

Standard Terms and Conditions, Fee for Service

1. When these Terms and Conditions apply

1.1 These Standard Terms and Conditions, Fee for Service apply:

- a. where Oranga Tamariki has engaged the Provider to provide Services under a Service Order; and
- b. where a Provider provides Services to Oranga Tamariki without having entered into a Service Order, an Outcome Agreement, or other Oranga Tamariki Approved Form of Contract.

2. Length of Agreement

2.1 **Start Date:** The Agreement starts on the Start Date. If the Provider delivers Services before the Start Date, the Provider does so at its own risk.

2.2 **End Date:** The Agreement ends on the End Date.

3. The Services

3.1 **Method of Engagement and referral pathway:**

- a. If Oranga Tamariki wishes to engage the Provider to provide Services, Oranga Tamariki will issue a Service Order and/or Purchase Order.
- b. The parties must agree and record the nature and detail of the Services and Charges in respect of each engagement of the Provider to provide Services, prior to the Start Date. This may be in the form of a Service Order, however these Standard Terms and Conditions, Fee for Service also apply to engagements agreed by any other means e.g. exchange of emails.
- c. Where it is not possible to record the details of the engagement prior to the Start Date (i.e. because the Services are required immediately due to an emergency situation outside of normal business hours), the parties may agree these details verbally and record them in writing (including in a Purchase Order) within 2 Business Days of the Start Date.
- d. A record of the engagement (including a Purchase Order) is a pre-requisite to payment. If the Provider provides Services in the absence of a record for longer than 2 Business Days after the Start Date, it does so at its own risk.
- e. The parties will each bear their own costs in respect of preparing, negotiating, agreeing and entering into any Service Order or other record of engagement (including a Purchase Order).

3.2 **No holding out or soliciting other work:**

- a. The Provider must ensure that only Approved Personnel provide the Services and no other person employed, engaged, or affiliated with the Provider is assigned, or holds themselves out as being available for assignment, as Approved Personnel.
- b. The Provider must further ensure that no Approved Personnel and no other person employed, engaged, or affiliated with the Provider holds themselves out as being available to provide any other services funded by Oranga Tamariki.
- c. Clause 3.2b does not apply where Oranga Tamariki requests services outside the scope of this Agreement, provided that those services are commissioned in a transparent manner in accordance with Oranga Tamariki commissioning, contracting, and delegation policies

and processes and provided further that any Conflicts of Interest are identified and managed in accordance with the Oranga Tamariki Disclosures of Interest policy.

3.3 General warranties: Each party represents, warrants and undertakes that:

- a. it has full power, capacity and authority to execute, deliver and perform its obligations under the Agreement;
- b. it has, and will continue to have, all the necessary consents, permissions, licences and rights to enter into and perform its obligations under the Agreement;
- c. The Agreement constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms.

3.4 Provider warranties: The Provider warrants that:

- a. in establishing the Charges, prices were arrived at independently and without collusion;
- b. the Services and Charges described in the Service Order or other record of engagement and the Purchase Order are the full scope of Services that will be provided by, and total Charges payable to, the Provider; and
- c. where the Services involve the provision of Shared Care:
 - the Provider and Care Staff or Caregiver have read and understand the [Shared Care Service Specification](#) and will comply with their responsibilities to the best of their ability, and
 - the Provider and each member of Care Staff or Caregiver will notify Oranga Tamariki of the extent (if any) to which they are unable to meet their responsibilities under the [Shared Care Service Specification](#) and will follow the instructions of Oranga Tamariki to mitigate any risk that may pose to the child(ren) or young person(s) being cared for.

3.5 Both parties' obligations: Both parties agree to:

- a. act in good faith and honestly in their dealings with each other;
- b. discuss matters affecting the Agreement or the delivery of the Services, whenever necessary;
- c. notify each other promptly of any actual or anticipated issues that could:
 - significantly impact on the Services or the Charges, and/or
 - receive media attention, and
- d. comply with all applicable Laws and regulations.

3.6 Oranga Tamariki obligations: Oranga Tamariki must:

- a. provide the Provider with any information and/or access to Oranga Tamariki Personnel the Provider has reasonably requested to enable the delivery of the Services;
- b. make decisions and give approvals reasonably required by the Provider to enable delivery of the Services, within reasonable timeframes; and
- c. pay the Provider the Charges for the Services in accordance with the Agreement.

3.7 Provider's obligations: The Provider must:

- a. deliver the Services:
 - to the required performance standards and quality set out in the Agreement or reasonably notified by Oranga Tamariki to the Provider from time to time, and
 - with due care, skill and diligence, and to the appropriate professional standard or in accordance with good industry practice as would be expected from a leading Provider in the relevant industry;
 - where the Services involve the provision of Shared Care, in accordance with the [Shared Care Service Specification](#);
 - ensure that the Provider and its Personnel (as applicable) have the necessary skills, experience, training and resources to deliver the Services, except to the extent that the Agreement requires Oranga Tamariki to provide training;
- b. discuss and agree with Oranga Tamariki any annual leave or other planned absences of the Provider and any Personnel engaged through the Provider and, where deemed necessary by Oranga Tamariki, provide a suitable replacement or substitute during the period of any absence;
- c. where the Provider or any of the Provider's Personnel are a Children's Worker or Caregiver, comply with the requirements of Attachment 1 to these Standard Terms and Conditions, Fee for Service – Requirements for Children's Workers and Caregivers;
- d. comply with all policies, guidelines and procedures issued by Oranga Tamariki and notified or made available to the Provider, including:
 - the Oranga Tamariki Code of Conduct,
 - the Oranga Tamariki Disclosures of Interest Policy, and
 - the Oranga Tamariki Privacy Policy
- e. work with Oranga Tamariki in supporting them to meet their diversity and inclusion goals; and
- f. notify Oranga Tamariki immediately if it appears likely that the warranty in clause 3.4b will be breached prior to delivering any additional Services or incurring any additional Charges; and
- g. take a responsible and prudent approach to financial management, including in respect of invoicing Oranga Tamariki promptly, managing its cashflow and paying monies owed to its employees.

3.8 Responsibility for Personnel: the Provider will remain responsible for the acts and omissions of its Personnel.

3.9 Approved Personnel: Where the Agreement requires the Services to be provided by Approved Personnel, the Provider must:

- a. use those Approved Personnel in delivering the Services, and
- b. obtain the prior written approval of Oranga Tamariki if it wishes to change any Approved Personnel, and meet the reasonable requirements of Oranga Tamariki to obtain approval for any replacement.

3.10 **Premises:** If the Provider or the Provider's Personnel are at Oranga Tamariki premises, the Provider or Provider's Personnel must observe Oranga Tamariki policies and procedures, including those relating to health and safety, privacy and security requirements, as provided to the Provider or the Provider's Personnel.

3.11 **Health, Safety and Security:** The Provider must:

- a. consult, cooperate and coordinate with Oranga Tamariki regarding the parties' overlapping obligations under, and what is required from the Provider to assist Oranga Tamariki to comply with, the HSW Act as it relates to, or affects, the Agreement;
- b. comply, and ensure that its Personnel comply, with their obligations under the HSW Act as it relates to, or affects, the Agreement;
- c. comply with all reasonable directions of Oranga Tamariki relating to health, safety, and security; and
- d. report any of the following that applies to the Provider or Oranga Tamariki, or relates to or affects the Agreement:
 - notifiable injury, illness, incident or event, or any notice issued under the HSW Act or any other health and safety legislation, and
 - Protective Security Incident.

3.12 **Employment standards:** The Provider must

- a. comply with its obligations under the Employment Relations Act 2000, Minimum Wage Act 1983, Wages Protection Act 1983, Holidays Act 2003 and the Parental Leave and Employment Protection Act 1987; and
- b. report any instances where the Provider is being investigated by the Labour Inspectorate, or where the Provider has been found by the Labour Inspectorate, Employment Relations Authority, or the Employment Court to have breached any of the legislation referenced in clause 3.12a.

3.13 **Respect:** The Provider must deliver the Services in a manner that:

- a. is culturally appropriate for Māori, Pacific and other ethnic or indigenous groups; and
- b. respects the personal privacy and dignity of all individuals.

4. Charges and payment

4.1 **Maximum amount:** The Charges are the total maximum amount payable by Oranga Tamariki to the Provider for delivery of the Services. Charges include:

- a. Fees (expressed as either a Bednight Rate or Hourly Rate and, where the Services include the provision of Contingent Workers, may also include a Placement Fee in certain situations as specified in the Agreement Details and Description of Services); and
- b. if relevant to the nature of the Services, any Accommodation Rate, Mileage Rate, and Extraordinary Costs.

No other amounts are payable and in particular, Oranga Tamariki will not be liable to pay any other administration or overhead fees, break fees, travel, or restraint of trade / poaching fees. Oranga Tamariki will not be required to pay for additional Charges for additional Services where the Provider is in breach of clause 3.4b unless the Provider has first notified Oranga Tamariki of the requirement for additional Service and additional Charges in accordance with clause 3.7f and the changes have been recorded in a Variation and new Purchase Order.

- 4.2 **Rate card:** Charges must be calculated in accordance with the applicable Oranga Tamariki rate card and accommodation rate band, unless exceptional rates are approved in advance by the Oranga Tamariki Chief Financial Officer. Where no applicable rate card or accommodation rate band exists, or where exceptional rates are requested, the Provider must provide Oranga Tamariki with sufficient documentation to demonstrate the rationale for the rates requested, including the financial information referred to in clause 5.2.
- 4.3 **Purchase Order:** The Provider must provide a Purchase Order number and valid tax invoices for all Charges on the dates or at the times specified in the Agreement, or if not specified, at the end of each calendar month. Oranga Tamariki has no obligation to pay the Charges unless the Provider provides:
- a. documentary evidence of the Agreement in accordance with clause 3.1d, which may be the name and contract reference number of the relevant Service Order, or a copy of the email correspondence or other record of the engagement;
 - b. a valid tax invoice in accordance with clause 4.4.
- 4.4 **Tax invoices:** A valid tax invoice must:
- a. clearly show all GST due, if any;
 - b. be in New Zealand currency;
 - c. be clearly marked 'Tax invoice';
 - d. contain the Provider's name, address, NZBN and GST number, if the Provider is registered for GST;
 - e. contain the name and address of Oranga Tamariki and be marked for the attention of the Oranga Tamariki key contact named in the Service Order or other record of engagement;
 - f. state the date the invoice was issued;
 - g. provide a description of the Services supplied, including the amount of time spent in the delivery of the Services if the Charges are based on an Hourly Fee Rate or Daily Fee Rate;
 - h. contain the Purchase Order number and, where applicable, Service Order number;
 - i. state the Charges due, calculated correctly; and
 - j. be supported by GST receipts if Expenses are claimed, and any other verifying documentation reasonably requested by Oranga Tamariki.
- 4.5 **Payment:** Subject to clauses 4.7 and 12.3e, Oranga Tamariki will use its best endeavours to pay a valid tax invoice within 10 Business Days of receiving the invoice. If Oranga Tamariki cannot meet this 10 Business Day timeframe, Oranga Tamariki will pay that invoice by:
- a. the 20th calendar day of the month, if the invoice is received on or before the 5th Business Day of the month; or
 - b. the 20th calendar day of the following month, if the invoice is received after the 5th Business Day of the month.
- 4.6 **Profit margins:** The Provider must not add any profit margin to any Charges.
- 4.7 **Dispute:** Oranga Tamariki must notify the Provider within 10 Business Days of the date of receipt of a tax invoice if Oranga Tamariki disputes any part of the tax invoice, and Oranga Tamariki:
- a. must pay the portion of the tax invoice that is not in dispute (and the Provider will provide a further valid tax invoice for the undisputed amount if required); and
 - b. may withhold payment of the disputed portion until the dispute is resolved.

4.8 **Taxes:**

- a. Except for any GST or On-costs payable by Oranga Tamariki in respect of any Services supplied under the Agreement, any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including applicable interest and penalties) payable in respect of any Services supplied under the Agreement under any Law is to be paid by the Provider and not passed on to Oranga Tamariki.
- b. Oranga Tamariki may deduct from any payment to be made to the Provider any withholding taxes or other deductions that it is required by Law to make.

4.9 **Payments by Provider:** The Provider will pay any amount payable by it to Oranga Tamariki (including any amount by which an invoice paid by Oranga Tamariki is subsequently found to have overstated the amount properly payable), to Oranga Tamariki, within 10 Business Days following the date on which that liability is discovered (or such other date as is agreed in writing).

5. Information management

5.1 **Information and Records:** The Provider must:

- a. keep and maintain Records in accordance with prudent business practice and all applicable Laws;
- b. make sure the Records clearly identify all relevant time and Expenses incurred in providing the Services;
- c. make sure the Records are kept safe and are easy to access;
- d. give information to Oranga Tamariki relating to the Services that Oranga Tamariki reasonably requests, in a format that is usable by Oranga Tamariki, and within a reasonable time of the request;
- e. co-operate with Oranga Tamariki to provide information promptly if the information is required by Oranga Tamariki to comply with an enquiry or its statutory, parliamentary, or other reporting obligations;
- f. make its Records available to Oranga Tamariki during the term of the Agreement and for 7 years after the End Date (unless already provided to Oranga Tamariki earlier); and
- g. make sure that Records provided by, or created for, Oranga Tamariki are securely managed and destroyed on their disposal.

5.2 **Reports:** The Provider must give Oranga Tamariki the reports, by the due dates, specified in the Agreement.

5.3 **Financial transparency:**

- a. Where the Provider is a Legal Entity, the Provider must provide to Oranga Tamariki a copy of the Provider's audited annual statements and the auditor's report, prepared in accordance with international standards, within six months of the Provider's balance date.
- b. In accordance with clause 5.1(d), Oranga Tamariki may request actual and/or forecast financial information from the Provider, to assist Oranga Tamariki to understand the full range of costs and funding of a particular Service or Services. Financial information which may reasonably be requested for this purpose includes (but is not limited to):
 - staffing costs and rosters;
 - incentive payments;
 - direct and indirect costs;
 - allocation of overheads;

- operating surpluses;
 - sources of funding.
- c. The Provider will provide the requested information to Oranga Tamariki within 20 Business Days of receiving a request under clause 5.3b. Oranga Tamariki will treat the information as Confidential Information and Personal Information, as applicable, in accordance with the confidentiality and privacy provisions of these Standard Terms and Conditions, Fee for Service.

6. The Contractual relationship

- 6.1 **Independent contractor:** Nothing in the Agreement constitutes a legal relationship between the parties of partnership, joint venture, agency, or employment.
- 6.2 **No representing:** Neither party has authority to bind or represent the other party in any way.
- 6.3 **Transfer of rights or obligations:** The Provider must not transfer any of its rights or obligations under the Agreement without the prior written approval of Oranga Tamariki. Oranga Tamariki will not unreasonably withhold its approval.

7. Subcontractors

- 7.1 **Subcontracting:** The Provider must not enter into an agreement with someone else to deliver any part of the Services without the prior written approval of Oranga Tamariki.
- 7.2 **Provider responsibilities:** The Provider:
- a. must ensure that each Subcontractor is suitable and has the capability and capacity to deliver that aspect of the Services being subcontracted.
 - b. must ensure that:
 - each Subcontractor is fully aware of the Provider's obligations under the Agreement, and
 - any subcontract it enters into is on terms that are consistent with the Agreement
 - c. must ensure that before and while it sub-contracts the delivery of the Services, with the intention or effect that the Subcontractor will deliver a part of the Services that would require the Subcontractor to hold a relevant Social Sector Service Accreditation, ensure that the Subcontractor maintains the relevant level of accreditation for the service that it delivers;
 - d. must not engage a Subcontractor to provide services as a Children's Worker, unless and until the necessary vetting and children's worker safety checks have been undertaken in accordance with Attachment 1 – Requirements for Children's Workers and Caregivers;
 - e. is responsible for delivering the Services under the Agreement even if aspects of the Services are subcontracted; and
 - f. is responsible for the acts and omission of any Subcontractor as if they were the acts and omissions of the Provider.

8. Insurance

- 8.1 The Provider is responsible for ensuring its risks of doing business are adequately covered, whether by insurance or otherwise. If required in the Agreement, the Provider must:
- a. hold the insurance, with a reputable insurer, as specified in the Agreement, and maintain that insurance cover for the term of the Agreement and for a period of 3 years after the End Date, and

- b. provide a certificate confirming the nature of the insurance cover and proving that each policy is current, within 10 Business Days of any request from Oranga Tamariki.

9. Conflicts of Interest

9.1 **Avoiding conflicts of interest:** The Provider:

- a. warrants that as at the Start Date, it has no Conflict of Interest in providing the Services or entering into the Agreement; and
- b. must do its best to avoid situations that may lead to a Conflict of Interest arising, including ensuring that its Approved Personnel are not performing any other role or engaging in any business or work activity or appointment that could adversely affect their ability to safely and diligently perform their duties during the term of the Agreement.

9.2 **Obligation to tell Oranga Tamariki:** The Provider must tell Oranga Tamariki promptly, in writing, if any Conflict of Interest arises in relation to the Services or the Agreement. If a Conflict of Interest does arise the parties must discuss, agree and record in writing whether it can be managed and, if so, how it will be managed. Each party must pay its own costs in relation to managing a Conflict of Interest.

10. Performance management

10.1 **Performance improvement plan:** Where Oranga Tamariki has concerns about the performance of the Provider or the Provider's Approved Personnel, but those concerns do not amount to concerns of a nature described in clause 10.2:

- a. Oranga Tamariki will notify the Provider and outline a performance improvement plan; and
- b. where the concerns relate to the performance of Approved Personnel, the Provider will be responsible for seeking the agreement of the Provider's Approved Personnel to the performance improvement plan and monitoring the Approved Personnel's compliance with the plan.

10.2 **Serious misconduct or risk to child safety:** Where Oranga Tamariki has concerns about the performance of the Provider or the Provider's Approved Personnel and those concerns have arisen because:

- a. of an allegation of possible Serious Misconduct; or
- b. Oranga Tamariki has reasonable grounds to consider that the Provider or the Provider's Approved Personnel poses an undue risk to the safety of children or young people,

then:

- c. Oranga Tamariki may suspend the engagement, the Provider, and/or the Approved Personnel with immediate effect; and
- d. the Provider or the Approved Personnel (as relevant) must not be engaged in a Children's Worker role for Oranga Tamariki or any other organisation during the term of suspension.

10.3 **Investigation and substantiated findings:** Where clause 10.2 applies:

- a. Oranga Tamariki will conduct an investigation into the concerns in accordance with its policies and processes;
- b. if the investigation results in one or more substantiated findings against the Provider or Approved Personnel (the standard of proof being the balance of probabilities or reasonable belief), the engagement of the Provider and/or the Approved Personnel (at the sole discretion of Oranga Tamariki) will be cancelled in accordance with clause 12.2b;

and

- c. Oranga Tamariki will not be required to pay any amount to the Provider in respect of the engagement during suspension or as a result of cancellation.

11. Resolving disputes

11.1 **Negotiation:** The parties agree to use their best endeavours to resolve any dispute that may arise under the Agreement. The following process will apply to disputes:

- a. a party will notify the other if it considers a matter is in dispute;
- b. the parties will attempt to resolve the dispute through negotiation;
- c. if the parties have not resolved the dispute within 10 Business Days of notification, they will refer it to the parties' senior managers for resolution; and
- d. if the senior managers have not resolved the dispute within 10 Business Days of it being referred to them, the parties shall refer the dispute to mediation or, if agreed by the parties, some other form of alternative dispute resolution.

11.2 **Mediation:** If a dispute is referred to mediation, the mediation will be conducted:

- a. by a single mediator agreed by the parties or if they cannot agree, appointed by the Resolution Institute;
- b. on the terms of the Resolution Institute Mediation Rules; and
- c. at a fee to be agreed by the parties or if they cannot agree, at a fee determined by the Resolution Institute.

11.3 **Costs:** Each party will pay its own costs of mediation or alternative dispute resolution under this clause 11.

11.4 **Effect of dispute:** If there is a dispute, each party will continue to perform its obligations under the Agreement as far as practical given the nature of the dispute.

11.5 **Taking court action:** Each party agrees not to start any court action in relation to a dispute until it has complied with the process described in clause 11.1 unless that party requires urgent relief from a court.

12. Ending the Agreement

12.1 **Termination for convenience:**

- a. Oranga Tamariki may terminate the Agreement at any time by giving not less than 20 Business Days' Notice to the Provider.
- b. If Oranga Tamariki terminates the Agreement under this clause then, subject to all other clauses of the Agreement, Oranga Tamariki will pay the Provider for all Services performed up to the End Date.

12.2 **Termination by Oranga Tamariki for cause:** Oranga Tamariki may terminate the Agreement immediately, by giving Notice, if:

- a. Oranga Tamariki considers that the Provider or the Provider's Approved Personnel is not suitable to provide the Services because of the Provider or the Provider's Approved Personnel's failure, refusal, or inability to perform the Services to the standard reasonably expected (including due to poor performance, absence, or otherwise), after having been given a reasonable opportunity to improve in accordance with clause 10.1; or

- b. Oranga Tamariki makes a substantiated finding relating to a concern of the kind referred to in clause 10.2; or
- c. Oranga Tamariki becomes aware that the Provider or the Provider's Approved Personnel has been charged with, or convicted of, an offence listed in Schedule 2 of the Children's Act (a Specified Offence); or
- d. the Provider:
 - becomes bankrupt or insolvent,
 - has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed,
 - becomes subject to any form of external administration,
 - ceases for any reason to continue in business,
 - does something or fails to do something that, in the opinion of Oranga Tamariki, results in damage to the reputation or business of Oranga Tamariki or the reputation or business of the Crown,
 - has a Conflict of Interest that in the opinion of Oranga Tamariki is so material as to impact adversely on the delivery of the Services, Oranga Tamariki or the Crown, or
 - provides information to Oranga Tamariki that is misleading or inaccurate in any material respect.

12.3 Termination for breach:

- a. Without limiting clause 12.2, if a party breaches the Agreement (**defaulting party**), the non-defaulting party must give a default Notice to the defaulting party.
- b. A default Notice must state:
 - the nature of the breach, and
 - the time and date by which it must be remedied.
- c. The period allowed to remedy the breach must be reasonable given the nature of the breach.
- d. The non-defaulting party may terminate the Agreement immediately by giving a further Notice to the defaulting party if the defaulting party does not remedy the breach as required by the default Notice.
- e. If Oranga Tamariki gives a default Notice to the Provider, Oranga Tamariki may also:
 - withhold any payment of Charges due until the breach is remedied as required by the default Notice, and/or
 - if the breach is not remedied as required by the default Notice, deduct a reasonable amount from any Charges due to reflect the reduced value of the Services to Oranga Tamariki.

12.4 Partial termination: If either party is entitled to terminate the Agreement under clauses 12.1, 12.2, or 12.3:

- a. that party may elect to only terminate one or more Service Orders or engagements, in which case the party will provide notice of termination to the other party (Notice of Partial Termination) setting out the Service Order(s) or engagement(s) to be terminated and the date of termination; and
- b. the specified Service Order(s) or engagement(s) will terminate on that date and the remainder of the Agreement, including any other Service Orders or engagements, will remain in effect.

12.5 **Provider's obligations:** On giving or receiving a Notice of termination, the Provider must:

- a. comply with any conditions contained in the Notice;
- b. immediately do everything reasonably possible to reduce its losses, costs and expenses arising from the termination; and
- c. if requested by Oranga Tamariki, promptly return or securely destroy all Confidential Information and other material or property belonging to Oranga Tamariki.

12.6 **Accrued rights:** Termination or expiry of the Agreement does not affect any rights of a party which:

- a. arose prior to the End Date, or
- b. relate to any breach of the Agreement that arose prior to the End Date.

12.7 **Rights of Oranga Tamariki:** Subject to clause 12.1b, if the Agreement is terminated Oranga Tamariki:

- a. will only be liable to pay Charges that were due for Services delivered before the effective date of termination, and
- b. may recover from the Provider or set off against sums due to the Provider, any Charges paid in advance for Services that have not been provided.

12.8 **Handing over the Services:**

- a. The Provider will provide all reasonable assistance and cooperation necessary to facilitate a smooth handover of the Services to Oranga Tamariki or any person appointed by Oranga Tamariki during the term of the Agreement and for a period of 10 Business Days after the End Date.
- b. If required by Oranga Tamariki, the Provider will provide additional assistance to support any replacement Provider to deliver the Services, for a period of up to 3 months from the End Date at a reasonable fee to be agreed between the parties, based on the Charges.

13. Intellectual Property Rights

13.1 **Ownership of Intellectual Property Rights:**

- a. Pre-existing Intellectual Property Rights remain the property of their owner.
- b. New Intellectual Property Rights will become the property of the party that created them.

13.2 **Licence:** The Provider grants to Oranga Tamariki (as the Crown) a perpetual, non-exclusive, worldwide, transferable, sub-licensable and royalty-free licence to use, for any purpose, all Intellectual Property Rights that are not owned by Oranga Tamariki to receive the full benefit of the Services.

13.3 **Provider intellectual property warranties:** The Provider warrants that:

- a. it is legally entitled to grant the licence in clause 13.2; and
- b. the Crown's use of anything provided by the Provider and incorporated in the Services, for the purposes communicated to, or that are or ought to be known by, the Provider, will not infringe the rights, including Intellectual Property Rights, of any third party.

13.4 **Liability:** The Provider's liability for breach of the warranties in this clause is not subject to any limitation or cap on liability that may be stated elsewhere in the Agreement.

14. Confidential Information

- 14.1 **Protection of Confidential Information:** Each party agrees to not use or disclose the other party's Confidential Information to any person or organisation other than:
- a. to the extent that use or disclosure is necessary for the purposes of providing the Services or, in the case of Oranga Tamariki, using the Services;
 - b. if the other party gives prior written approval to the use or disclosure;
 - c. if the use or disclosure is required by Law (including under the Official Information Act 1982), Ministers, parliamentary convention or any other regulation, rules or policy that is binding on that party; or
 - d. if the information has already become public, other than through a breach of the obligation of confidentiality by one of the parties.
- 14.2 **Obligation to inform:** Each party will ensure that its Personnel:
- a. are aware of the confidentiality obligations in the Agreement; and
 - b. do not use or disclose any of the other party's Confidential Information except as allowed by the Agreement.
- 14.3 **Security:** Each party will:
- a. put in place and maintain adequate security measures to safeguard the other party's Confidential Information from unauthorised access or use;
 - b. notify the other party if it becomes aware of any suspected or actual unauthorised use, copying or disclosure of the other party's Confidential Information; and
 - c. comply with any reasonable direction of the other party in relation to any suspected or actual breach of the obligations in this clause 14 as the other party reasonably requests.

15. Privacy

- 15.1 **Protection of Personal Information:** Where the Provider has access to Personal Information under or in connection with the Agreement, the Provider must:
- a. only use, access, store, process or transmit that Personal Information to the extent necessary to provide the Services;
 - b. ensure that the Personal Information is protected against loss, access, use, modification, or disclosure that is not authorised by Oranga Tamariki;
 - c. provide all information and assistance reasonably required by Oranga Tamariki to comply with its obligations under the Privacy Act in relation to the Agreement; and
 - d. comply with the Privacy Act and not do anything under the Agreement that would cause Oranga Tamariki to breach the Privacy Act.
- 15.2 **Privacy Breach:** If the Provider becomes aware of any Privacy Breach in relation to the Agreement it will notify Oranga Tamariki as soon as possible and take all reasonable steps:
- a. to identify the person or persons affected;
 - b. required by Oranga Tamariki to undertake its own investigation; and
 - c. stop, and/or mitigate the impact of, any Privacy Breach and prevent its reoccurrence, and the Provider shall not notify any person of the Privacy Breach without the prior written approval of Oranga Tamariki.

- 15.3 **Application to Confidential Information:** The obligations under this clause 15 are not limited by and do not limit either party's other obligations as regards the protection or security of Confidential Information set out in clause 14, provided that any disclosure of Confidential Information under clause 14.1 shall be subject to this clause 15.

16. Audit

- 16.1 **Right to audit:** Oranga Tamariki may, subject to its compliance with clause 16.2, carry out an audit for the purpose of confirming:

- a. the calculation of Charges under this Agreement;
- b. the accuracy of any invoice rendered by the Provider;
- c. the accuracy or completeness of any data or information reported to Oranga Tamariki;
- d. the Provider's compliance with, and/or ability to perform any of, its other obligations under, or in connection with, this Agreement; and/or
- e. that any Provider suitability checks required by Oranga Tamariki to ensure Approved Personnel are appropriate to provide the Services have been completed satisfactorily,

but will not do so more than twice in any calendar year unless Oranga Tamariki considers, acting reasonably, that the Provider has breached any of its obligations under this Agreement or it is required by Law to carry out an audit, in which case audits may occur more frequently.

- 16.2 **Audit process:** If Oranga Tamariki conducts an audit under this clause 16:

- a. it will be conducted during Business Hours and following five Business Days' notice to the Provider;
- b. it may be undertaken, at the option of Oranga Tamariki, by its Personnel or an independent expert (the Auditor), with such Auditor to be under a duty of confidentiality;
- c. Oranga Tamariki will procure that the Auditor complies with the Provider's reasonable security requirements;
- d. Oranga Tamariki will procure that the Auditor uses its reasonable endeavours to minimise any disruption to the Provider's business during the course of the audit;
- e. the Provider must co-operate in a timely manner in respect of any audit and must promptly provide:
- f. reasonable access and assistance to the Auditor in respect of any audit (including access to the Provider, its Personnel, facilities, systems, records and resources used in the performance of this Agreement); and
- g. any explanation, information and documentation that the Auditor may reasonably require in relation to the audit; and
- h. Oranga Tamariki or the Auditor will provide a copy of the audit report to the Provider.

- 16.3 **Cost of audit:** The parties will each be responsible for their own costs in relation to any audit undertaken in accordance with this clause 16 unless the audit reveals overcharging, fraud or a material breach, in which case the Provider will reimburse Oranga Tamariki for its reasonable actual costs in carrying out the audit.

17. Notices

- 17.1 **Requirements:** All Notices must be:

- a. in writing and delivered by hand or sent by post, courier or email to the recipient party's address for Notices stated in the Agreement or otherwise communicated; and

- b. signed, or in the case of email sent, by the appropriate manager or person having authority to do so.

17.2 Receipt of Notices: A Notice will be considered to be received:

- a. if delivered by hand or sent by courier, on the date it is delivered;
- b. if sent by post within New Zealand, on the 5th Business Day after the date it was sent;
- c. if sent by post internationally, on the 9th Business Day after the date it was sent; or
- d. if sent by email, at the time the email enters the recipient's information system and it is not returned undelivered or as an error,

but a Notice received after 5pm on a Business Day or on a day that is not a Business Day will be considered to be received on the next Business Day.

18. Extraordinary Events

18.1 No liability: Neither party will be liable to the other for any failure to perform its obligations under the Agreement to the extent the failure is due to an Extraordinary Event.

18.2 Obligations of affected party: A party who wishes to claim suspension of its obligations due to an Extraordinary Event must notify the other party as soon as reasonably possible. The Notice must state:

- a. the nature of the circumstances giving rise to the Extraordinary Event;
- b. the extent of that party's inability to perform under the Agreement;
- c. the likely duration of that non-performance; and
- d. what steps are being taken to minimise the impact of the Extraordinary Event on the performance of the Agreement.

18.3 Termination: If a party is unable to perform any obligations under the Agreement for 20 Business Days or more due to an Extraordinary Event, the other party may terminate the Agreement immediately by giving Notice.

19. General

19.1 Variations:

- a. These Standard Terms and Conditions, Fee for Service, may be updated by Oranga Tamariki at any time at its sole discretion, with the current version publicly available on the Oranga Tamariki website and/or Practice Centre.
- b. Variations to Service Orders, Agreement Details and Description of Services, or other record of engagement must be recorded in writing and signed by both parties, or agreed through an exchange of emails, where the signatories or authors have delegated authority to approve the Variation.

19.2 Entire Agreement: The Agreement, including any Variation, records everything agreed between the parties relating to the Services. It replaces any previous communications, negotiations, arrangements or agreements that the parties had with each other relating to the Services before the Agreement was signed, whether they were oral or in writing.

- 19.3 **Waiver:** If a party does not immediately enforce its rights under the Agreement that:
- a. does not mean that the other party is released or excused from any obligation to perform at the time or in the future; and
 - b. does not prevent that party from exercising its rights at a later time.
- 19.4 **New Zealand Law, currency and time:** The Agreement will be governed and interpreted in accordance with the Laws of New Zealand. All money is in New Zealand dollars. Dates and times are New Zealand time.
- 19.5 **Publication:** The Provider must obtain the prior written approval of Oranga Tamariki before making reference to Oranga Tamariki or the Agreement in its publications, public statements, promotional material or promotional activities.
- 19.6 **No derogatory remarks:** Each party undertakes not to publicly make objectionable or derogatory comments about the Services, the Agreement, the other party or any of the other party's Personnel, and to ensure that its Personnel do not do so.
- 19.7 **Clauses that remain in force:** The clauses that by their nature should remain in force on expiry or termination of the Agreement do so, including clauses 5 (Information management), 8 (Insurance), 11 (Resolving disputes), 12 (Ending the Agreement), 13 (Intellectual Property Rights), 14 (Confidential Information), 15 (Privacy), 17 (Notices), 19 (General) and 20 (Definitions).
- 19.8 **Precedence:** If there is any conflict or difference between the documents forming the Agreement then the order of precedence is:
1. a Variation
 2. Any Agreement Details and Description of Service;
 3. Any Service Order and/or Service Specification;
 4. The current published version of these Terms and Conditions, Fee for Service, provided however that where Attachment 1 – Requirements for Children's Workers and Caregivers explicitly overrides the Shared Care Service Specification, Attachment 1 – Requirements for Children's Workers and Caregivers will take precedence over that Service Specification to the extent specified); and
 5. Any other record of the engagement.

20. Definitions

When used in the Agreement the following terms have the meaning beside them:

Accommodation Rate means an amount payable by Oranga Tamariki to the Provider for the accommodation of child(ren) or young person(s), where the Services involve the provision of Shared Care and where the parties have agreed that the Provider is responsible for providing accommodation.

Agreement means the legal agreement between Oranga Tamariki and the Provider that comprises:

- these Standard Terms and Conditions, Fee for Service;
- any Agreement Details and Description of Service;
- any Service Order and/or Service Specification; and
- in circumstances where no Agreement Details and Description of Service and/or Service Order apply, any documentation including correspondence between Oranga Tamariki

and the Provider recording the details of the engagement of the Provider to provide the Services.

Agreement Details and Description of Service means a signed document described as an Agreement that:

- formalises the engagement of the Provider by Oranga Tamariki and describes the Services that the Provider is engaged to provide, the roles and responsibilities of the parties, and any terms specific to the nature of the Services; and
- references these Standard Terms and Conditions, Fee for Service.

Approved Personnel means a person who is engaged by the Provider to deliver the Services and is approved by Oranga Tamariki in accordance with a process described in the Agreement including Care Staff, Caregivers, and Resource Workers. Approved Personnel should be named in the Service Order or other record of the engagement.

Attachment means any supplementary document named as an Attachment to the Agreement.

Bednight Rate means an amount payable by Oranga Tamariki to the Provider where the Services involve the provision of Care Staff. The Bednight Rate includes all costs necessary for the Provider to meet the reasonable needs of the child(ren) or young person(s) being cared for, including board, personal items, pocket money, direct Personnel costs, On-costs (if any), and overheads, but excluding Accommodation Rate, Mileage Rate, and any Extraordinary Costs where applicable.

Business Day means any day of the year other than a Saturday, a Sunday or a public holiday (as defined in section 44 of the Holidays Act 2003), observed in the location at which the Services are provided.

Caregiver has the meaning given in the [Shared Care Service Specification](#):

A person who has been assessed and approved to provide a safe, stable and loving home for tamariki in care. Usually a caregiver looks after tamariki in the caregiver's own home. Sometimes, caregivers live in properties made available to them for this purpose (properties owned or leased by Oranga Tamariki or the care partner). Caregivers receive financial support for this role but are not paid employees. See also: "non-kin caregiver", "primary caregiver", "short break caregiver", "whānau caregiver", "whānau or family caregiver".

Care Staff has the meaning given in the [Shared Care Service Specification](#):

Employees of the care partner who have a role in providing care, for example by giving specialist care one-on-one, or as a team member who provides care for one or more tamariki or supports care (including managers/line managers/team leaders, social workers, youth workers, clinicians, etc)

Charges means the amount payable by Oranga Tamariki to the Provider for Services, as specified in the Agreement, and includes applicable Fees (expressed as either a Bednight Rate or Hourly Rate and, where the Services include the provision of Contingent Workers, may also include a Placement Fee) and, if relevant to the nature of the Services, any Accommodation Rate, Mileage Rate, and Extraordinary Costs.

Children's Worker has the meaning given in section 23(1) of the Children's Act 2014.

Confidential Information means information, including data and personal information, that:

- is by its nature confidential;
- is marked by either party as 'confidential', 'in confidence', 'restricted' or 'commercial in confidence';
- is provided by either party or a third party 'in confidence'; or
- either party knows or ought to know is confidential.

Conflict of Interest means a situation where a party or its Personnel's personal or business interests or obligations do or could conflict or be perceived to conflict with its obligations under the Agreement, such that the party's or its Personnel's independence, objectivity or impartiality can be called into question. A Conflict of Interest may be:

- actual: where the conflict currently exists
- potential: where the conflict is about to happen or could happen, or
- perceived: where other people may reasonably think that a person is compromised.

Contingent Worker means Approved Personnel employed by the Provider for the purpose of assignment to Oranga Tamariki.

Crown means the Sovereign in right of New Zealand and includes a Minister and a government department but does not include a Crown entity, or a State enterprise named in Schedule 1 of the State-Owned Enterprises Act 1986.

End Date means the earlier of the date the Agreement is due to end as stated in the relevant Service Order(s) or other record of the engagement, and the date of termination as set out in a Notice of termination, or any other date agreed between the parties as the date the Agreement is to end.

Extraordinary Event means an event that is beyond the reasonable control of the party immediately affected by the event. An Extraordinary Event does not include any risk or event that the party claiming could have prevented or overcome by taking reasonable care.

Extraordinary Costs means a specific amount agreed between the parties and recorded in the Service Order or other record of the engagement as payable by Oranga Tamariki to the Provider to meet actual and demonstrable costs in excess of the Bednight Rate or Hourly Rate that are necessary for the Provider to meet the reasonable needs of the child(ren) or young person(s) being cared for. Extraordinary Costs are, by their nature, exceptional.

Fees means the amount payable to the Provider for the time spent in delivery of the Services calculated on the basis stated in the Agreement Details and Description of Services, the relevant Service Order, or other record of the engagement and in accordance with clause 0. Fees are expressed as either a Bednight Rate or Hourly Rate and, where the Services include the provision of Contingent Workers, may also include a Placement Fee. Fees do not include any Accommodation Rate Mileage Rate, or Extraordinary Costs.

GST means the goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.

HSW Act means the Health and Safety at Work Act 2015.

Hourly Rate means an amount payable to the Provider for each hour that Approved Personnel spend delivering the Services, where the Services involve the provision of Resource Workers or Contingent Workers. The Hourly Rate includes direct Personnel costs, On-costs (if any), and overheads, but excludes any Mileage Rate and Extraordinary Costs, where applicable.

Intellectual Property Rights means all industrial and intellectual property rights whether conferred by statute, at common law or in equity, including, but not limited to copyright, trademarks, designs and patents.

Law means:

- any statute, regulation, bylaw, ordinance or subordinate legislation in force from time to time to which a party is subject;
- the common law and the law of equity as applicable to the parties from time to time;
- any binding court order, judgment or decree;
- any applicable industry code of practice or conduct, policy, rule or standard to which a party is bound; and
- any applicable direction, policy, permission, consent, licence, rule or order that is binding on a party and that is made or given by any governmental or regulatory body having jurisdiction over a party or any of that party’s assets, resources or business, in any jurisdiction that is applicable to the Agreement.
- New Intellectual Property Rights means Intellectual Property Rights developed under the Agreement or in the performance of the Services.

Legal Entity means (for the purpose of these Standard Terms and Conditions, Fee for Service) an organisation that has its own legal identity, separate from its members, such as a registered company, charity, trust, or incorporated society.

Mileage Rate means an amount payable to the Provider where the Services involve the transportation of child(ren) or young person(s), as follows:

Kilometres per week, per child or young person	Mileage Rate
Up to 40	\$0 (included in Bednight Rate or Hourly Rate)
40 to 140	\$0.79 cents per kilometre
Over 140	\$0.30 cents per kilometre
One off or infrequent long-distance travel	\$42.00 per day plus petrol

Notice means a communication from one party to the other that meets the requirements of clause 17.

On-costs means any statutory minimum leave entitlements, taxes, levies, superannuation contributions (including KiwiSaver), workers’ compensation, insurance payments or other payments imposed on the Provider (as an employer) by Law, and which are mandatory for the Provider to pay (as an employer) under Law in respect of an employee.

Oranga Tamariki means the New Zealand government department responsible for the administration of the Oranga Tamariki Act 1989.

Oranga Tamariki Approved Form of Contract means a form of contract approved for use by a decision maker of Oranga Tamariki holding the appropriate delegation.

Outcome Agreement means a legal document that, together with the Framework Terms and Conditions available at <https://www.procurement.govt.nz/assets/procurement-property/documents/3rd-edition-framework-terms-conditions.pdf> is used to document the legal obligations between a government agency and a non-government organisation for the provision of services.

Personal Information has the meaning given to that term in the Privacy Act.

Personnel means all individuals engaged by either party in relation to the Agreement or the delivery of Services. Examples include: the owner of a business, its directors, trustees of a charitable trust, employees, Subcontractors, agents, external consultants, co-opted or seconded staff and voluntary Caregivers. Personnel includes each candidate presented to Oranga Tamariki for approval as Approved Personnel.

Placement Fee means an amount payable by Oranga Tamariki to the Provider where the Services involve the provision of Contingent Workers, as specified in the Agreement Details and Description of Service. The Placement Fee is intended to cover Recruitment Activities plus a reasonable profit margin for Permanent Assignments (as defined in the Agreement Details and Description of Service) and is expressed as a percentage of the annual salary of the Contingent Worker.

Pre-existing Intellectual Property Rights means Intellectual Property Rights developed before the date of, or independently from, the Agreement.

Privacy Act means the Privacy Act 2020 and includes any codes or regulations issued under that Act.

Privacy Breach means any:

- unauthorised or accidental access to or use of, or disclosure, alteration, loss, or destruction of any Personal Information; and
- any action that prevents Oranga Tamariki from accessing Personal Information on either a temporary or permanent basis,

whether or not:

- caused by a person inside or outside of the Provider;
- attributable in whole or in part to any action by the Provider; or
- ongoing.

Protective Security Incident means a security incident that is:

- a breach of protective security policy or procedures;
- an approach from anybody seeking unauthorised access to officials or official information; or
- any other event that harms, or may harm, the security of Oranga Tamariki and/or Oranga Tamariki's Confidential Information.

Provider means the person or Legal Entity named as the Provider in the Agreement.

Purchase Order means a commercial document issued by Oranga Tamariki to the Provider indicating the Services and Charges for which the Provider may invoice Oranga Tamariki.

Records means all information and data necessary for the management of the Agreement and the delivery of Services. Records include, but are not limited to, reports, invoices, letters, emails, notes of meetings, photographs and other media recordings. Records can be hard copies or soft copies stored electronically.

Resource Worker means a person whom, or organisation which, supports a child or young person who has been placed with a care partner and Care Staff or Caregivers. That support may take one or more of the following forms:

- transporting the child or young person to and from school, activities, and/or appointments;
- accompanying the child or young person on excursions, to school, and/or to appointments and providing guidance and emotional and physical support as required;
- acting as temporary, rostered, or relief Care Staff, or short break Caregiver (as defined in the [Shared Care Service Specification](#)).

Serious Misconduct means unacceptable conduct that undermines, damages or destroys the trust and confidence that Oranga Tamariki must have in Providers and Personnel to enable the relationship to continue. Examples of serious misconduct include:

- any action or inaction that results in, or may have resulted in, harm to a child or young person in the Provider's care;
- any action that could amount to fraud or other significant misuse of Oranga Tamariki resources;
- impairment by drugs or alcohol while performing the Services;
- unauthorised removal or possession of Oranga Tamariki property or the property of others;
- a serious breach of Oranga Tamariki policy or procedure, where the policy or procedure has been made known to the Provider or Provider's Personnel, including an undisclosed or unmanaged Conflict of Interest;
- any form of dishonesty;
- conduct or behaviour that results in, or may have resulted in, personal injury to others;
- bullying, harassment, discrimination or other unreasonable behaviour;
- any action that could amount to assault, threatening or intimidating behaviour in the course of providing the Services;
- deliberately falsifying or destroying, or inappropriate use of, Oranga Tamariki information or documentation;
- acts of serious negligence or gross incompetence;
- conduct that brings or has the potential to bring Oranga Tamariki into disrepute;
- inappropriate accessing or use of the records of children, young people, or their families;
- serious breach of confidentiality or privacy.

Service Order means a document substantially in a form approved by Oranga Tamariki and/or attached to an Agreement Details and Description of Service, which records the engagement of the Provider to provide Services.

Services means all work and tasks, including those stated in any Agreement Details and Description of Service, Service Order and/or Service Specification, or record of engagement, that the Provider must perform and deliver under the Agreement.

Shared Care has the meaning given in the [Shared Care Service Specification](#). In summary:

Shared Care is when the chief executive of Oranga Tamariki has the care and/or custody of te tamaiti, and entrusts their day-to-day care to a care partner that has the capability to support the needs and goals of te tamaiti, until te tamaiti is able to transition from that care response. The care is given by caregivers and/or care staff, in a range of settings ... Oranga Tamariki holds the care and/or custody of te tamaiti and has overarching responsibility to complete an assessment of their needs and develop a plan to meet

these (All About Me plan) – while care partners are responsible for the day-to-day care of tamariki, working with the whānau, hapū, iwi or family of tamariki, and supporting their caregivers and care staff. Tamariki may be in this day-to-day care for a very short period, or for significantly longer*. While it is recognised that short timeframes can make some aspects of care less achievable, in all cases, the care partners and Oranga Tamariki must carry out their respective roles and responsibilities to the best of their ability within the timeframe available. “Shared Care” includes all care responses, settings and interventions – including those with caregivers and those with care staff – where Oranga Tamariki and the care partner share responsibilities in caring for tamariki and strengthening connections with their whānau, hapū, iwi or family.

** Note that Fee for Service arrangements are not appropriate for long-term Shared Care placements and these Standard Terms and Conditions – Fee for Service are intended to apply to short-term Shared Care arrangements only.*

Start Date means the date when the Agreement starts as stated in the first Service Order or record of engagement.

Subcontractor means a person or Legal Entity contracted by the Provider to deliver or perform part of the Provider's obligations under the Agreement.

Variation means a change to any aspect of the Agreement that complies with clause 19.1.

Vetting and Children’s Worker Safety Checks means the processes described at paragraph 6 of Attachment 1 – Requirements for Children’s Workers and Caregivers.

Attachment 1 Requirements for Children's Workers and Caregivers

1. **Application:** The requirements set out in this Attachment apply in any circumstances where the Provider, or the Approved Personnel, are:
 - a. a Children's Worker, meaning that they are a person who works in, or provides, a regulated services, and the person's work:
 - (i) may or does involve regular or overnight contact with a child or children; and
 - (ii) takes place without a parent or guardian of the child, or of each child, being present; or
 - b. a Caregiver.
2. For the avoidance of doubt, Care Staff and Contingent Workers in Oranga Tamariki Youth Justice Residences are Children's Workers.

Shared Care:

3. Where the Services include the provision of Shared Care:
 - a. The Services must be provided in accordance with the [Shared Care Service Specification](https://www.orangatamariki.govt.nz/assets/Uploads/Working-with-children/Information-for-providers/Service-Specifications/Shared-Care-Service-Specification-December-2023.pdf) (available at <https://www.orangatamariki.govt.nz/assets/Uploads/Working-with-children/Information-for-providers/Service-Specifications/Shared-Care-Service-Specification-December-2023.pdf>).
 - b. Appendix B and Appendix C of the Shared Care Service Specification specify the requirements for the assessment and approval of Caregivers and private households where care will take place. The Provider will ensure that these requirements are complied with prior to the provision of Services and provide information to Oranga Tamariki on request to demonstrate compliance.
 - c. Appendix E of the Shared Care Service Specification sets out how Care Staff are to be recruited, assessed, reviewed and supported. The Provider will ensure that these requirements are complied with and provide information to Oranga Tamariki on request to demonstrate compliance.
 - d. Appendix G of the Shared Care Service Specification sets out how the parties will keep children and young people safe, if a critical or serious incident occurs. This includes reporting the incident within the correct process and timeframes and working together as quickly as possible to create a safety plan.
 - e. The Provider will provide weekly reports to Oranga Tamariki on the status of each placement, including at a minimum:
 - (i) a description of any changes to the strengths and needs of each child or young person in the day-to-day care of the Provider and the Provider's Approved Personnel;
 - (ii) a summary of any critical or serious incidents in the preceding week;
 - (iii) any changes requested to the Caregiver Support Plan for each Caregiver (if any); and
 - (iv) an estimated end date for each placement and a summary of progress and challenges in working with Oranga Tamariki to transition each child or young person to a longer-term placement or returning the child or young person to the care of family.

Contingent Workers in Oranga Tamariki Youth Justice Residences

4. Where the Provider is engaged to provide Services that require the provision of Contingent Workers to Oranga Tamariki Youth Justice Residences, the parties agree that Oranga Tamariki is the “specified organisation” for the purposes of section 24 of the Children’s Act and will be responsible for undertaking safety checks in accordance with sections 25 and 31 of the Children’s Act, the Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015, and its own risk assessment process.
5. **Suitability checks by Provider:** Before presenting Provider Personnel to Oranga Tamariki for Vetting and Children’s Worker Safety Checks, the Provider must carry out the following preliminary checks and provide evidence of these checks to Oranga Tamariki:
- a. an alias check;
 - b. an assessment of the Personnel’s curriculum vitae and work history;
 - (i) two referee checks, one from their current manager (if currently employed) or most recent manager (if not currently employed) and one from another direct manager within the last five years; and
 - c. an interview,
- to ensure that the person has the necessary skills, expertise and capability, is of good character, and otherwise appears (subject to Vetting and Children’s Worker Safety Checks) suitable to perform the role of Children’s Worker.

6. **Vetting and Children’s Worker Safety Checks:**

- a. The Provider acknowledges that in order for Oranga Tamariki to fulfil its obligation to undertake safety checks of Personnel put forward the Provider to provide the Services, the Provider must provide, or arrange for the provision of, the following information to Oranga Tamariki at least 5 Business Days before the date that the Personnel is scheduled to commence providing the Services or, where applicable, commence training to enable them to provide the Services:

Description	Required Documentation
Identity confirmation	<p>1. ID, in the following form:</p> <p>Either:</p> <ol style="list-style-type: none"> (a) an electronic identity credential within the meaning of section 8 of the Electronic Identity Verification Act 2012; or (b) both a primary and a secondary identity document of a type specified in the Schedule to the Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015¹. <p>If the person elects to provide primary and secondary identification and neither of the documents contains a photograph of the person, they will also need to provide:</p> <ol style="list-style-type: none"> (c) a photograph of themselves authenticated by an identity referee; or

¹ See <https://www.legislation.govt.nz/regulation/public/2015/0106/latest/DLM6482266.html>.

Description	Required Documentation
	<p>(d) a verification statement signed and dated by an identity referee that verifies that the primary identity document produced by the person relates to that person, and</p> <p>(e) contact details of the identity referee; and</p> <p>2. Confirmation of name change, if applicable, in a form specified in the Schedule to the Children’s Act².</p>
Police vet	Written consent of the Personnel authorising Oranga Tamariki to obtain from the New Zealand and/or Australian Police Vetting Service a Police vet of the Personnel.
Work history	<p>1. A chronological summary of the Personnel’s work history, if any, for the preceding 5 years, including a description of previous employment positions; and</p> <p>2. The name of —</p> <p>(a) any professional organisation of which the person is a current member, if that membership is relevant to the role for which they are put forward; or</p> <p>(b) any licensing authority that has issued a current licence to the person for the carrying on of a particular activity that is relevant to the role for which they are put forward; or</p> <p>(c) any registration authority that has issued a current registration or practising certificate to the person for the carrying on of a particular activity that is relevant to the role for which they are put forward.</p>
Referees	The name of at least 1 referee who is not related to the person and not part of the person’s extended family.
Any other information that Oranga Tamariki considers relevant to its risk assessment	<p>1. Written consent of the Personnel authorising Oranga Tamariki to undertake a check of its records for information about the individual; and</p> <p>2. A Conflict of Interest and Confidentiality Declaration completed by the Personnel; and</p> <p>3. An acknowledgement from the Personnel that they understand and agree to abide by the Oranga Tamariki Code of Conduct if they are assigned to Oranga Tamariki; and</p> <p>4. Any other information requested by Oranga Tamariki for the purpose of undertaking the risk assessment.</p>

² Above, n 2.

- b. Oranga Tamariki will undertake a risk assessment of the Personnel in accordance with regulation 8 of the Children’s Act, the Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015. This will include an interview.
 - c. On the completion of Vetting and Children’s Worker Safety Checks (including the risk assessment), Oranga Tamariki will advise the Provider whether the Personnel is provisionally approved or not approved.
 - d. If the Personnel is provisionally approved, the Provider will arrange for the Personnel to attend any required training and provide any documentation specified in the Agreement.
 - e. If the Personnel is not provisionally approved (in the sole discretion of Oranga Tamariki), the Provider will not use the Personnel in the provision of the Services and no Charges will be payable in relation to that Personnel.
7. **Child Protection Policy:** The Provider must adopt a child protection policy:
- a. that complies with section 19 of the Children’s Act 2014 as soon as practicable after the Start Date; and
 - b. review its child protection policy within three years from the date of its adoption or most recent review, and at least every three years after that.
8. **Notification of safety concerns:** The Provider must immediately notify Oranga Tamariki if the Provider:
- a. becomes aware that any of its Approved Personnel has been charged with, or convicted of, an offence listed in Schedule 2 of the Children’s Act (a Specified Offence); or
 - b. has reasonable grounds to consider that a member of its Approved Personnel may pose an undue risk to the safety of the young people.
9. **Monitoring, Evaluation and Assurance:** The Provider will comply with the social sector accreditation and accreditation review (monitoring and evaluation) requirements of Te Kāhui Kahu. The Provider will provide any additional information reasonably requested by Oranga Tamariki to enable Oranga Tamariki to provide assurance of any other matter related to the suitability of the Provider to provide the Services.