relationship. Provider Agency further understands that any remarks, gestures, or actions toward the Department employees, volunteers, and/or clients that carry an implied threat of any kind, even if intended to be in jest, will be taken seriously and may lead to corrective action, up to and including revocation of the contract. **(NOTE: THIS SECTION IS NOT APPLICABLE TO GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITIES)**
- W. The Provider Agency certifies that the goods and/or service(s) covered by this contract are designed to be used prior to, during, and after calendar year 2000AD. The goods and/or service(s) will operate during such time periods without error relating to date data which represents different centuries or more than one century.
- X. The provider agency certifies that if it is a corporation, it is either a for-profit corporation that is not delinquent in its franchise tax payments to the State of Texas, or is a non-profit corporation or is otherwise not subject to payment of franchise taxes to the State of Texas.
- Y. To comply with federal legislation, Section 319 of Public Law 101-121 which prohibits entities from using federally appropriated funds to lobby the executive or legislative branches of the federal government. Should the potential Provider Agency engage in such activities using other than federal funds, it will provide full disclosure using Standard Form LLL, "Disclosure Form to Report Lobbying."
- Z. It has not been excluded or debarred from participation in any program under Title XVIII (Medicare) or any program under Title XIX (Medicaid) under any of the provisions of Section 1128 (a) or (b) of the Social Security Act (42 U.S.C. 1320a-7), or Executive Order 12549. Provider Agency has also not been excluded or debarred from participation in any other state or federal health care program. Provider Agency must notify the Department within ten (10) business days of the time it receives notice that any action is being taken against Provider Agency or any person defined under the provisions of section 1128 (a) or (b), which could result in exclusion from the Medicaid program. Provider Agency agrees to comply with 45 C.F.R. Part 76, "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)." This regulation requires the Provider Agency, in part, to: (a) assure that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this contract by any federal department or agency or by the State of Texas, (b) provide written notice to the department if at any time the Provider Agency learns that its certification was erroneous by reason of changed circumstances; and (c) require compliance with 45 C.F.R. Part 76 by participants in lower tier covered transactions.
- AA. To disclose information on ownership and control, information related to business transactions, and information on persons convicted of crimes in accordance with 42 C.F.R. Part 455, Subpart B, and provide such information on request to the Department, the Texas Health and Human Services Commission, the Texas Department of Health, the Texas Department of Protective and Regulatory Services, the Texas Attorney General's Medicaid Fraud Control Unit, the Health Care Financing administration, and/or the United States

Department of Health and Human Services. To keep its application for participation in the Medicaid program current by informing the Department, in writing, of any changes to the information contained in its application, including, but not limited to, federal tax identification number, or provider business addresses, at least ten (10) business days prior to making such changes. Provider Agency also agrees to notify the Department within ten (10) business days of any restriction placed on or suspension of the Provider Agency's license or certificate to provide medical services and the provider agency must provide to the department complete information related to any such suspension or restriction.

- BB. That no advertising will be used to influence client's free choice of services. The solicitation of clients for services by coercion or harassment by or through the agreement or request of the Provider Agency will be considered non-compliance with this contract.
- CC. To ensure that, in connection with services, neither the Provider Agency nor the Provider Agency's employees, agents, or representatives solicit or accept gifts, favors, or any other item of value from the client or other person on behalf of the client.
- DD. To place in all literature describing its services covered under this contract prominent notices acknowledging Department's funding to Provider Agency. A copy of the Notice shall be placed in Provider Agency's annual report.
- EE. To comply with the requirements of Texas Human Resources Code, Chap. 102(Rights of the Elderly), as applicable.
- FF. To notify the Department in writing of any change in ownership or control of Provider Agency or service area covered by Provider Agency at least 60 days prior to the change. A change in ownership includes any change in the business organization of the Provider Agency that directly or indirectly changes the legal entity responsible for fulfillment of the contract.
- GG. To pay for all reasonable expenses of Department, including the cost of the Department's legal counsel, incident to the enforcement of payment of all obligations of Provider Agency by any action or participation in, or in connection with: (1) a case or proceeding under Chapters 7, 11, and/or 13 of the U.S. Bankruptcy Code or any successor statute thereto; and/or, (2) a case or proceeding involving a receiver duly appointed to handle the Provider Agency's business; and/or, (3) a case or proceeding in State court initiated by the Department when previous collection attempts have been unsuccessful. Regarding the field audit of cost reports, whenever possible, the records necessary to verify information submitted to DHS on cost reports, including related-party transactions and other business activities engaged in by the Provider Agency must, must be made accessible to DHS audit staff within the state of Texas. When records are not available to DHS audit staff within the state of Texas, the Provider Agency must pay the actual costs for DHS staff to travel and review the records out-of-state. DHS must be reimbursed for these costs within 60 days of the request for payment.
- HH. To provide services in compliance with applicable Federal regulations to include those found in Chapter XIII, Title 45, Code of Federal Regulations, as amended (C.F.R.); Chapter IV, Title 42 C.F.R.; State laws and regulations, and Department policies including service delivery standards; and, the Texas Medicaid Program.
- II. That the following statement required by Texas Family code §231.006, is true and correct:
"Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business named in this contract, bid, or application, is not ineligible to receive the specified grant, loan, or payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate.
- JJ. In accordance with Section 403.055(h) of the Government Code, the contractor agrees that any payments due to the contractor under this contract will be first applied toward any debt and/or back taxes the contractor owes the State of Texas. Payments will be applied until such debts and back taxes are paid in full. This clause does not apply if federal law requires payment to be made to the contractor for the delivered services and may not apply if federal law conditions the receipt of the money for these goods or services to the state on the

basis of payment being made to the contractor.

III.

The Department agrees:

- A. To pay the Provider Agency for the direct services specified in this contract and in the provider manual or policy letter in amounts and under conditions determined by the Department as defined in the provider manual or policy letter and in accordance with applicable laws and regulations for all persons receiving such services who have been determined by the Department to be eligible for such assistance under the Title XIX Medicaid Program.
- B. To make all payments within time limits set by the Department and in accordance with applicable laws and regulations after a proper bill is submitted and approved.
- C. To make adjustment in the Provider Agency payments to compensate for prior overpayment or underpayment.
- D. To give to the Provider Agency reasonable notice of any impending change in its status as a participating provider agency, except that nothing in this section shall be construed to deny the Department the right, for failure to comply with the contract or regulations published in the Texas Register, to cancel this contract, suspend payments, and/or any other legal remedy available to the Department.
- E. To provide a fair hearing as defined in the Department's regulations, to the Provider Agency in the event the Department suspends payments, suspends or cancels the Provider Agency's contract or assesses an amount due from the Provider Agency.
- F. To accept from the Provider Agency electronic claims submitted for reimbursement and process such claims in the same manner and in accordance with the terms and conditions of the Department's paper claims and electronic claims billing procedures.

IV.

The Department and the Provider Agency mutually agree:

- A. That if the federal and/or state law or other requirements are changed or interpreted so that the continuation of this contract on the part of either party is unfeasible or impossible, or if the parties to this contract should be unable to agree upon modifying amendments which would be needed to enable its substantial continuation as the result of amendments or judicial interpretations, then, and only in that event, both Provider Agency and Department shall be discharged from further obligations created under the terms of this contract, except for equitable settlement of the respective accrued interests up to the date of the termination.
- B. That this contract shall continue subject to the availability of appropriated funds or until the federal and/or state governments cease to participate in the program, or by mutual consent of the Department and the Provider Agency, or if not by such mutual consent, either party to this contract may cancel any or all programs covered by this contract by the giving of sixty (60) days notice in writing to the other party and this contract for the applicable program(s) shall thereupon be canceled upon the expiration of such sixty (60) day period. Nothing in this section shall be construed to forbid the Department from terminating any or all programs covered by this contract when it is established that the Provider Agency is failing to comply with the terms of this contract or the appropriate provider manual and its revisions, and the applicable federal and state regulations, as they now read or as they may be amended. The Department may terminate any programs covered by this contract for which the Provider Agency has not billed for services for six (6) consecutive months.
- C. That this contract may be amended by the Department's written notice to Provider Agency in the form of a

letter or written amendment. Such letters or amendments shall be incorporated into and become a part of this contract.

- D. That as the Department amends, modifies, or changes the standards for participation, it shall promptly furnish the Provider Agency a copy of any such changes and that the Provider Agency shall accept such amendment, modification, or change by acknowledging such change within twenty (20) days from receipt thereof; such signed acknowledgment by the Provider Agency shall become incorporated by reference as a part of this contract; and the failure of the Provider Agency to execute and return the acknowledgment to the Department may, at the Department's option, serve as sufficient justification for vendor hold or termination of the contract.
- E. That any breach or violation of any of the provisions of the contract and state and federal regulations shall make this entire contract, at the Department's option, subject to cancellation.
- F. That this contract shall not be transferable or assignable without express prior written approval of the Department.
- G. That by signing this contract, the Provider Agency and the Department accept all of the stipulations in the contract, and agree to each and every provision therein and further agree that this contract shall be considered completed and executed and this contract shall be binding on the said Provider Agency and the Department at such time as the Department notifies the Provider Agency of its participating status.
- H. That the Department, pursuant to the Human Resources Code, §32.0125, may assess monetary penalties against Provider Agency for contract violations as required by 42 USC §1396t(j). Such assessments are to be applied in accordance with Department's rules as published in the Texas Administrative Code and shall be in addition to any other penalties and/or sanctions authorized by federal or State law and regulations.
- I. That Department has authority to monitor and conduct fiscal and/or program reviews of both Provider Agency and its subcontractor(s) to the extent of services provided under the terms of this contract. On site visits as well as access at reasonable times to all books and records will be granted to State or federal auditing agencies, representatives of the U.S. Department of Health and Human Services and/or Department when it is deemed necessary by such agencies for purposes of inspection, monitoring, auditing, or evaluating said materials.
- J. That for Title XX programs, the Department shall, by Form 2029 (Information Sheet, Purchase of Service Contract), set the rate and/or maximum amount of funds available to be paid to Provider Agency by the Department. Form 2029 is incorporated into and made a part of this contract and is effective for the time period stated on the form. Form 2029 may be amended by the Department as necessary to comply with State and federal laws and regulations or renewed by the Department by a new Form 2029 and incorporated into and made part of this contract.
- K. That the Department will provide technical assistance to the Provider Agency to assist the Provider Agency in meeting contract requirements and program standards as defined in the provider manual, and that the technical assistance will be provided upon the Provider Agency's request or at the Department's discretion.

Texas Department
of Human Services

Form 9284
October 1999
Page 2

INCORPORATION BY REFERENCE

The following marked or listed certification(s) is/are on file with both the Department of Human Services and the Provider Agency or Subgrantee and is/are hereby incorporated into this contract by specific reference.

- X Form 3681, Application for Participation in CCAD Services, dated 11/01/99
- X Form(s) 3691, Application Information by DHS Region, dated 11/01/99
- X Form 4732, Non-Governmental Provider Agency Certification, dated 01/14/00
- X HCFA Form 1513, Disclosure of Ownership and Control Interest Statement, dated 11/03/99
- X Form 2031, Corporate Board of Directors Resolution or Equivalent, dated 07/11/00
- X Form 4900, HUB Subcontractor Certification, dated 11/03/99

The following items (if any) are also incorporated into the contract by specific reference.

Form 3693 - Omoyiol Olaye - 04/04/00
 Form 3693 - Olugbemisola Olaye - 11/03/99
 Certificate of Existence, Articles of Incorporation, Articles of Amendment, and By-Laws
 Form 2038 - 02/16/00
 Licensure Requirements Certification - 06/07/01

For the faithful performance of the terms of this contract, the parties hereto in their capacities stated, affix their signatures and bind themselves.

TEXAS DEPARTMENT OF HUMAN SERVICES
 Pamela R. Lawrie

Legal Name of Provider Agency:
St. Paul Health Care, Inc.

Pamela R. Lawrie 6-26-01
 Signature - DHS Representative Date

[Signature] 06-25-01
 Signature - Provider Agency Representative Date

TITLE
 Program Director
 Community Care Contracting

NAME OF PERSON SIGNING
Olugbemisola Olaye

TITLE
Administrative

STATE OF TEXAS

COUNTY OF TRAVIS

**Department of Aging and Disability Services
Community Services Re-enrollment Contract (Provider Agreement)**

I.

Name of Legal Entity (Contractor) F K Bold Healthcare Inc	
Doing Business As (d/b/a) Name, if applicable	
Physical Address of Legal Entity (Street, City, State, ZIP Code) 6420 RICHMOND AVE., #315 , HOUSTON, TX 77057	
Taxpayer Identification No. (EIN or SSN for Individual) 760498928	National Provider Identifier (NPI) or Atypical Provider Identifier (API) 1376583765

Contract Begin Date July 1, 2001	Re-enrollment Effective Date OCT 01 2013	Contract End Date OPEN
Contract Type Primary Home Care/Family Care/Community Attendant Services (PHC/FC/CAS)	Contract No. 001002708	
Service Area(s) (Region, Catchment Area or Waiver Contract Area) Region 06	Service Codes 17, 17C, 17D	
Component Code (HCS, TxHmL, CDS-HCS and CDS-TxHmL only) N/A		

RECEIVED
DADS
JUL 30 2013
COMM SVC
CONTRACTS

II.

The Department of Aging and Disability Services (Department) and the legal entity (Contractor) named in Section I (Department and Contractor, collectively, the "parties," each a "party") hereby enter into this contract (provider agreement) ("the contract") for the provision of services under the contract type specified in Section I for the considerations set forth herein. This contract replaces the previous contract issued under the contract number identified in Section I above and all previous amendments thereto from the begin date of this contract forward. The begin date specified in Section I is not valid until this contract is signed by both parties.

The Department represents the Health and Human Services Commission (HHSC), the Texas Medicaid agency, for any Medicaid services provided under this contract. The Department, as the representative for HHSC, administers community services programs under Title XIX, including Section 1915(c); Title XX of the Social Security Act; and Title 2, Chapter 32, Texas Human Resources Code.

III.

The Contractor agrees:

In General

- A. To comply with all applicable federal and Texas statutes and rules, including the following:
1. Title 42, Code of Federal Regulations (CFR), Chapter IV;
 2. Title 45, CFR, Part 96;
 3. Title 40, Texas Administrative Code (TAC), Part 1;
 4. Texas Human Resources Code, Title 2, Chapter 32;
 5. Texas Human Resources Code, Title 6, Chapter 102;
 6. Texas Health and Safety Code, Title 4, Chapters 250 and 253; and
 7. Title 1, TAC, Part 15, Chapter 355.
- B. To comply with the following documents promulgated by the Department:
1. applicable provider manuals or handbooks;
 2. applicable billing guidelines; and
 3. applicable provider communications, including provider letters, information letters and policy clarifications.
- C. To comply with Department and other Texas licensing standards and certification principles and requirements to the extent applicable to the services provided under the contract type identified in Section I of this contract.
- D. To ensure the confidentiality of individual resident records and other information relating to the resident in accordance with applicable federal and Texas laws and rules. This provision shall not be construed as limiting the Department's access to resident records or other information relating to residents.
- E. That Contractor and, if applicable, its officers, directors, controlling parties and employees shall remain responsible for all contract violations and sanctions, known or unknown, that pre-date the effective date of this contract. All adverse actions or other actions that the Department, or other authorized governmental entities, may pursue for such violations shall survive contract re-enrollment and be enforced under this contract.

Electronic Visit Verification (EVV)

The following provisions apply to all contractors who must use a Department-approved EVV system (the "EVV system")

- A. To ensure :
1. the EVV system is used to verify the provision of services governed under 40 TAC, Chapter 68;
 2. only authorized persons access the Contractor's EVV account;
 3. all data elements required by the Department are uploaded or entered into the EVV system completely and accurately and in a timely manner;
 4. that each time services governed by 40 TAC Chapter 68 are delivered to an individual within his or her home, the Contractor's attendant uses the EVV system to verify when service delivery begins and when and where service delivery is completed in a manner prescribed by the Department;
 5. service delivery documentation is immediately available for review by the Department when requested; and
 6. equipment ("Equipment") provided to Contractor by the Department or by a third party, if applicable, is returned in good condition.
- B. That if the Contractor determines an electronic record in the EVV system needs to be adjusted, the Contractor will make the adjustment in the EVV system using codes or other identifiers ("codes") prescribed by the Department that identify reasons for the adjustment. The required codes are designated by the Department as either preferred or non-preferred. Each time the Contractor adjusts an electronic record in the EVV system, the Contractor must enter the applicable codes.

- C. That a preferred code represents a situation where the Contractor provided and documented the services as required by the Department. The Department will perform quarterly assessments of the Contractor's compliance with EVV requirements. Preferred codes will be used when determining the Contractor's compliance score. The Department will track the Contractor's use of preferred codes and if the Department, in its sole determination, identifies misuse of preferred codes, the Department may require the Contractor to use a Department-approved alternative service delivery verification method and the Contractor's compliance score may be negatively affected.
- D. That a non-preferred code represents a situation where the Contractor did not provide or document the services as required by the Department. The Department will include the Contractor's use of non-preferred codes when determining the Contractor's compliance with EVV requirements. The use of non-preferred codes will lower the Contractor's compliance score and may subject the Contractor to an assessment of liquidated damages by the Department.
- E. Department will conduct quarterly EVV compliance reviews to determine if Contractor has provided and documented services described in 40 TAC Chapter 68 in accordance with the Department's requirements. The EVV requirements include those elements identified under 40 TAC §68.102. These reviews will be based on Contractor's performance for the period reviewed. The Contractor will be subject to EVV compliance reviews beginning with the seventh full month after the effective date of the contract or the date on which the Contractor is required to start using the EVV system, whichever is later.
- F. That if the Contractor receives a quarterly compliance score of less than 90 percent the Contractor shall be in non-compliance with EVV requirements and subject to an assessment of liquidated damages. The Department may assess a liquidated damage against the Contractor based on the degree of non-compliance in an amount ranging from \$10.00 to \$500.00 for each calendar day the Department determines the Contractor is not in compliance with EVV requirements.
- G. That a liquidated damage assessment against the Contractor by the Department constitutes a reasonable estimate of the Department's loss and damage due to the Contractor's failure to comply with EVV requirements and such an assessment is not a penalty.
- H. That the Contractor may request an informal review if the Contractor can demonstrate that an assessment of liquidated damages resulted from a quarterly compliance score based on a failure of the EVV system. The informal review request must:
1. be sent in the form of a letter;
 2. describe the specific EVV system failure(s) that prevented the Contractor from complying with the required performance standard;
 3. include all documentation that supports the Contractor's position; and
 4. be received by the Department within 10 calendar days after the Contractor's receipt of the Department's written quarterly compliance review findings.

A request for an informal review that does not meet the above requirements will not be granted. The use of the informal review process does not limit Contractor's ability to request a hearing, as provided for in Section IV of this contract.

- I. That if Contractor must use Equipment provided by the Department or by a third party, the Equipment must be returned in good condition when the Equipment is no longer needed. Contractor must not place any marks or any other identifying information on the Equipment, and may not alter information on the Equipment including logos and serial numbers. If the Equipment is lost, stolen, marked, altered or damaged by Contractor, Contractor may be required to pay the replacement cost for each piece of Equipment that is lost, stolen, marked or damaged. Replacement costs for lost, stolen, marked or damaged Equipment may be assessed periodically for administrative convenience purposes.
- J. If Contractor recovers previously lost or stolen Equipment for which Contractor paid the replacement cost in the prior twelve months, Contractor may return the Equipment and be reimbursed for the replacement costs, provided the Equipment is returned in good condition as specified in Paragraph I above.
- K. The assessment of a liquidated damage against the Contractor does not limit the Department's ability to take other action based on the Contractor's non-compliance with EVV requirements, including the sanctions set forth in Section III of this contract.

Updating DADS

- A. To disclose information on ownership and control, information related to business transactions and information on persons convicted of crimes in accordance with 42 CFR, Part 455, Subpart B, and to submit updated ownership and control disclosures within 10 business days of a change in ownership or control interest and at any time within 35 business days of a written request by the Department, HHSC or the U.S. Department of Health and Human Services (HHS).
- B. To keep its application for participation in the contracted program current by informing the Department in writing of:
1. a change of ownership or a change in the Contractor's legal entity that directly or indirectly changes the legal entity responsible for fulfilling this contract at least 60 calendar days prior to the date of the change;
 2. a change in the name of the person authorized to negotiate, execute, amend or terminate this contract on behalf of the Contractor within 30 calendar days of the date of the change; and
 3. a change in the name, telephone number, fax number or e-mail address of the Contractor's contact person or the name of the Contractor, if the change is not a change in the Contractor's legal entity, within 14 calendar days of the date of the change.

- C. To keep its contractor certifications current by informing the Department in writing immediately if the Contractor learns that any of the certifications were erroneous when submitted and within 10 business days of a change that causes the certifications to become erroneous by reason of changed circumstances.
- D. To notify the Department in writing:
 - 1. if the Contractor files for bankruptcy within 14 calendar days of the filing date;
 - 2. if a person with ownership or control interest, a managing employee or an agent, as those terms are defined in 42 CFR §455.101, is convicted of an offense listed in 40 TAC §99.2 or 1 TAC §371.1685 within 14 calendar days of the date of conviction; and
 - 3. immediately if the Contractor is excluded from participation in Medicare, Medicaid or any federal or state health care program in accordance with §1128(a) or (b) of the Social Security Act (42 USC §1320a-7).

Claims

- A. To accept the Department's reimbursement rates as payment in full for the services specified in this contract to the persons for whom a payment is received, and to make no additional charge to the individual, any member of his or her family or to any other source for any supplementation for such services, unless specifically allowed by Department rules.
- B. To submit claims for payment in accordance with Department and HHSC Claims Administrator billing guidelines applicable to the services under the contract.
- C. That except as may be specifically authorized by the Department in writing, if Contractor is required to use a Department-approved EVV system, Contractor must ensure that claims for services are supported by service delivery records that have been verified by the Contractor and fully documented in a Department-approved EVV system before being submitted for payment.
- D. That the Department may make proper adjustments to the Contractor's payments from month to month to compensate for prior overpayments, underpayments or payments not made in accordance with the requirements of this contract. The Contractor further agrees the Department may withhold Contractor's payments, in whole or in part, because of differences from whatever cause until such differences are resolved.
- E. That the Contractor is responsible for payment of any valid audit exceptions found by the Department, HHSC, HHS or the Texas Attorney General's Medicaid Fraud Control Unit (AG-MFCU).
- F. That in accordance with §403.0551, Texas Government Code, and unless otherwise prohibited by any other law, any payments due to the Contractor under this contract will be first applied toward any debt or back taxes the Contractor owes the state of Texas. Payments will be so applied until such debts and back taxes are paid in full.

Provisions governing staff and subcontractors:

- A. To require any subcontractor to execute documents that binds the subcontractor to comply with the provisions of this contract. Subcontractor means an individual or entity to which the Contractor has contracted with or delegated some of its management functions or responsibilities of providing all or a part of the services required of the Contractor under this contract.
- B. That it is responsible for the behavior of its staff and subcontractors to ensure a violence-free contractual relationship. The Contractor understands that any remarks, gestures or actions toward Department employees, volunteers or clients that carry an implied threat of any kind, even if intended to be in jest, will be taken seriously and may lead to corrective action, up to and including terminating this contractor.
- C. To comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for an individual hired on or after November 6, 1986, who will perform any labor or services under this contract.
- D. That representatives of the Department, HHSC, AG-MFCU and HHS may conduct interviews of Contractor personnel, subcontractors and their personnel, witnesses, and clients without a Contractor's representative present unless the person interviewed voluntarily requests that the representative be present. The Contractor must not coerce its personnel, subcontractors and their personnel, witnesses, or clients to accept representation by the Contractor, and the Contractor agrees that no retaliation will occur to a person who denies the Contractor's offer of representation. Nothing in the contract limits a person's right to counsel of his or her choice. Requests for interviews are to be complied with in the form and the manner requested. The Contractor must ensure by contract or other means that its personnel and subcontractors cooperate fully in any investigation conducted by representatives of the Department, HHSC, AG-MFCU and HHS.
- E. That if it is a Home and Community Support Services agency (HCSSA), the Contractor will hire Personal Assistance Services and Community Support Services providers chosen by the client or the client's legally authorized representative, if requested, and provided the individual who will provide the services:
 - 1. meets minimum qualifications for the service;
 - 2. is willing to be employed as an attendant by the Contractor; and
 - 3. is willing, and determined competent by the Contractor, to deliver the service(s) according to the client's individual service plan.

Recordkeeping

- A. To maintain its accounting records in accordance with generally accepted accounting principles (GAAP). GAAP are established by the Financial Accounting Standards Board (FASB).
- B. To keep financial records and supporting documents, client files, service delivery records and any other records pertinent to the services for which a claim for payment is submitted to the Department or its agent. These records must be accurate and sufficiently detailed to document the extent of services provided under this contract and to support claims for payment submitted to the Department or its agent. These records must be retained in the form in which they are regularly kept by the Contractor for a minimum of six years after the end of the federal fiscal year in which the services were provided. If any litigation, claim or audit involving these records begins before the expiration of the six-year period, the Contractor must keep the records until all litigation, claims or audit findings are resolved. The matter is considered resolved when a final order is issued in litigation or when the Department and Contractor enter into a written agreement. Home and Community-based Services (HCS) and Texas Home Living (TxHML) contractors must retain these records in the form in which they are regularly kept by the Contractor until one of the following occurs, whichever is latest:
1. six years elapse from the date the records were created;
 2. any audit exception or litigation involving the records is resolved; or
 3. for records concerning an individual less than 18 years of age, the individual becomes 21 years of age.
- C. That if this contract is terminated or the Contractor terminates business operations, the Contractor must ensure:
1. records are stored and accessible;
 2. someone is responsible for adequately maintaining the records in accordance with the records retention requirements set forth in paragraph B above;
 3. the Department is informed in writing of how and where the records will be maintained and who may be contacted in order to access the records; and
 4. if any information in item 3 above changes, the Contractor will notify the Department in writing within 10 business days of the date of the change.

Civil Rights

- A. To comply with state and federal anti-discrimination laws, including:
1. Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq.);
 2. Section 504 of the Rehabilitation Act of 1973 (29 USC §794);
 3. Americans with Disabilities Act of 1990 (42 USC §12101 et seq.);
 4. Age Discrimination Act of 1975 (42 USC §§6101-6107); and
 5. Department administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Contract.

The Contractor also agrees to comply with all amendments to the above-referenced laws and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the U.S. may, on the grounds of race, color, national origin, sex, age, disability, political beliefs or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by federal or state funding, or otherwise be subjected to discrimination.

The Contractor further agrees to:

1. comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 CFR, Part 80, Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits or activities on the basis of national origin. Applicable state and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. The Contractor agrees to ensure that its policies do not have the effect of excluding or limiting the participation of persons in its programs, benefits and activities on the basis of national origin. The Contractor also agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities;
2. comply with Executive Order 13279, and its implementing regulations at 45 CFR, Part 87. These provide in part that any organization that participates in programs funded by direct financial assistance from the U.S. Department of Agriculture (USDA) or HHS shall not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief;
3. upon request, provide HHSC's Civil Rights Office with copies of all of the Contractor's civil rights policies and procedures; and
4. notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under the Contract. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

Civil Rights Office
Health and Human Services Commission
701 W. 51st Street Mail Code W206
Austin, TX 78751
Telephone Toll Free: 1-888-388-6332
Telephone: 512-438-4313
TTY Toll Free: 877-432-7232

Fax: 512-438-5885

- B. To comply with Executive Order 111126, entitled Equal Employment Opportunity, as amended by Executive Order 11375 and supplemented by U.S. Department of Labor regulations at 41 CFR Part 60.
- C. That if the Contractor is a charitable or faith-based Contractor under this contract, it must apprise all residents of the following: "Neither the Department's selection of a charitable or faith-based nursing facility contractor nor the expenditure of funds under this contract is an endorsement of the Contractor's charitable or religious character, practices or expressions. No nursing facility contractor may discriminate against you on the basis of religion, a religious belief or your refusal to actively participate in a religious practice. If you object to a particular Contractor because of its religious character, you may request a different contractor. If you believe that you have been discriminated against, please discuss the complaint with your contractor or notify your appropriate case manager."
- D. To provide, upon request, HHSC Civil Rights Office with copies of all its civil rights policies and procedures.

Fraud Prevention

- A. To screen its employees and contractors to determine if they have been excluded from Medicare, Medicaid or any federal or state health care program. The Contractor agrees to search monthly the HHS-Office of Inspector General (OIG) and HHSC-OIG List of Excluded Individuals/Entities (LEIE) websites to capture exclusions and reinstatements that have occurred since the last search and to immediately report to HHSC-OIG any exclusion information the Contractor discovers. Exclusionary searches for prospective employees and contractors shall be performed prior to employment or contracting.
- B. That no Medicaid payments can be made for any items or services directed or prescribed by a physician or other authorized person who is excluded from Medicare, Medicaid or any federal or state health care program when the individual or entity furnishing the items or services either knew or should have known of the exclusion. This prohibition applies even when the Medicaid payment itself is made to another contractor, practitioner or supplier who is not excluded.
- C. That this contract is subject to all state and federal laws and regulations relating to fraud and abuse in health care and the Medicaid program. As required by 42 CFR §431.107, the Contractor agrees to keep any and all records necessary to disclose the extent of services the Contractor furnishes to individuals in the Medicaid program and any information relating to payments claimed by the Contractor for furnishing Medicaid services. On request, the Contractor also agrees to furnish the Department, HHSC, AG-MFCU or HHS any information maintained under 42 CFR §431.107(b). The Contractor will furnish copies of this information free of charge.

Sanctions

- A. That the Department may apply, at its discretion, sanctions if the Contractor fails to comply with any provision of the contract, including:
 - 1. recouping overpayments;
 - 2. imposing a referral hold;
 - 3. suspending the Contractor's payments;
 - 4. initiating termination of the contract; and
 - 5. debarment.
- B. That payments to the Contractor under this contract may be withheld during the pendency of a hearing on the termination of this contract until a final decision is issued and all appeals are exhausted. The Department shall pay the withheld payments and resume contract payments if the final decision is favorable to the Contractor.
- C. That in accordance with 42 CFR §455.23, the Department shall suspend all Medicaid payments to the Contractor upon notification by HHSC-OIG that a credible allegation of fraud under the Medicaid program is pending against the Contractor, unless the Department has good cause not to suspend the payments or to suspend the payments only in part.

Handling Sensitive Personal Information and Breach Notification

- A. As part of its contract with the Department, Contractor may receive or create sensitive personal information, as section 521.002 of the Business and Commerce Code defines that phrase. Contractor must use appropriate safeguards to protect this sensitive personal information. These safeguards must include maintaining the sensitive personal information in a form that is unusable, unreadable, or indecipherable to unauthorized persons. Contractor may consult the "Guidance to Render Unsecured Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals" issued by the U.S. Department of Health and Human Services to determine ways to meet this standard.
- B. Contractor must notify the Department of any confirmed or suspected unauthorized acquisition, access, use or disclosure of sensitive personal information related to this contract, including any breach of system security, as section 521.053 of the Business and Commerce Code defines that phrase. Contractor must submit a written report to the Department as soon as possible but no later than 10 business days after discovering the unauthorized acquisition, access, use or disclosure. The written report must identify each individual whose sensitive personal information has been or is reasonably believed to have been compromised.

- C. Contractor must either disclose the unauthorized acquisition, access, use or disclosure to each individual whose sensitive personal information has been or is reasonably believed to have been compromised or pay the expenses associated with the Department doing the disclosure if:
1. Contractor experiences a breach of system security involving information owned by the Department for which disclosure or notification is required under section 521.053 of the Business and Commerce Code; or
 2. Contractor experiences a breach of unsecured protected health information, as 45 CFR §164.402 defines that phrase, and the Department becomes responsible for doing the notification required by 45 CFR §164.404.

The Department may, at its discretion, waive Contractor's payment of expenses associated with the Department doing the disclosure.

Miscellaneous Requirements

- A. To comply with Texas Health and Safety Code, §85.113 and §85.115 concerning workplace and confidentiality guidelines for persons with AIDS or HIV.
- B. To comply with applicable provisions of the Clean Air Act (42 USC §7401-7671q) and the Federal Water Pollution Control Act (33 USC. §1251-1387), if funding for the contract exceeds \$100,000.
- C. That in accordance with §2155.4441, Texas Government Code, the Contractor shall, in performing any service under this contract, purchase products and materials produced in Texas when they are available at a comparable price and in a comparable period of time to products and materials produced outside of Texas.
- D. To make a good faith effort to utilize historically underutilized businesses (HUBs) when subcontracting. Some methods for locating HUBs include using searchable HUB databases at the Texas Comptroller of Public Accounts' website, using websites or other minority/women directory listings maintained by local chambers of commerce, advertising subcontract work in local minority publications or contacting the Department for assistance in locating available HUBs.
- E. That except as provided in the paragraphs below, the Contractor must not use the Department's name, the State of Texas or refer to the Department or the State directly or indirectly in any media release, public announcement, or public disclosure relating to this contract or its subject matter, including, but not limited to, in any promotional or marketing materials, customer lists or business presentations (other than those submitted to the Department, an administrative agency of the State of Texas, or a governmental agency or unit of another state or the Federal Government).

The Contractor may publish, at its sole expense, results of Contractor performance under this contract with the Department's prior review and approval, which the Department may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the Department and any Federal agency, as appropriate. The Contractor will provide the Department at least three copies of such publication prior to public release. The Contractor will provide additional copies at the request of the Department.

The Contractor may include information concerning this contract's terms, subject matter, and estimated value in any report to a governmental body to which the Contractor is required by law to report such information.

- F. That Contractor is subject to any and all liabilities, adverse actions, sanctions, causes of actions, judgments, demands, damages, losses, and claims, of any character, type or description, known or unknown of the contract that it replaces.

IV.

The Department agrees:

- A. To pay the Contractor for services provided under the contract type specified in Section I of this contract in amounts and under conditions determined by the Department as defined in this contract, the applicable Contractor manual, handbook, policy letter or program rules and standards and in accordance with applicable laws and regulations for all eligible persons receiving such services under Title XIX and or Title XX.
- B. To pay the Contractor within time limits set by the Department and in accordance with applicable laws and regulations after a proper claim for payment is submitted and approved for payment in accordance with Department and HHSC Claims Administrator billing guidelines.
- C. To adjust payments to the Contractor to compensate for prior overpayment or underpayment.
- D. To give the Contractor reasonable notice of any impending change in its status as a participating Contractor, except that nothing in this section shall be construed to deny the Department the right, for failure to comply with this contract or regulations published in the *Texas Register*, to terminate this contract, suspend payments or take any other legal remedy available to the Department.
- E. To provide a hearing, in accordance with TAC, Title 1, Part 15, Chapter 357, Subchapter I, to the Contractor in the event the Department imposes an adverse action on the Contractor under this contract.
- F. To make available to the Contractor the applicable Contractor manual and any changes to that manual that change the requirements for participation.

- G. That a religious organization that contracts with the Department does not by contracting with the Department lose the exemption provided under Section 702 of the Civil Rights Act [42 USC §2000E-1(a)] regarding employment practices.

A religious or charitable organization is eligible to be a Contractor on the same basis as any other private organization. The Contractor retains its independence from state and local governments, including the Contractor's control over the definition, development, practice and expression of its charitable or religious beliefs. Except as provided by federal law, the Department shall not interpret this contract to require a charitable or religious organization to alter its form of internal governance or remove religious art, icons, scripture or other symbols. Furthermore, if a religious or charitable organization segregates the government funds provided under this contract, then only the financial assistance provided by these funds will be subject to audit. However, neither the Department's selection of a charitable or faith-based nursing facility Contractor nor the expenditure of funds under this contract is an endorsement of the Contractor's charitable or religious character, practices or expression. The purpose of this contract is the provision of community services; no state expenditures have as their objective the funding of sectarian worship, instruction or proselytization, and no state funds shall be expended for these purposes.

V.

The Department and Contractor agree:

- A. That in the event any provision of this contract becomes unenforceable or void all other provisions of this contract will remain in effect.
- B. That the Contractor may not transfer or assign this contract without the express prior written approval of the Department.
- C. That this contract may be assigned to a state agency or agencies.
- D. That the Department may amend this contract by written notice to the Contractor. The Department reserves the right to amend this contract through execution of a unilateral amendment signed by a Department person with delegated signature authority and provided to the Contractor under the following circumstances:
1. to correct an obvious clerical error in the contract;
 2. to incorporate new or revised federal or state statutes, rules or policies;
 3. to comply with a court order or judgment; and
 4. to change the name of the Contractor in order to reflect the Contractor's name as recorded by the Texas Secretary of State.
- E. That nothing in this contract or any conduct by a representative of the Department relating to this contract shall be construed as a waiver of the state's sovereign immunity to suit.
- F. That neither party to this contract waives its right to enforce a right under this contract by failing to enforce or delaying the enforcement of any other right under this contract.
- G. That the Contractor is an independent contractor and not an employee of the Department for any purpose. The Contractor and the Department agree that:
1. the Department will not withhold or pay on behalf of the Contractor any sums for income tax, unemployment insurance, Social Security or any other withholding, or make available to the Contractor any of the benefits, including workers' compensation insurance coverage and health and retirement benefits, afforded to Department employees; and
 2. the Contractor must indemnify the Department from any liability, including attorneys' fees and legal expenses, incurred by the Department with respect to claims that the Department should have been withholding or making payments on behalf of the Contractor or providing benefits to the Contractor's employees.
- H. That nothing in this contract is intended to create a joint venture, a partnership or a principal-agent relationship.
- I. That the Contractor assigns to the Department all claims for overcharges associated with this contract arising under the anti-trust laws of the United States, 15 U.S.C. §§ 1-38, or the anti-trust laws of the state of Texas, Tex. Bus. & Com. Code, §§ 15.01-.40.
- J. That the Department has authority to monitor and conduct fiscal and program compliance reviews of the Contractor and its subcontractor(s) to the extent of services provided under the terms of this contract. The Contractor will grant on-site access at reasonable times to all records relating to services provided and payments received under the terms of this contract to state and federal auditing agencies and personnel and representatives of the Department, HHSC and HHS when it is deemed necessary by such agencies for purposes of inspection, monitoring, auditing or evaluating Contractor's performance under this contract and compliance with applicable state and federal laws, rules and regulations; the applicable Department provider handbook or manual; and this contract.
- That for Title XX programs, the Department shall, by Form 2029, Information Worksheet, Purchase of Service Contract, set the rate or maximum amount of funds or both available to be paid to Contractor by the Department. Form 2029 is incorporated into and made a part of this contract and is effective for the time period stated on the form. Form 2029 may be amended by the Department as necessary to comply with state and federal laws and regulations or renewed by the Department by a new Form 2029 and incorporated into and made part of this contract.
- K. That in compliance with §2262.003, Texas Government Code:
1. the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;

2. acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and
 3. under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- L. That this contract shall continue subject to the availability of appropriated funds or until the federal or state governments or both cease to participate in the program.
- M. That any breach or violation of any of the provisions of this contract or state or federal regulations shall make this entire contract, at the Department's option, subject to termination.
- N. That if the Department does not renew the Contractor's time-limited contract due to the Contractor's noncompliance with applicable federal or Texas statutes or rules, the Contractor cannot enter into another contract for the same Community Services program for up to 24 months following the contract's expiration date.
- O. That the venue for any lawsuit between the Department and the Contractor shall be Travis County, Texas.
- P. That this contract may be terminated by:
1. mutual agreement of the Department and the Contractor;
 2. either party to this contract by giving 60 calendar days written notice to the other;
 3. the Department for reasons set forth in federal or state laws or rules, the terms of this contract, or the applicable Contractor manual, handbook, or program standards.
 4. the Department if a certification made by the Contractor in this contract is inaccurate or becomes inaccurate; or
 5. the Department for good cause.

Incorporation by Reference

The following documents are incorporated into the contract and are on file with the Department.

- Form 3254-C, Contractor Certifications
- Form 2021, HCSSA License Application
- Affidavit of HCSSA License Information

If marked, the following previously submitted documents are incorporated into this contract and are on file with the Department.

- Form 5871/Form 5871-S, Disclosure of Ownership and Control Statement, whichever is applicable to this contract (not applicable to governmental entities)
- Form 3681, Community Services Contract Application
- Form 4732, Nongovernmental Contractor Certification (not applicable to governmental entities)
- Form 2192, Certification Regarding Licensure Requirements
- Form 3681-A, Community Services Contract Application, Addendum A
- Form 3681-B, Community Services Contract Application, Addendum B
- Form 3681-C, Community Services Contract Application, Addendum C
- Form 3681-D, Community Services Contract Application, Addendum D
- Form 3691, Service Area Designation
- Form 3691-A, Service Area Designation (TxHmL, HCS, CDS and TAS)
- Form 4732-A, Nongovernmental Contractor Certification (Part II), if applicable
- Form 2031, Governing Authority Resolution – Business Organization, if applicable
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For the faithful performance of the terms of this contract, the parties hereto in their capacities stated, affix their signatures and bind themselves.

**Department of Aging
and Disability Services**

William R Campbell

SEP 1 2013

Signature – Department Representative

Date

William R. Campbell

Name of Department Representative (print or type)

**Section Manager
Community Services Contracts**

Title of Department Representative (print or type)

F K Bold Healthcare Inc

[Signature]

07/23/2013

Signature – Contractor Representative

Date

Olybemisola Olaye

Name of Contractor Representative (print or type)

Administrator

Title of Contractor Representative (print or type)