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Royal Borough  
of Windsor &  
Maidenhead

**ROYAL BOROUGH OF  
WINDSOR AND MAIDENHEAD**

**STANDARD  
CONTRACT TERMS AND CONDITIONS**

**FOR**

**ADULT HOME CARE SERVICES**

**With**



These Contract Terms and Conditions may only be varied with the written agreement of the Purchaser. No terms or conditions put forward at any time by the Provider shall form any part of the Contract.

*Signature only required if a Block Contract*

**SIGNED as a DEED on behalf of the Purchaser**

**By (Print Name):**

**Title**

**Signature:**

**Date:**

**SIGNED as a DEED on behalf of the Provider**

**By (Print Name):**

**Title:**

**Signature:**

**Date:**

**The COMMON SEAL OF THE ROYAL BOROUGH  
OF WINDSOR AND MAIDENHEAD was hereunto  
affixed in the presence of:**

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## 1. DEFINITIONS

In this Contract following expressions have the following meaning:

|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>First Contact and Duty Team</b> | Means the team responsible for front line communication to be contacted for specific events as stipulated in the Contract. The Purchasers Contact Details are in Schedule 3.                                                                                                                                                                                                                                                                           |
| <b>Block</b>                       | Means the Price agreed between the Parties as detailed in Schedule 2 for commitments.                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Care Manager/Social Worker</b>  | Means the individual staff member of the Purchaser who is assigned to look after the best interests of the Resident.                                                                                                                                                                                                                                                                                                                                   |
| <b>Care Plan</b>                   | Means the contractual document of that name containing details of a Resident and a statement of outcomes following assessment, the contents of which are to be delivered as the Care Service. This is also known as Support Plan and Interim Care Package (IPC).                                                                                                                                                                                       |
| <b>Care Service</b>                | Means the provision of care and/or support services to the Residents/Tenants in their own home in accordance with the Specification, the individual Care/Support plan and the Package of Care(s), and further in accordance with this Contract and any documents contained or referred to herein. Care Services covers residential/nursing placements, supported living, shared lives and homecare Care Services being commissioning by the Purchaser. |
| <b>Care Hours</b>                  | Means hours of care provided by support workers to a Resident to meet their care plan.                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Confidential Information</b>    | Means all information (whether commercial, financial, technical, personal, or otherwise) relating to the disclosing party, its sub-contractors, Residents, servants or agents disclosed to or otherwise obtained by the recipient party.                                                                                                                                                                                                               |
| <b>Commencement Date</b>           | Means the Commencement Date of the Care Services which will be defined for each Resident in the Package of Care.                                                                                                                                                                                                                                                                                                                                       |
| <b>Contract</b>                    | Means the Contract for the Care Service made between the Provider and the Purchaser. The Contract includes these terms and conditions (with schedules and appendices), the Service Specification, all assigned Packages of Care, all Care Plans and all documentation as referred to herein.                                                                                                                                                           |
| <b>Contracts Manager</b>           | Means the representative of the Purchaser which may be an employee of the Purchaser or a third party agent appointed to act on behalf of the Purchaser.                                                                                                                                                                                                                                                                                                |
| <b>Data Loss Event</b>             | Any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction                                                                                                                                                                                                                                                                            |

|                                          |                                                                                                                                                                                                                                                                                 |
|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                          | of Personal Data in breach of this Agreement, including any Personal Data breach.                                                                                                                                                                                               |
| <b>Data Protection Impact Assessment</b> | An assessment by the controller of the impact of the envisaged processing on the protection of Personal Data.                                                                                                                                                                   |
| <b>Data Protection Legislation</b>       | (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable law about the processing of personal data and privacy;        |
| <b>Data Subject Access Request</b>       | A request made by, or on behalf of, a data subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.                                                                                                                 |
| <b>Default</b>                           | Means any failure, on either the part of the Purchaser or the Provider, to carry out the respective obligations under this Contract.                                                                                                                                            |
| <b>Default Notice</b>                    | Means a notice setting out the nature of the Default committed and, if the Default can be put right, the action required and the timescales.                                                                                                                                    |
| <b>DPA 2018</b>                          | Data Protection Act 2018                                                                                                                                                                                                                                                        |
| <b>Early Review Notice</b>               | Means the notice that the Purchaser is entitled to serve on the Provider stating that one or more of the reviews of the Care Service have been brought forward and the date on which it is, or they are, to commence.                                                           |
| <b>Embargo</b>                           | Means the Provider has restrictions placed on them due to quality concerns or a single event by either the Purchaser or the Regulatory Authority. This may include suspension/part suspension of Care Services, restrictions on new placements or termination of Care Services. |
| <b>Exempted Information</b>              | Shall mean any information or category of information, document, report, contract or other material containing information relevant to this contract that has been designated by the mutual agreement of the Parties as potentially falling within an FOIA Exemption.           |
| <b>Fixed Price</b>                       | An agreed Price as detailed in schedule 2.                                                                                                                                                                                                                                      |
| <b>FOIA</b>                              | Shall mean the Freedom of Information Act 2000.                                                                                                                                                                                                                                 |
| <b>FOIA Exemption</b>                    | Shall mean any applicable exemption to the FOIA including, but not limited to, confidentiality (section 41 FOIA), trade secrets (section 43 FOIA) and prejudice to commercial interests (section 43 FOIA).                                                                      |

|                             |                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             |                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>GDPR</b>                 | the General Data Protection Regulation (Regulation (EU) 2016/679)                                                                                                                                                                                                                                                                                                                                                       |
| <b>Invoice Address</b>      | means the address where the Provider is to submit all invoices or raise invoice queries in accordance with the provision of the Care Service, being, Social Care Finance, Business Services Team, The Royal Borough of Windsor and Maidenhead, Town Hall, St Ives Road, Maidenhead, Berkshire, SL6 1RF unless otherwise agreed in writing. Or invoices can be emailed to Socialcarefinance@rbwm.gov.uk                  |
| <b>LED</b>                  | Law Enforcement Directive (Directive (EU) 2016/680)                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Personal Data</b>        | Shall have the same meaning as set out in the DPA 2018.                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Premises</b>             | Means the Premises where the Care Service is delivered to the Resident or tenant or individual. This is where the Care Services are being provided.                                                                                                                                                                                                                                                                     |
| <b>Price</b>                | Means the Price for the provision of the Care Service as detailed in the Package of Care (Schedule 1) and/or the Fixed Price Agreement (Schedule 2).                                                                                                                                                                                                                                                                    |
| <b>Protective Measures</b>  | Appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it |
| <b>Purchaser</b>            | Means the Royal Borough of Windsor and Maidenhead, Town Hall, St Ives Road, Maidenhead, Berkshire, SL6 1RF.                                                                                                                                                                                                                                                                                                             |
| <b>Sub-processor</b>        | Any third party appointed to process Personal Data on behalf of the Supplier related to this Contract                                                                                                                                                                                                                                                                                                                   |
| <b>Regulatory Authority</b> | Means a reference to an organisation or body currently known as the Care Quality Commission (CQC), or any subsequent body whose responsibility it is to regulate and monitor the activities of the appropriate legislation.                                                                                                                                                                                             |
| <b>Provider</b>             | Means the individual or group providing the Care Service as detailed in these Contract terms and conditions.                                                                                                                                                                                                                                                                                                            |
|                             |                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Resident(s)</b>          | Means the individual(s) receiving the Care Service and named in the Package of Care. In this Contract this term includes residents, (in their own home), tenants that receive supported living, shared lives, short term placements such as respite Care Services.                                                                                                                                                      |

|                                        |                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Package of Care</b></p>          | <p>Means the contractual confirmation in writing detailing the Care Services Package of Care to meet the Residents Support Plan. This contains the Commencement Date of the provisions of the Care Service for the Resident, any additional care (over and above that detailed in the Specification) required for the Resident, number of carers, Care Service schedule detailing days and call times required.</p> |
| <p><b>Specification</b></p>            | <p>Means the Specification for the Care Services referred to in these Contract terms and conditions (Appendix A).</p>                                                                                                                                                                                                                                                                                               |
| <p><b>Spot</b></p>                     | <p>Means the agreed Price between the parties for the Care Services for an individual Resident defined in the Package of Care. The Contractual obligation is for the Payment of that individual Resident and their Care Services from the Commencement Date to the Termination Date as defined in this Contract.</p>                                                                                                |
| <p><b>Term</b></p>                     | <p>Means the Term of the Contract commencing on the Commencement Date defined in the Package of Care) for the Resident or the Fixed Price Agreement in (Schedule 2) or terminated in accordance with the termination provisions within the Contract.</p>                                                                                                                                                            |
| <p><b>Third Party</b></p>              | <p>Means an individual or organisation that has a recognised interest in the Care Service for a Resident.</p>                                                                                                                                                                                                                                                                                                       |
| <p><b>Third Party Contribution</b></p> | <p>Means the (assessed) financial contribution (if any) of the Third Party to the cost of the Care Service for the Resident to whom they have agreed, which will be paid directly to the Purchaser.</p>                                                                                                                                                                                                             |
| <p><b>Vulnerable Adult</b></p>         | <p>means a person who is aged 18 or over and who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against harm or exploitation.</p>                                                                                                                  |



## **2. THE CARE SERVICE**

- 2.1 The Care Service executed under this Contract shall be carried out in good faith and to high standards, in accordance with the requirements of the Specification and within the time (if any) specified in this Contract.
- 2.2 The Provider must be registered with the Regulatory Authority.

## **3. CONTRACT AND DURATION**

- 3.1 The Provider shall perform the Care Service from the Commencement Date for the agreed Price in accordance with the Contract for the Term of the Contract.
- 3.2 A Package of Care may be terminated in accordance with the conditions contained in this Contract.
- 3.3 This Contract may be extended for a further period as agreed between the parties. Any such extension will need to be agreed in advance of the anniversary and in writing, by both parties.
- 3.4 The Provider and the Resident shall agree a Resident's statement of terms and conditions a copy of which shall be supplied to the Resident. In the event of any conflict between the provisions of the Resident's statement of terms and conditions and the provisions of this Contract, then the provisions of this Contract shall prevail.

## **4. SAFEGUARDING VULNERABLE ADULTS**

- 4.1 If a member of the Provider's staff becomes aware of abuse or suspects that abuse may be happening to an adult in their care, the Provider must inform the Advice & Information Team of the Purchaser, by telephone on the same day of the concern being raised (as laid out in the Berkshire Safeguarding Adults Policy and Good Practice Guidance for safeguarding adults). If a Provider has safeguarding concerns outside of normal office hours, they should contact the Emergency Duty Team by telephone (or any such number as subsequently provided by the Purchaser, in order to make a safeguarding alert). The Purchasers contact sheet is detailed in Schedule 3 or any subsequent issue by the Purchaser.
- 4.2 The parties acknowledge that the Provider is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006 ("SVGA 2006").
- 4.3 The Provider shall ensure that all individuals engaged in the provision of the Services are:
  - 4.3.1 compliant with the Disclosure and Barring Service (DBS) procedures in accordance with the SVGA 2006 and regulations or orders made there under; and
  - 4.3.2 are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service (which the Purchaser requires to be renewed every 3 years) including a check against the adults' barred list as appropriate; and
  - 4.3.3 the Provider shall monitor the level and validity of the checks under this condition 4.3 for each member of staff.

- 4.4 The Provider warrants that at all times for the purposes of this Contract:
- 4.4.1 it is appropriately registered in relation to all persons who are or will be employed or engaged by the Provider in the provision of the Care Services, and
  - 4.4.2 it has no reason to believe that any such person:
    - 4.4.2.1 is barred from the activity; or
    - 4.4.2.2 is not compliant with the DBS

in accordance with the provisions of the SVGA 2006 and any regulations made there under, as amended from time to time.

- 4.5 The Provider shall immediately notify the Purchaser of any information that it reasonably requests to enable it to be satisfied that the obligations of this condition 4 have been met.
- 4.6 The Provider shall refer information about any person carrying out the Care Services to the DBS where it removes permission for such person to carry out the Care Services (or would have, if such person had not otherwise ceased to carry out the Care Services) because, in its opinion, such person has harmed or poses a risk of harm to Residents/Vulnerable Adults.
- 4.7 The Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Residents.
- 4.8 The Provider will follow the Berkshire Safeguarding Adults Policy, Procedures and Good Practice Guidance and those of the Regulation Authority known as Care Quality Commission Adult Protection Protocol detailed under "Role of the 'Registered Provider'". This document can be found at:  
<http://www.sabberkshirewest.co.uk/media/1185/berkshire-policy-and-procedures-may-2016.pdf>
- 4.9 The Provider's staff shall not act as either executors or as a witness to the will of a Resident. Nor shall they accept power of attorney status for any Resident.

## **5. MENTAL CAPACITY ACT (MCA)**

- 5.1 The Provider will comply with the requirements of the Mental Capacity Act 2005 ("MCA 2005") and the Mental Capacity Act Code of Practice issued in accordance with Sections 42 and 43 MCA 2005.
- 5.2 There are five core principles that underpin the Mental Capacity Act 2005. These principles must be followed when working under the MCA in any assessment of or decision about a Resident's capacity.

## **6. DEPRIVATION OF LIBERTY SAFEGUARDING (DOLS)**

- 6.1 The Provider will comply with the Mental Capacity Act 2005: the Deprivation of Liberty Safeguards (MCA DoLS).
- 6.2 The Provider must keep detailed records as part of the MCA DoLS process.
- 6.3 If a Resident meets the acid test set out by the Supreme Court in March 2014 (2014 UKSC 19) the Provider must complete a referral form to the Purchaser for DoLS.
- 6.4 The Provider must have a lawful DoLS. If further authorisation is required upon expiry the Provider must submit the referral form to the Purchaser as a minimum 28 days prior to the expiry date.

## **7. EQUALITY, DIVERSITY AND HUMAN RIGHTS**

- 7.1 The Provider shall, during the term of this contract, comply with all Legislation concerning equality, diversity and human rights. The Provider acknowledges that the Purchaser, as a public body, would have certain obligations under the Human Rights Act 1998 in respect of persons receiving or requesting the Care Services were the Purchaser providing the Care Services. Therefore the Provider agrees to use its reasonable endeavours to act in a way commensurate with such obligations.

## **8. ACCREDITATION, MONITORING AND REVIEW OF SERVICE**

- 8.1 The Purchaser has various statutory duties in relation to this Contract to carry out a regular review of the Care Service. The Provider will fully co-operate with the Purchaser in carrying out any such statutory duty and the Provider must make available to the Purchaser such facilities and such assistance as reasonably requested, provided the Purchaser has given the Provider reasonable notice and provided this does not put to the Provider what can be considered, acting reasonably, as an unreasonable cost. For example, the Provider must allow the Purchaser's employees or authorised agents access to:
  - 8.1.1 Employees
  - 8.1.2 All information, reports, financial accounts, documents, records (whether in hard copy or electrical formats) and data which is held, including internal and external reviews, requirements and outcomes
  - 8.1.3 The Provider must also allow the Purchaser to take copies of the information and reports referred to in this condition
- 8.2 The Provider shall provide monitoring information in the format stipulated and provided by the Purchaser at intervals decided by the Purchaser.
- 8.3 The Provider is to assist the Purchaser in gathering information that may from time to time be reasonably requested, in order to comply with all or any requirements and conditions imposed by law in the UK or by any act of Parliament or by any other competent authority or public body which are or may be applicable to or affect the Care Service.
- 8.4 The Provider is required to inform the Purchaser of any regulatory requirements and/or outcomes from all internal and external reviews of the Care Services so that the

Purchaser and the Provider can work in partnership to make any necessary improvements.

- 8.5 If the Regulatory Authority after assessment changes the quality rating, the Provider should inform the Purchaser within 24 hours of the notification.
- 8.6 The Purchaser reserves the right to suspend/cease any new placements and review current placements if the Regulatory Authority determines that the service has become inadequate and this is in conjunction with condition 16.5.
- 8.6.1 The Purchaser requires the action plan/s to be sent to the Contracts Manager as soon as created should such a situation arise.
- 8.7 The Purchaser reserves the right to terminate placement(s) if the Regulatory Authority determines that the Care Service has been deemed inadequate. If this happens, the Purchaser will require action plans to be submitted with a copy of the assessment report.

## **9. RECORDS AND INFORMATION**

- 9.1 The Provider shall supply information which may be required to assess how the Provider is carrying out the obligations under this Contract.
- 9.2 The Provider must allow the Contracts Manager or any person authorised by the Contracts Manager, together with appropriate staff, at all reasonable times to inspect or witness the provision of the Care Service. The Purchaser will have proper regard to the nature of the Care Services being provided particularly where the Care Service concerns Vulnerable Adults.
- 9.3 The Provider must notify the Purchaser if:
- 9.3.1 There is a change in who controls the majority of the shares in, or the voting rights amongst shareholders or members of the Provider; or
- 9.3.2 The Provider merges with another organisation(s);
- 9.3.3 The Provider transfers engagements to another organisation(s);
- 9.3.4 The Provider in any way transfers business to another organisation(s);
- 9.3.5 As a result of any misconduct or mismanagement on the part of the Provider, a regulatory body directs an inquiry into, or makes an order of any kind in relation to, the Provider's affairs; or
- 9.3.6 Any registration which the Provider must maintain in order to provide any of the Care Service is withdrawn or cancelled, or is threatened to be withdrawn or cancelled.

## **10. FINANCIAL DETAILS**

- 10.1 The Purchaser will pay to the Provider the Price agreed in accordance with the Contract as specified in the Package of Care and the Fixed Price Agreement (Schedule 2).
- 10.2 The Purchaser shall not make any further payments to the Provider to take into account NHS Funded Nursing Care, NHS Continuing Health Care partial funding, Section 28A funding or any further grant or other payments received by the Purchaser from other persons or statutory bodies. If additional funding is required over and above what is stipulated in the Care Plan for that Resident during the Term of the Contract,

this must be expressly permitted by the Purchaser in writing before any additional costs are incurred will only be done so based on an evidenced increase of Care needs.

- 10.3 Any Third Party Contribution will be paid directly to the Purchaser. It may only be paid directly to the Provider where arrangements are already in existence for an individual Resident. In this circumstance, written agreement by all parties must be gained. The amount and details of any Resident or Third Party Contribution, from other persons or statutory bodies received by the Provider in respect of any Resident must be notified to the Purchaser. The Provider must notify the Purchaser immediately of any changes in such contributions.
- 10.4 Where applicable, Residents and/or Third Parties are not to be held liable for any shortfall between the Provider's costs and any payments made to the Provider by the Purchaser under this Contract. If there is a personal allowance payable to the Resident, this is to be received by the Resident and is not to be considered to be any part of the Price for the Care Service.
- 10.5 The Purchaser reserves the right to make a deduction from the Price where the Provider has been in breach of the Contract provided that the deduction shall be commensurate with the breach and notified by the Purchaser to the Provider in writing.
- 10.6 The Provider shall send one invoice per accounting period to the Invoice Address. The accounting period is that of two weeks from the Commencement Date. Each two week period thereafter will be an accounting period. Value Added Tax where applicable will be shown separately on all invoices as an extra charge. Accompanying the invoice must be details of all calls completed in the accounting period as specified in the example Annex B Invoice Breakdown Template. A valid invoice must include the invoice and the invoice breakdown template.
- 10.7 Payment of the Price shall be made within 30 days from receipt of an undisputed invoice unless the invoice having been queried by the Purchaser.
- 10.8 Not used.
- 10.9 Not used.
- 10.10 Not used.
- 10.11 Not Used.

## **11. INDEMNITY AND INSURANCE**

- 11.1 Save in respect of the death of or personal injury to any person to the extent that such death or personal injury may be caused by the Purchaser, its employees or agents (other than the Provider), the Provider shall fully and promptly indemnify and keep indemnified the Purchaser, its officers and employees against all liabilities, fines, penalties, damages, costs, losses, claims, demands and proceedings whatsoever howsoever arising whether in contract tort, under statute or otherwise directly or indirectly out of or in the course of or in connection with the provision of or failure to provide the Care Service by the Provider.
- 11.2 Without thereby limiting its responsibilities under this condition the Provider shall insure against the injury to or death of any person and loss of or damage to any property arising out of or in consequence of the Provider's obligations under this Contract and against all actions, claims, demands, proceedings, damages, costs, charges and expenses in respect thereof.
- 11.3 The insurance in respect of any such personal injury to or death of any person arising under a contract of service with the Provider and arising out of an incident occurring

during the course of such person's employment shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and any statutory orders made there under.

- 11.4 The Provider shall obtain employer's liability insurance in the sum of no less than £10,000,000 (ten million pounds) or such greater sums as the Provider may choose. The Purchaser shall reserve the right to review the requirement in respect of the amount of cover annually throughout the Term.
- 11.5 The Provider will obtain public liability insurance cover in the sum of not less than £5,000,000 (five million pounds) or such greater sum as the Provider may choose. The Purchaser shall reserve the right to review the requirement in respect of the amount of cover annually throughout the Term.
- 11.6 The Provider shall obtain professional indemnity/medical malpractice insurance in the sum of no less than £2,000,000 (two million pounds). The Purchaser shall reserve the right to review the requirement in respect of the amount of cover annually throughout the Term.
- 11.7 The Provider shall supply to the Purchaser forthwith a certificate from its insurers or brokers confirming that the Provider's insurance policies comply with this condition and the Provider shall supply to the Purchaser on request copies of all insurance certification and policy details.
- 11.8 Any damage caused to any Residents property, by the Providers staff or agents acting negligently shall be made good by the Provider within 28 days of the damage having been caused and at its own expense. The Purchaser should be notified as soon as reasonably practicable, but no longer than two working days after the damage occurred, detailing the damage caused, how it was caused and the estimated cost.

## **12. ASSIGNMENT AND SUB-CONTRACTING**

- 12.1 The Purchaser shall be entitled to assign the benefit of this Contract in whole or in part to a statutory or other public body or to anybody carrying out any of the Purchaser's functions on its behalf and shall give at least 14 days written notice of any assignment to the Provider.
- 12.2 The Provider may not transfer, assign, or dispose of, sub-contract or part with the benefit or the burden of the whole or any part of this Contract without the express written permission of the Purchaser.
- 12.3 The Provider shall be permitted to hire agency staff to cover the absence of permanent staff and/or sub-contract cleaning, laundry and/or catering services. The Provider shall fully meet the staffing requirements in the Health and Social Care Act 2008 and the Specification for all agency/sub-contract staff, and must receive written confirmation that this has been undertaken by the agency. The Provider must supply a copy of the written confirmation of compliance to this condition to the Purchaser on the Purchaser's reasonable request. The Purchaser may, with reasonable notice, withdraw its consent to the use of sub-contractors at any time during the Term.
- 12.4 The Purchaser giving consent to sub-contract will not relieve the Provider of their obligations under this Contract, and the Provider will be responsible for the acts,

defaults and neglect of any sub-contractor or any employee, agent or servant of any such sub-contractor, as if they were the Provider's own acts, defaults and neglect.

**13. ALTERATIONS TO THESE TERMS AND CONDITIONS & VARIATIONS TO THE CARE SERVICE**

- 13.1 Without prejudice to any other term of this Contract, any omission from, addition to or variation of the Care Service shall only be valid or effective if it is agreed in writing and signed by an authorised officer of both the Purchaser and the Provider.
- 13.2 Where the Provider or the Purchaser reasonably considers that the dependency of a Resident has changed, the Purchaser shall use its best endeavours to reassess the dependency of that Resident within 28 days of receipt of a written request to do so by the Provider and where agreed by all the Parties the Price shall be correspondingly adjusted and backdated to a date no later than the expiry of such 28 day period or such other date as the Parties may agree.
- 13.3 In the event that changes are required to the Care Plan for a particular Resident, that make the existing Package of Care invalid, this will be communicated by the Purchaser to the Provider. This shall be effective upon receipt by the Provider of a new Package of Care and an amended Care Plan.

**14. TERMINATION OF A PACKAGE OF CARE**

- 14.1 The first 28 days from the Commencement Date of each Package of Care shall be regarded as a "trial period". This is in order to ensure that the Care Service provided meets the Resident's outcomes and, if not, either party may terminate the placement of that Resident by giving to the other no less than 7 days notice in writing within that trial period unless mutually agreed in writing otherwise.
- 14.2 Following the trial period, a Package of Care may be terminated by either party upon reasonable notice in writing. "Reasonable notice" will normally be no less than 28 days, but may be otherwise agreed dependent upon the circumstances. During any notice period given in accordance with this condition the Provider will normally be expected to continue to provide the Care Service to the Resident save where circumstances make this impossible.
- 14.3 In the event where a Resident is absent for a period of time and the Purchaser decides that it is not appropriate to keep the placement available, the Purchaser shall serve no less than two weeks written notice of termination (or shorter period by written mutual consent).
- 14.4 In the event where a Resident is absent for a period of two weeks the Package of Care will be deemed to have expired unless otherwise agreed.
- 14.5 The death of a Resident will automatically terminate a Package of Care.
- 14.6 Either Party may terminate a Package of Care forthwith upon notice (or upon such notice as each deems appropriate) if the other party is in material breach of this Contract in relation to the Care Service to a particular Resident or Residents.
- 14.7 Neither party shall exercise their right to terminate a Package of Care pursuant to this condition 14 in a vexatious or unreasonable manner.
- 14.8 In the event the Residents assessed needs have changed, the Council will provide reasonable notice to the Provider to terminate the Package of Care.

## **15. DEFAULTS AND EARLY REVIEW NOTICES**

- 15.1 If the Provider commits a Default then the Purchaser will be entitled to serve a Default Notice, detailing the Default, remedial action to be taken and timescale to rectify the Default. This will be without prejudice to any other right or remedy which may be available to the Purchaser, either under this Contract or in law.
- 15.2 The Provider will carry out the actions specified in the Default Notice, within the set timescale. If there is any disagreement between the parties as to whether a Default has occurred and/or about the action required to be taken and/or the timescale within which the action is to be taken, then either of the parties can refer the matter for resolution, in accordance with condition 18.
- 15.3 If the Provider persistently commits a Default or fails to put right a Default within the timescale set out in the Default Notice concerned then the Purchaser will be entitled to terminate this Contract as a whole by giving not less than 2 weeks written Notice.
- 15.4 Should the Purchaser elect not to exercise its right to terminate in accordance with condition 15.3 above, the Purchaser will be entitled to serve on the Provider an Early Review Notice.

## **16. TERMINATION AND SUSPENSION OF CONTRACT**

- 16.1 The Purchaser may terminate this Contract forthwith upon written notice (or upon such notice as the Purchaser deems appropriate) in the event that the Provider fails to remain accredited as per condition 8 or as a result of a Regulatory Authority report, loss of Regulatory Authority registration or action which is deemed as sufficiently serious by the Purchaser.
- 16.2 The Purchaser may terminate this Contract forthwith upon written notice (or upon such notice as the Purchaser deems appropriate) if the Provider shall become bankrupt or shall present his petition in bankruptcy or shall make an arrangement with or assignment in favour of his Creditors or shall agree to carry out this Contract under the committee of inspection of his creditors or (being a corporation) shall go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or if the Provider shall have an execution levied on his goods.
- 16.3 The Purchaser may terminate this Contract forthwith upon written notice (or upon such period of notice as the Purchaser deems appropriate) in the event that the Provider shall:-
- 16.3.1 Be in material and/or persistent breach of any of the terms of this Contract (and that has failed to be rectified within 28 days); or
  - 16.3.2 Have failed to proceed diligently and regularly in the provision of the Care Service; or
  - 16.3.3 Have failed to comply with legislative requirements
  - 16.3.4 In relation to any contract with the Purchaser, the Provider or any person employed by the Provider or acting on the Providers behalf, commit(s) an offence under the Bribery Act 2010 or shall have given any fee or reward the



receipt of which is an offence under section 117(2) of the Local Government Act 1972; or

- 16.3.5 Committed or cause the commission of any criminal offence in providing the Care Service (except for any minor offence or minor traffic offence); or
  - 16.3.6 Have failed to comply with the Berkshire Safeguarding Adults Policy and Procedures; and/or,
  - 16.3.7 Have failed to comply with the Disclosure and Barring Service (DBS) or any such body that may succeed this.
- 16.4 The Purchaser may terminate this Contract forthwith upon notice if a Safeguarding Adults complaint is upheld against the Provider or any member of staff and in the reasonable view of the Purchaser the Provider has failed to respond appropriately.
- 16.5 The Purchaser reserves the right to suspend the Care Service and remove any Residents from the Premises whilst any investigation into an allegation takes place or has reason to believe that the Resident(s) are being placed at unacceptable risk. If the Care Service is suspended whilst an allegation is investigated, the Purchaser shall not pay to the Provider the Price of the Care Service for the duration of the suspension, including Voids for Block Agreements.
- 16.5.1 The Purchaser reserves the right to inform the Regulatory Authority CQC and other Commissioning Authorities (including Health colleagues) across the South East Region (and further if information is requested) of an Embargo.
- 16.6 If one or more of the provisions of this Contract are or become to any extent invalid or unenforceable under any applicable law then the remainder of this Contract shall continue in full force and effect. If this happens then both parties shall enter into good faith negotiations to amend the provision concerned in such a way that as amended, it is valid and enforceable and to the maximum extent possible, carries out the original intent.
- 16.7 In the event that:-
- 16.7.1 This Contract is terminated in accordance with the provisions of condition 16.4; or
  - 16.7.2 The Provider fails to deliver the Care Service or any proportion thereof in accordance with this Contract
- then, in addition to any other common law remedies available to the Purchaser or any further remedies available to it pursuant to the terms of this Contract, the Purchaser may purchase other services similar to the Care Service to make good:-
- (a) Such default; or
  - (b) In the event that this Contract is terminated the Care Service remaining to be delivered
- 16.8 The cost of purchasing other care services so far as they exceed the amount which would have been payable to the Provider for them if they had been delivered in accordance with the Contract shall be recoverable from the Provider together with such sums as shall compensate the Purchaser for the administrative costs incurred as a

result of such default or termination. The provisions of this condition are without prejudice to any other remedies available to the Purchaser for breach of Contract.

## **17. NOTICES**

- 17.1 No notice to be served upon the Provider shall be valid and effective unless it is delivered by hand, email (confirmed by letter within 24 hours of the email being sent) or sent by recorded delivery post to the Provider's principal place of business which unless notified to the Purchaser in writing otherwise shall be assumed to be the address of the Provider detailed in these Contract terms and conditions.
- 17.2 No notice to be served upon the Purchaser shall be valid or effective unless it is delivered by hand, email (confirmed by letter within 24 hours of the email being sent) or sent by recorded delivery to the Contracts Manager, Royal Borough of Windsor and Maidenhead, Adult, Children and Health Directorate, The Town Hall, St Ives Road, Maidenhead SL6 1RF.
- 17.3 Any notice to be served, shall be deemed to be given on the date that it is delivered by hand, email (confirmed by letter within 24 hours of the email being sent). If sent by recorded delivery on the date when it would be delivered in the ordinary course of post.

## **18. RESOLVING DISPUTES**

- 18.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract promptly within 30 days by negotiations between the Purchaser's Contracts Manager and the Provider.
- 18.2 In the event that a dispute cannot be resolved by negotiation between the Purchaser's Contracts Manager and the Provider, then the Purchaser's Head of Adult Services (or equivalent) and the Managing Director (or equivalent) of the Provider shall meet within 10 working days of a written request from either party to the other addressed to the said Head of Adult Services and the said Managing Director of the Provider in an effort to resolve the dispute without recourse to legal proceedings. A venue for any such meeting/s shall be nominated by Purchaser.
- 18.3 Any dispute which cannot be resolved by other means shall be referred to mediation. In the event that mediation occurs, both parties must agree to pay the fees in equal shares.
- 18.4 Any agreement reached as a result of mediation shall be binding on both parties, as set out in the report, but if the dispute has not been settled by mediation within 10 working days of the mediation starting then either party may commence litigation proceedings (but not before then).
- 18.5 Neither party shall be precluded by this condition 18 from taking such steps in relation to court proceedings that either party may deem necessary or desirable to protect respective positions. This shall include; issuing or otherwise pursuing proceedings to prevent limitation periods from expiring and applying for interim relief.
- 18.6 The use of the dispute resolution procedures set out in this condition 18, shall not delay or take precedence over the provisions for termination set out in conditions of the Contract regarding Default and termination.

## **19. DATA PROTECTION**

- 19.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Purchaser is the Controller and the Provider is the Processor. The only processing

that the Provider is authorised to do is listed in Schedule 4 by the Purchaser and may not be determined by the Provider.

- 19.2 The Provider shall notify the Purchaser immediately if it considers that any of the Purchaser's instructions infringe the Data Protection Legislation.
- 19.3 The Provider shall provide all reasonable assistance to the Purchaser in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Purchaser, include:
- (a) A systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) An assessment of the necessity and proportionality of the processing operations in relation to the Care Service;
  - (c) An assessment of the risks to the rights and freedoms of data subjects; and
  - (d) The measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 19.4 The Provider shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
- (a) Process that Personal Data only in accordance with Schedule 4, unless the Provider is required to do otherwise by Law. If it is so required the Provider shall promptly notify the Purchaser before processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Purchaser as appropriate to protect against a Data Loss Event having taken account of the:
    - (i) Nature of the data to be protected;
    - (ii) Harm that might result from a Data Loss Event;
    - (iii) State of technological development; and
    - (iv) Cost of implementing any measures;
  - (c) Ensure that:
    - (i) The Provider personnel do not process Personal Data except in accordance with this Contract (and in particular Schedule 4);
    - (ii) It takes all reasonable steps to ensure the reliability and integrity of any Provider personnel who have access to the Personal Data and ensure that they:
      - (A) Are aware of and comply with the Provider's duties under this condition;
      - (B) Are subject to appropriate confidentiality undertakings with the Provider or any Sub-processor;
      - (C) Are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any

third Party unless directed in writing to do so by the Purchaser or as otherwise permitted by this Contract; and

(D) Have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) Not transfer Personal Data outside of the EU unless the prior written consent of the Purchaser has been obtained and the following conditions are fulfilled:

(i) The Purchaser or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Purchaser;

(ii) The Data Subject has enforceable rights and effective legal remedies;

(iii) The Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Purchaser in meeting its obligations); and

(iv) The Provider complies with any reasonable instructions notified to it in advance by the Purchaser with respect to the processing of the Personal Data;

(e) At the written direction of the Purchaser, delete or return Personal Data (and any copies of it) to the Purchaser on termination of this Contract unless the Provider is required by law to retain the Personal Data.

19.5 Subject to condition 19.6, the Provider shall notify the Purchaser immediately if it:

(a) receives a Data Subject Access Request (or purported Data Subject Access Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

(d) receives any communication from the Information Commissioner or any other regulatory Authority in connection with Personal Data processed under this Contract;

(e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by law; or

(f) becomes aware of a Data Loss Event.

19.6 The Provider's obligation to notify under condition 19.5 shall include the provision of further information to the Purchaser in phases, as details become available.

19.7 Taking into account the nature of the processing, the Provider shall provide the Purchaser with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under

condition 19.5 (and insofar as possible within the timescales reasonably required by the Purchaser) including by promptly providing:

- (a) The Purchaser with full details and copies of the complaint, communication or request;
- (b) Such assistance as is reasonably requested by the Purchaser to enable the Purchaser to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) The Purchaser, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) Assistance as requested by the Purchaser following any Data Loss Event;
- (e) Assistance as requested by the Purchaser with respect to any request from the Information Commissioner's Office, or any consultation by the Purchaser with the Information Commissioner's Office.

19.8 The Provider shall maintain complete and accurate records and information to demonstrate its compliance with this condition. This requirement does not apply where the Provider employs fewer than 250 staff, unless:

- (a) The Purchaser determines that the processing is not occasional;
- (b) The Purchaser determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- (c) The Purchaser determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

19.9 The Provider shall allow for audits of its Data Processing activity by the Purchaser or the Purchaser's designated auditor.

19.10 The Provider shall designate a data protection officer if required by the Data Protection Legislation.

19.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Provider must:

- (a) Notify the Purchaser in writing of the intended Sub-processor and processing;
- (b) Obtain the written consent of the Purchaser;
- (c) Enter into a written agreement with the Sub-processor which give effect to the terms set out in this condition 19 such that they apply to the Sub-processor; and
- (d) Provide the Purchaser with such information regarding the Sub-processor as the Purchaser may reasonably require.

19.12 The Provider shall remain fully liable for all acts or omissions of any Sub-processor.

19.13 The Purchaser may, at any time on not less than 30 Working Days' notice, revise this condition by replacing it with any applicable controller to processor standard

conditions or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

- 19.14 The parties agree to take account of any guidance issued by the Information Commissioner's Office. The Purchaser may on not less than 30 Working Days' notice to the Provider amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **20. CONFIDENTIALITY AND FREEDOM OF INFORMATION**

- 20.1 Each party undertakes in respect of Confidential Information for which it is the recipient:-

20.1.1 To treat such information as confidential

20.1.2 Not without the disclosing parties proper written consent to communicate or disclose any part of such information to any person except only to those employees, agents sub-contractors and other suppliers on a need to know basis, who are directly involved in Care Services.

- 20.2 The Provider acknowledges the commitment of the Purchaser to open government and public access to information. Accordingly, the parties agree that:

20.2.1 The provisions of this condition 20.2 are subject to the respective obligations and commitments of the Purchaser under the Freedom of Information Act 2000 (the FOIA) (as amended from time to time).

20.2.2 The decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for the Purchaser;

20.2.3 Where the Purchaser is managing a request then it will consult with the Provider in relation to any request for disclosure of recorded information to which this condition applies and in accordance with the guidance referred to in the Code of Practice on the Discharge of Public Authorities Obligations issued under section 45 of the FOIA. The Provider shall co-operate with the Purchaser in making the request and respond within 5 working days to any

request for assistance in determining how to respond to the request for disclosure; and

- 20.3 The Provider will indemnify the Purchaser from and against all claims, losses, expenses, damages and costs arising from the breach of this condition by the Provider, its servants, agents and sub-contractors.
- 20.4 The obligations in this condition will not apply to Confidential Information:-
- 20.4.1 In the recipient's possession (with full right to disclose) before receiving it or;
  - 20.4.2 Which is or becomes public knowledge other than by breach of this condition; or
  - 20.4.3 Independently developed by the recipient without access to or use of the Confidential Information; or
  - 20.4.4 Lawfully received from a third party (with full right to disclosure)
- 20.5 Where disclosure is permitted, the disclosing party shall ensure that the recipient of the information shall be subject to the same obligation of confidentiality as the contained in this Contract.
- 20.6 The parties acknowledge that the National Audit Office has the right to publish details of this Contract in its reports.

## **21. TUPE**

- 21.1 The parties shall comply with the provisions set out in Schedule 5 TUPE of this Contract

## **22. CHANGE OF OWNERSHIP**

- 22.1 The Provider will immediately inform the Purchaser of any change affecting the ownership of the Provider in addition to notifying the Regulatory Authority.
- 22.2 In the event that the Provider wishes to transfer the Contract to any new owner the Provider shall request that the Purchaser shall novate the Contract. The Purchaser may refuse any request for novation in its absolute discretion.

## **23. CONSEQUENTIAL LOSS**

- 23.1 Notwithstanding anything expressed or implied in the Contract to the contrary, the Purchaser shall not be liable under any circumstances whatsoever to the Provider for the Provider's consequential loss.

## **24. RETENDERING INFORMATION**

- 24.1 Upon a request by the Purchaser, the Provider must provide to the Purchaser such information and data as may reasonably be required to enable the Purchaser to

prepare the necessary documentation to appoint another person to provide the Care Service in the Providers place.

- 24.2 The Provider shall comply with requests under this condition as soon as reasonably practicable, and in any event within 28 days of being so requested, and at no cost to the Purchaser.

**25. OBSERVANCE OF LEGISLATION**

- 25.1 The Provider shall comply with all statutes, orders and any regulation or bylaw applicable to the performance of this Contract (including remaining registered with the Regulatory Authority or other regulatory body) for the Term of this Contract and shall indemnify the Purchaser accordingly. This includes any and all codes of practice, performance ratings and quality standards that are laid down in this Contract or that are issued to the Provider as a variation under condition 13.

**26. INCONSISTENCY**

- 26.1 In the event of a conflict between any of the provisions of this Contract and any provision of the Specification, the former shall prevail.

**27. FORCE MAJEURE**

- 27.1 No party to this Contract shall be liable for failure to perform its obligations under this Contract if such failure results from circumstances that could not have been contemplated and which are agreed by both parties as being beyond the party's reasonable control.

**28. JURISDICTION**

- 28.1 This Contract shall be considered as a contract made in England and subject to the Laws of England and Wales.
- 28.2 If any provision of this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

**29. WAIVER**

- 29.1 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Contract.



## APPENDIX A – SPECIFICATION

# Appendix A Service Specification for Adult Care Services

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Annex A Core Elements of Home Care

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## **1. INTRODUCTION**

This document sets out the Care Specification and standards that apply to the provision of care for adults in their own home. The requirement derives from the National Health Service and Community Care Act 1990, Health and Social Care Act 2008 (Regulated Activities) Regulations 2015 and Care Quality Commission (Registration) Regulations 2009 and the Care Act 2014.

The Purchaser will assume responsibility for meeting the care costs of those Residents in the Royal Borough of Windsor and Maidenhead who are entitled to public financial support and whose needs have been assessed in their own home. This Specification reflects national policy advice and guidance and sets out the philosophy and care standards to be adhered to in the provision of such care.

The full scope of the required care is defined in this specification, the contract, individual Resident's Package of Care and the Resident's Care Plan that forms an integral part of, and is in accordance with the Contract.

## **2. LEGISLATIVE REQUIREMENTS**

The Provider must:

- 2.1 Meet the requirements of the Care Standards Act 2000 and any associated regulations, and any subsequent amendments or re-enactments to them. This includes registration with the Care Quality Commission and a requirement to meet and reflect the principles, values and good practices outlined in the specific Essential Standards that apply to the particular Care Service provided under this Contract and that are currently in force.
- 2.2 Be registered with the independent regulator for health and social care services the Care Quality Commission (CQC) or any subsequent body put in place for all regulated Care Services to ensure the Provider meets a number of legal requirements and includes fundamental standards of quality and safety. The CQC have a list of legislation and current policies that the Provider must meet in delivery the Care Services.
- 2.3 Meet all current and subsequent legal requirements for health and safety (including food hygiene), and other standards required by national and local government agencies.
- 2.4 Meet current and subsequent legal requirements and updates in respect of, but not limited to: sex discrimination, race relations, equal opportunities, disability discrimination, gender discrimination, employment, human rights, data protection and freedom of information
- 2.5 Ensure the safety and well-being of each Resident by adopting and implementing the relevant local Multi-Agency Safeguarding Adults Policy and Procedures. This should ensure that all Residents are able to live and receive services in an environment that is free from prejudice and safe from abuse or neglect.

### 3. SPECIFICATION OF CARE

#### 3.1. Statement of Values

The application of the principles of care set out below need to be implemented in conjunction with the following values in order to ensure high standards of the Care Service. All values should be achieved unless there are demonstrable reasons why they are not appropriate for any Resident. Any such reasons should be demonstrated by means of a fully documented risk assessment.

|                     |                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Privacy</u>      | Residents should have a right to be alone and to be undisturbed, both in personal terms and in relation to their own affairs.                                                                                                                                                                                                                                                                                   |
| <u>Dignity</u>      | Every Resident, regardless of their circumstances, is a unique and intrinsically valued human being. An active awareness of this should be demonstrated by the Provider, particularly in areas where dignity may be most at risk, for example in the management of incontinence, bathing and dressing. Staff will be skilled to maintain the dignity of the Residents' in every aspect of the service delivery. |
| <u>Independence</u> | Residents must be allowed to take calculated risks and to be involved in all decision making processes. Residents have the right to think and act without having to refer to others, including the right to say no to assistance. As in all living situations, these individual rights may not be completely unfettered and must be exercised in the context of the health and safety.                          |
| <u>Choice</u>       | Residents should have opportunities to make independent choices as individuals. This requires that there should be a range of options for accommodation, care and other elements of the service and that Residents should be fully informed about these options.                                                                                                                                                |
| <u>Rights</u>       | Adults are citizens, irrespective of their living situation and should retain all their rights and entitlements as citizens the Providers should help to preserve and exercise them. Basic Human Rights must be available to all Residents.                                                                                                                                                                     |
| <u>Fulfilment</u>   | All Residents have their own interests, tastes, abilities and aspirations and should be actively enabled to realise them. Staff involved in providing care will be skilled and able to display through their attitudes and behaviour a respect and understanding of the residents required outcomes and preferences.                                                                                            |

### 3.2. **The Principles of Care Services**

The Provider is required to subscribe to the following principles in the delivery of the Care Service. Policies and procedures within the Service delivered should reflect that these principles underpin all day-to-day activities.

- 3.2.1. All principles should be achieved unless there are demonstrable reasons why they are not appropriate for an individual Resident. Any such reasons should be demonstrated by means of a fully documented risk assessment procedure.
- 3.2.2. In the provision of all services a person centred approach must be adopted recognising the Resident as an individual with individual needs and aspirations. In addition the Residents home and property must be treated with respect.
- 3.2.3. The Provider should offer Residents the opportunity to enhance their quality of life by providing a safe, manageable and comfortable environment, plus support and stimulation to enable them to maximise their potential in relation to physical, intellectual, emotional and social capacity.
- 3.2.4. Residents should be entitled to be involved in all decisions affecting their lives including for example decisions in relation to planning daily activities and more long term planning in relation to themselves and their home.
- 3.2.5. The assumption underlying care decisions should be that Residents are capable of making choices about their own lifestyle (e.g., holding a pension book, medicines, and deciding what to do and when to do it) rather than vice versa unless and until there is clear evidence that this assumption is not valid.
- 3.2.6. The Provider must meet as a minimum all the core elements for delivery of Care Services set out in Annex A. The Provider will be measured and monitored against these core service elements.
- 3.2.7. All Residents retain their citizen's rights and the Provider must safeguard these rights and should help Residents to exercise them.
- 3.2.8. The Provider should ensure that all Residents continue to have unrestricted access to all community support services, including health, social services, leisure and education and should facilitate such access wherever possible, to the satisfaction of the Purchaser.
- 3.2.9. Residents should be able to expect continuity, for example, in terms of maintaining links with all social groups (acquaintances, GP etc.) if they choose to, and having personal care provided by a small number of known and trusted staff.
- 3.2.10. The Provider should ensure that the needs, wishes and outcomes of all Residents are ascertained, respected and met, particularly with regard to ethnic, religious and cultural factors
- 3.2.11. Residents should be able to retain dignity and should be treated with dignity, particularly for example in relation to the manner in which staff approach incontinence, bathing or dressing and the mode of address used to Residents, and all matters concerning privacy.
- 3.2.12. The Provider should ensure that the needs of Residents are paramount in issues and in relation to decisions, which are made within their home.

- 3.2.13. The Provider should not restrict rights and choices. Institutional practices and regimes that emphasise administrative convenience which restrict rights and choices are not to be permitted.
- 3.2.14. The Provider should ensure that any assistance and advice will be offered in a non-directional manner, but offered in order to develop the ability of an individual (except where not to be proactive would be neglectful or might lead to injury).
- 3.2.15. The Provider will use where appropriate assistive technology to support the Resident's needs.
- 3.2.16. Ensure minimum disruption to the Resident in terms by ensuring consistency of staffing.
- 3.2.17. The Provider is required to have weighing scales, preferably sitting scales. Each Resident should be weighed at least once a month and the weight recorded in the care plan. Any Resident with a weight gain or loss in excess of 3kg should be referred to a health care professional for assessment. The frequency of weight checks should be increased as necessary or as requested by a Care Manager or Health professional. The Provider should maintain a list of Residents requiring weekly weight checks.
- 3.2.18. Notify the Purchaser within one working day in the event of the death, injury to, or alleged abuse of, any Resident to whom this contract applies, or any other event that significantly affects the quality of the Care Service provided.
- 3.2.19. The Provider must notify the Purchaser if Residents' needs change to the extent that the Provider is unable to meet the assessed needs of Residents' within 7 days.
- 3.2.20. Regularly consult with Residents and where appropriate their families and representatives, and other stakeholders about the Care Service being provided. This should establish whether or not the Care Service is meeting Residents' needs; take into account any suggestions made to improve the Care Service and inform the Purchaser of outcomes. Particular attention must be given to seeking the views of Residents who use individual forms of communication.
- 3.2.21. Meet the assessed needs of Residents in accordance with individual Residents' Care/Support Plans, which should include the identification, assessment and management of risks whilst allowing the resident to make informed choices and take calculated risks.
- 3.2.22. Embrace the principles of equality of opportunity and recognise the diverse needs of individuals, and ensure that Residents' ethnic, religious, cultural and linguistic backgrounds are understood, respected and preserved.
- 3.2.23. The Provider must adhere to local medicines management policies and procedures, for obtaining supplies of medicines, receipt, recording (on Medication Administration Record Sheet sheets and Care Plans), storage (including controlled drugs and refrigerated items), handling, administration and disposal of medicines in accordance with Legislation and local guidance.

- 3.2.24. The Provider shall ensure medication is administered by appropriately qualified staff in accordance with current best practice, relevant National and Local guidance.
- 3.2.25. Ensure physical restraint is only considered in the most exceptional circumstances when it is intended to achieve the protection of the Resident
- 3.2.26. There must be a clear written procedure on the use of restraint. This should include the circumstances where this may be permissible/appropriate, who should authorise this, who should be informed, and how it is recorded, monitored and managed. The Provider must adhere to current legislation regarding the Mental Capacity Act and Deprivation of Liberty Safeguards when creating or reviewing such policies and procedures.
- 3.2.27. The Provider will ensure that all pressure care policies and procedures have regard to current NICE guidelines regarding tissue viability. Ensure all that all Providers care staff are aware of their role in maintaining healthy skin, pressure ulcer prevention and management, and where appropriate, reporting of pressure ulcers grade 3 to CQC and other authorities.
- 3.2.28. Should a Resident be unexpectedly absent for any reason, this shall be treated as a temporary absence and each party will inform the other immediately of their being aware of such absence save where the absence is pre planned and therefore previously notified, for example a holiday. This should be done by telephone to the First Contact and Duty Team. If the Resident is discovered, or during the visit, becomes unwell and actions are put in place to facilitate a hospital stay, the Provider must notify next of kin or known family members and the Purchaser as soon as practically possible.
- 3.2.29. In the event the Resident prevents the Provider from delivering the Care Service, the Provider must inform the Purchaser within one working day, by telephone to the First Contact Duty Team.
- 3.2.30. In the event of an emergency closure, or a potential emergency closure, at the offices of the Provider, the Purchaser and the Care Quality Commission shall be informed immediately by the Provider.
- 3.2.31. Where a Resident has full restricted movement the Resident must not be left unattended for more than 10 hours. The Provider's call time scheduling must reflect this requirement.

### 3.3. **Specialist Equipment**

- 3.3.1. The use of specialist equipment to support the Residents needs in the Resident's Care Plan. The Provider shall use the equipment in a safe and appropriate manner and only by staff who have been specifically trained to work with the equipment. As per the requirements of the Resident and with the guidance of any associated professionals, related organisations, manufacturers' directions, codes of practice or British Safety Standard as applicable.
- 3.3.2. The Provider is responsible for the cost of all repairs arising from negligence, damage or inappropriate use of equipment, or the full cost of replacement if damage is beyond repair.

### **3.4. Choice and Availability of Food and Drink**

3.4.1. Food and nutrition should be managed as an essential and integral part of the Residents Care Plan. The Provider should also take into account the Residents religious, cultural and personal preferences. Food intake should be recorded and monitored where appropriate.

3.4.2. If pureed foods are served, particular care should be given to ensure that they look and taste appetising and that adequate choices are available.

3.4.3. Staff should be aware that an adequate fluid intake is essential to prevent dehydration and constipation, which can lead to further confused states. Residents' should be encouraged to drink in accordance with current guidance, 1.5 litres (8-10) cups of fluid a day. Staff should be aware that limiting fluid does not reduce problems associated with incontinence. The Provider must record all fluid intake.

### **3.5. Care of the Dying (End of Life)**

3.5.1. The Provider will sensitively facilitate early discussion about the residents' preferences at the end of life. The Provider will offer an Advance Care Plan to all Residents within 3 months of admission, using a recognised Care Planning Tool. These care plans should be reviewed at least annually and upon any significant change in the Residents' condition. This plan will take into account advance decisions such as Do Not Attempt Cardiopulmonary Resuscitation (DNACPR), and encourage registration on the Electronic Palliative Care Co-ordination system (EPACCs).

3.5.2. During the above process the Provider should seek the appropriate multidisciplinary support including palliative care to ensure the resident receives effective palliative care symptom management at end of life, Providers should actively work to achieve a resident's preferred place of death rather than referring to hospital during the last few days of life.

3.5.3. Upon a death of a Resident the Provider is required to contact both the Purchasers and next of kin the same working day as the death.

## **4. RESIDENTS FINANCES**

4.1. The Provider is required to comply with CQC requirements relating to Resident finances.

## **5. STAFFING REQUIREMENTS**

5.1. The CQC Regulations for staff recruitment, induction, training and supervision shall apply, and the Provider must meet current and subsequent legal requirements for Staff that have contact with young people and/or Vulnerable Adults.

5.2. The staff complement must at all times allow for the needs of the Residents to be fully met, including but not limited to care and support hours delivered in line with Resident requirements and personalised activities. Staffing must be adequate to support Residents requiring more than one carer for assistance as and when required.

5.3. The Provider must ensure staffing levels and ratios are determined by evidence-based competency assessments that are regularly reviewed to ensure staffing ratios are at all

times safe and suitable to meet all needs of the residents. The Provider must keep abreast of guidance issued by the NHS/NICE/CQC (or any subsequent body) and use this advice to inform decisions around their staffing and nursing levels.

Staffing levels must be sufficient according to the assessed risk of each Resident. The Provider must risk assess each Resident for this purpose

- 5.4. The staff group should have appropriate skills, gender, ethnic and age mix reflecting Residents needs and preferences.
- 5.5. The use of agency staff is not encouraged as continuity of care is particularly important. Agency staff must adhere to the Staffing Requirements in this condition. Agency staff must receive a full induction to the Premises and each Resident for whom they are responsible on working day one and this must be fully recorded by the Provider.
- 5.6. Other expertise and skills required within the Care Services to adults with mental health needs include observational, interpretative, communicative skills, and the management of risk and anti-social behaviour. The Provider is advised to take note of the minimum standards as set out by CQC and Skills for Care.
- 5.7. Volunteers must not be used to supplement staffing levels. Their role is recognised as important and should be supervised appropriately. All volunteers deployed by the Provider must undertake the same level of recruitment checks and training as paid members of staff.
- 5.8. **Staff Vetting and Training**
  - 5.8.1. The Providers Manager must be registered with CQC and have evidence of appropriate qualifications, training and experience to manage the provision. The Purchaser has identified the Manager as Key Personnel for the purpose of the Contract. Any planned changes to Key Personnel need to be provided to the Purchaser with prior written Notice.
  - 5.8.2. The Provider shall have a clear procedures and records for all staff in regards to vetting, recruitment, and training.
  - 5.8.3. All staff and volunteers at the Premises must be vetted and valid DBS certification to deliver the Care Services. This process must include as a minimum:
    - i. 2 satisfactory references to be taken up and verified (one from previous employer). Any gaps in employment history on a CV or application form must be explored.
    - ii. A DBS Adults' Barred List Information check (and DBS Children's Barred List Information check where applicable) to be undertaken.
    - iii. Enhanced DBS check to be undertaken and clearance must be given prior to the employee starting work.
    - iv. Medical clearance, ensuring the worker is physically and mentally fit for the role. (This may be evidenced by completion of a questionnaire, assessed by an independent occupational health advisor).
    - v. Eligibility to work in the UK, verified under the requirements of the Immigration, Asylum & Nationality Act 2006 and copies of documents retained.
    - vi. Professional qualifications, NMC and HCPC Registration to be verified (or subsequent appropriate body)
    - vii. Education and employment, to seek full chronology and investigate to your satisfaction any gaps.



5.8.4. The Provider must train staff to meet all the needs of their Residents, including those with exceptional or specialist needs. All Staff should meet the care standards set out by Skills for Care, CQC and as part of the induction staff should undertake the care certification,

5.8.5. Providers registered to care for residents with mental health and/or dementia, further specialist training programmes must include, in addition to statutory training:

- i. Dementia and Mental Health awareness
- ii. Communicating with people with Dementia
- iii. Providing activities for people with dementia
- iv. Understanding and managing challenging behaviour
- v. Safeguarding Adults. (Level to be appropriate to job description)
- vi. Mental Capacity Act (including consent issues)
- vii. Deprivation of Liberty Safeguards (DoLS) and restraint
- viii. Medication
- ix. Dignity in care
- x. Recording skills ( to include use of behaviour charts)

5.8.6. The Provider is required to ensure staff are trained and competent in all of the above areas, in addition to statutory training and will be required to evidence competency checks for staff on these the subjects. Only staff whom the Manager has deemed fully competent should work independently with Residents.

5.8.7. The Provider must have a comprehensive training matrix listing all staff, their designation, mandatory and non-mandatory training, dates completed and refresher courses due. Regular training needs analysis must take place to ensure that staff keep up to date and continue their performance development.

5.8.8. E-learning training delivery should be delivered as a reinforcement and/or refresher training. In any e-learning delivery the Manager should ensure that the trainee is able to demonstrate they have understood the course and embedded skills are demonstrated in practise. Where possible, training should involve a practical element to ensure full understanding of the subject.

5.8.9. The Provider should register with Skills for Care National Minimum Dataset for Social care (NMDS-SC) and ensure that they complete these records.

5.8.10. The Provider should demonstrate commitment with staff retention, career development and workforce development.

## **6. RESIDENT REFERRAL PROCESS**

6.1. The Purchaser will request Care Services through the commissioning process in this section. The Care Service for a Resident is referred to as a "Package of Care" for a Residents Care Service needs. The Care Services requested may be provided for a number of different circumstances such as eligible financially assessed borough Resident, a self-funding Resident or long or short term care such as respite, hospital discharges or emergency.

6.2. The Purchaser is responsible for assessing the Residents eligibility for public finances.

- 6.3. The Purchaser's Care Manager is responsible for completing an assessment of care and support needs for the Resident which will include details of the specific Package of Care tasks and call times detailed in the Resident's Support Plan or Interim Care Package (IPC).
- 6.4. The Provider shall have a clear process for commissioning a Packages of Care with the Purchaser. This shall include a single point of contact and email address which is monitored during office opening hours. This facilitates a timely response to new Packages of Care requests, suspensions, restarts and termination of packages.
- 6.5. The Purchaser may request a summary of call time availability to support in meeting the response time requirements for Packages of Care.

#### Package of Care Request

- 6.6. The first stage of commissioning a new Package of Care commences with the Purchaser who will contact the Provider to check they have staff capacity for the required call times, this will be done by either phone or email. The Provider must confirm they have capacity within 1 hour of the request.
- 6.7. After confirmation of capacity the Purchaser will send the Support Plan/IPC to the Provider to assess whether the Residents needs can be fully met. The Provider must confirm within 4 hours that they can meet the Resident's needs, the call times and the start date/time for the first call.
- 6.8. The Provider is expected to carry out their own assessment of needs to confirm that they are able to meet all the Resident care needs and have sufficient trained staff to do so. Any further information or documentation about the Residents needs is available on request to the Purchaser e.g. occupational therapy report.
- 6.9. The Provider may wish to carry out a face to face assessment, notification of this request must be made to the Purchaser. The assessment should be done within 48 hours of the Package of Care request.
- 6.10. The Purchaser will notify the Provider by email of the commissioned Package of Care confirming the arrangements. The Provider will be expected to acknowledge this email to confirm the Package of Care commission within 1 hour.
- 6.11. An "On Time Call" is defined as less than 30 minutes either side of the agreed call time in the Resident's Package of Care. A "Late Call" is defined as 30 minutes passed the allocated call time in the agreed Package of Care.

#### Suspensions and Restarts

- 6.12. A Package of Care may be suspended at any time for a Resident this may be due to a holiday, respite arrangements or a hospital stay. The Purchaser will notify the Provider of a restart of a Resident's Package of Care following the same process as a new package however the calls times must commence within 24 hours of the request.
- 6.13. The Purchaser will provide 24 hours' notice to suspend a Package of Care. The Provider will be entitled to charge for the scheduled call times within 24 hours if the Purchaser has been unable to provide 24 hours' notice such as an emergency hospital admission.

- 6.14. The Package of Care will remain open with the Provider for 2 weeks at which point it will be closed.
- 6.15. In the circumstance where the Resident's needs have significantly changed (defined as an additional 5 hours per week) after a hospital stay the Purchaser will be required to commission a new Package of Care.

## **7. ADMISSION TO CARE SERVICES**

- 7.1. The Purchaser will provide accurate and appropriate information about the Resident and their needs, and ensure that, where appropriate, each Resident has a named qualified key worker. A member of the Purchasers care team will attend review meetings and respond to requests from the Provider and the Resident.
- 7.2. The Provider will make available to all Residents Customer guide to Services and Company which will set out the Residents rights incorporating the Service principles and values. This should also include details of the range of care offered clearly identifying any Services which are chargeable detailing the fees.
- 7.3. A review of the Resident should take place within the first 6 weeks of Residents commencement date to ensure suitability.

## **8. QUALITY ASSURANCE AND CONTRACT MONITORING**

The Provider is expected to participate in reviews of Residents' needs, contract reviews, provider forums and service review meetings.

### **8.1. Resident Care Reviews**

- 8.1.1. The Provider will: Support the development of person-centred plans and respond with person-centred approaches, in partnership with Residents and their chosen supporters.
- 8.1.2. The Purchaser will appoint a Care Manager who will be responsible for the regular review and assessment of the care arrangements for the individual Resident. The Care Manager will advise on the frequency of these reviews. This monitoring process should clearly demonstrate that the views and wishes of the Resident are represented and taken into account wherever practicable.
- 8.1.3. The Provider must meet as a minimum the Core Elements of Care Services detailed in Annex A, standards of care set out by CQC, and agreed service outcomes in the Residents Care plan. The Providers Care Services will be monitored against these performance indicators.

### **8.2. Care Service Monitoring Reviews**

- 8.2.1. The Providers should carry out on a monthly basis its own thematic analysis (identifying themes and trends) of feedback to support continuous service improvement. This should include qualitative analysis of complaints, compliments, safeguarding, incidents and accidents such as medication errors, falls, pressure

ulcers and all other significant information. This should be shared with the Purchaser upon request.

8.2.2. Maintain a quality assurance system to manage continuous improvement to the Care Service in response to consultation, national and local policy requirements, and within the person-centred ethos, that includes collection, monitoring and evaluation of information about the service provision and which is shared with the purchaser upon request.

8.2.3. The Provider is expected to attend and participate in the Provider forums run by the Purchaser, Clinical Commissioning Group or other statutory bodies. These forums are educational and informative on care best practise, new initiatives, and new contract opportunities.

8.2.4. Notify the Purchaser within two working days of any inspection carried out by the Care Quality Commission and provide written details of any requirements or recommendations made by the Commission's Inspectors, and the actions that will be taken to meet the requirements, within days of the inspection. Forward to the Purchaser a copy of the inspection report, without delay, when it is published. Provide details of any other formal internal or external monitoring, evaluation or review of the effectiveness of the Care Service.

8.2.5. It may at times unfortunately become necessary, due to the amount and/or nature of Safeguarding concerns raised regarding a Provider for the Purchaser to work more closely with a Provider within a formal framework. This will require frequent meetings and actions for the Provider with sufficient resource and Senior Management involvement to ensure identified service improvements are made in a timely manner until such a time as a decision is made that the framework is no longer necessary.

8.2.6. A serious concern may trigger an Embargo by the Purchaser, Regulatory Authority, CQC or equivalent. An Embargo means no new placements will be made by the Purchaser until agreed action plans to Care Services have been met.

8.2.7. The Provider may self-Embargo through an agreed set of circumstances with the Purchaser linked to safety and Care Services.

8.2.8. The Purchaser has the right to suspend Care Services based on intelligence received and information gathered on the quality of Care Services provided.

### **8.3. Strategic Commissioning Reviews**

8.3.1. The Purchaser will conduct as a minimum quarterly Contract Review Meetings with the Provider. The Provider's management team are expected to attend these meetings and prepare management information to discuss at a strategic level focusing on capacity, control of costs, workforce development, issues, innovation and new initiatives.

8.3.2. The Provider shall submit on a monthly basis a contract monitoring report. This report will detail the Care Service performance which should include but not be limited to current clients, compliments, safeguarding, call monitoring data, complaints, staffing and training. A template contract monitoring report is detailed in Annex C. This data set will develop over the Term of the Contract.

8.3.3. The Purchaser will measure the Provider against key performance indicators. Providers will submit monitoring information against the key performance indicators

as a minimum quarterly. An template is attached as Annex C. This data set will develop over the Term of the Contract.

8.3.4. The Provider upon request and in good time, will provide accurate monitoring information in a format determined by the Purchaser that includes as a minimum information about occupancy, invoicing and financial matters, human resources, contract compliance, procedures for Resident representation, comments, compliments and complaints, quality assurance, service development and outcomes.

8.3.5. The Purchaser will share information on the outcome of contract monitoring with appropriate statutory bodies having satisfied itself that this information will be used for monitoring purposes only. Such statutory bodies will include but is not limited to the Care Quality Commission, the relevant Clinical Commissioning Groups and other local authorities funding, or considering funding Residents in the Premises.

8.3.6 The Provider will notify the Purchaser of all changes of management structure and key personnel.

#### **8.4. Working Partnership Supporting Innovation and new Initiatives**

8.4.1. The Purchaser will work in partnership with the Provider to develop and improve the Care Service being provided. This will include sharing information about local or national good practice initiatives and central or local government requirements for changes to service delivery. The Provider shall work together with the Council and other statutory bodies, including Clinical Commissioning Groups, Emergency Duty Teams, GPs and other care providers of care services. The Provider shall be committed to promoting a partnership approach at all levels to:

- i. delivering a service, which is flexible enough to reflect changing needs, priorities, strategy and lessons learnt, and which has resident and care worker participation at the centre;
- ii. sharing key objectives;
- iii. working towards achieving key outcomes;
- iv. communicating clearly and regularly;
- v. being open and honest;
- vi. sharing relevant information, expertise and plans;
- vii. seeking to avoid conflicts, but where they arise, to resolve them quickly at a local level wherever possible;
- viii. seeking continuous improvement by working to get the most out of the resources available by finding better, more efficient ways of working;
- ix. sharing the potential risks involved in service developments

8.4.2. The Provider is expected to support innovation and participate in new initiatives the use of new technology and new ways of working to enable Care to be provided for in an efficient and effective method. These initiatives will be discussed at regular meetings with the Purchasers' Representative and other agencies.

#### **9. COMPLAINTS PROCEDURE**

9.1. The Provider must ensure that there are robust procedures in place to manage any comments, compliments, complaints or ideas received about the Care Service and any resulting actions taken and/or outcomes. This should include the provision of information in relevant languages and other formats, and any assistance or facilities that are required to enable effective communication with Residents to take place. The Provider should recognise the vulnerability the Resident may feel in making a complaint. The Provider

will also ensure that Residents are informed that they may make a complaint through the Purchasers Complaints Procedure.

- 9.2. The Provider must have a system in place for recording all complaints that tracks progress and remedial actions. This must be made available to the Purchaser upon request.
- 9.3. Residents should be informed in writing of the means of registering a complaint, how the complaint will be managed and where appropriate informed of the outcome.
- 9.4. The Provider's complaints procedure must be accessible to all Residents including those with communication needs as a result of a disability or cultural/ethnic background. The Provider must demonstrate how this is achieved upon request.

## 10. EXIT

This clause will be invoked if the Contract has been terminated in accordance with the provisions of the Contract or upon expiry.

- 10.1. The Provider shall assist the Purchaser to ensure a smooth migration of the Care Services to the Purchaser or another party chosen by the Purchaser (the "**Successor**") with minimal disruption to the Care Services on the date of termination or expiry of the Contract.
- 10.2. The Purchaser is responsible for the transfer of the Services to the Purchaser or the Successor on the date of termination or expiry of this Contract and the Provider shall during the Exit Period provide assistance to the Purchaser to facilitate such transfer in an orderly fashion. The remaining provisions of this clause will not prejudice or restrict the generality of this obligation.
- 10.3. "Exit Period" means the period commencing upon (i) the service by a party of notice to terminate this Contract; or (ii) the period commencing 9 months prior to the expiry of this Contract (whichever is the earlier) and ending on the termination or expiry of this Contract.
- 10.4. Continuation of the provision of the Services
  - 10.4.1. During the Exit Period the Provider shall continue to provide the Care Services in accordance with this Contract (as such Services may be amended in accordance with this Contract or the Exit Plan). Plans, procedures and documentation.
  - 10.4.2. Upon commencement of the Exit Period, the Provider shall appoint an individual who shall be responsible for ensuring that the Provider complies with the terms of this Contract and shall be the key liaison with the Purchaser during the Exit Period.
  - 10.4.3. The Provider shall produce detailed plans and procedures (an "Exit Plan") within 14 days of the commencement of the Exit Period which shall be subject to the approval of the Purchaser (such approval not to be unreasonably withheld). Such plans and documentation shall include:
    - I. to provide for the seamless handover of the Care Services to the Purchaser or Successor, minimising the impact to the Residents of any transition;
    - II. provide anonymised information detailing all those eligible under TUPE
    - III. comprehensive hand-over documents relating to the Residents;

- IV. assignment/novation of third party Contracts exclusively used in the provision of the Care Services;
- V. communication Plan to Staff, Residents and their representatives;

10.5. Information

- 10.5.1. During the Exit Period, the Provider shall provide (without additional charge) to the Purchaser or the Successor all Service Information (being all documents, reports, analyses and other information required to be compiled by the Provider under this Contract and any other materials arising out of the provision of the Care Services), access to materials and personnel and such other assistance as may be requested by the Purchaser to ensure an orderly and seamless transition to the Purchaser or the Successor.
  - 10.5.2. The Provider shall grant to the Purchaser or the Successor all reasonable necessary access to the Provider Staff and support services as may be required by the Successor to ensure an orderly handover of the Provider's responsibilities.
- 10.6. The Provider shall use its best endeavours to procure that any third party contracts relating to the provision of the Services are novated in favour of the Successor.
- 10.7. The cost of complying with the provisions of this clause shall be borne by the Provider insofar as such costs are incurred on or before the Termination or Expiry Date.

## ANNEX A CORE ELEMENTS OF HOME CARE

All home care providers will be expected to deliver core elements of care (see table below) within the individuals home. Each Package of Care will identify specific elements of care which may include some or all of these core elements.

| Activity                                                                                                                                                                                                                                                                                                                                                                                                                  | Type of support                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Personal care</b> <ul style="list-style-type: none"> <li>• Washing</li> <li>• Dressing and undressing</li> <li>• Bathing</li> <li>• Hair care</li> <li>• Nail care</li> <li>• Foot care (not chiropody)</li> <li>• Mouth care</li> <li>• Denture care</li> <li>• Shaving</li> <li>• Support with make-up, perfume, aftershave, deodorant etc.</li> <li>• Application of non-prescribed creams and ointments</li> </ul> | Residential ( In the clients own home )<br>With the support of one or two members of staff                                                                                                                                                                                                                                                                             |
| <b>Mobility</b><br><br><b>Support to get up and go to bed</b> <ul style="list-style-type: none"> <li>• Support to transfer in and out of bed</li> <li>• Toileting</li> <li>• In and out of wheelchair</li> <li>• In and out of arm chair etc.</li> </ul>                                                                                                                                                                  | One to one support or two to one <ul style="list-style-type: none"> <li>• Hoisting</li> <li>• Specialist equipment such as seating and stand aids</li> <li>• Rotunda</li> </ul>                                                                                                                                                                                        |
| <b>Skin integrity</b>                                                                                                                                                                                                                                                                                                                                                                                                     | Responsible for risk assessment, prevention and management of pressure areas and pressure wounds. When required, the Provider will make referrals to the tissue viability service using their referral process and criteria. Where a grade 3 or 4 pressure wound occurs, the Provider must complete a root cause analysis (RCA) and notifying appropriate authorities. |
| <b>Turning regime</b>                                                                                                                                                                                                                                                                                                                                                                                                     | With the support of one or two members of staff<br>Turning regime as per the package of care.                                                                                                                                                                                                                                                                          |
| <b>Night checks</b>                                                                                                                                                                                                                                                                                                                                                                                                       | Regular night checks as per the package of care.                                                                                                                                                                                                                                                                                                                       |
| <b>Mental Capacity</b>                                                                                                                                                                                                                                                                                                                                                                                                    | Capacity tests and best interest decisions carried out in accordance with legislation                                                                                                                                                                                                                                                                                  |



|                                 |                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Medication</b>               | <p>Trained and competent staff aid in prompting or assisting with taking medication:</p> <ul style="list-style-type: none"> <li>• Assisting Resident's handling of medication, ear or eye drops</li> <li>• Assisting Resident's with basic dressings</li> <li>• Insulation injections for diabetics</li> <li>• Warfarin</li> <li>• Monitoring prescriptions, overseeing collection of medicines.</li> </ul> |
| <b>Continence care</b>          | <p>Managing all incontinence and constipation needs.<br/> Fitting and changing incontinence pads, catheters and Stoma<br/> Safe disposal of waste in accordance with Legislation</p>                                                                                                                                                                                                                        |
| <b>Dietary needs</b>            | <p>Meet dietary needs and specialist dietary requirements e.g. diabetes, celiac, swallowing difficulties, smooth/thickened fluids, and allergies<br/> Provide choices for each meal<br/> Provide dietary choices e.g. religious, cultural, vegetarian</p>                                                                                                                                                   |
| <b>Nutritional/fluid intake</b> | <p>Appropriate recording where a risk is identified</p>                                                                                                                                                                                                                                                                                                                                                     |
| <b>Support with meals</b>       | <p>Support to eat and drink as required<br/> Peg feeding</p>                                                                                                                                                                                                                                                                                                                                                |
| <b>Purposeful day</b>           | <p>Support Residents interests, hobbies, cultural and religious preferences.<br/> Activities available daily with support of staff<br/> Support to engage in day to day activities to maintain independence such as setting tables and making own drinks/snacks.</p>                                                                                                                                        |
| <b>Behaviour</b>                | <p>Appropriate behaviour charts in place to reduce risk to staff and others. Analysis of behavioural chart to understand behaviours and pre-empt where possible. Referral to appropriate agencies for further support where required.</p>                                                                                                                                                                   |
| <b>Dementia</b>                 | <p>Residents psychological and emotional needs should be assessed and onward referral made where appropriate to the GP.</p>                                                                                                                                                                                                                                                                                 |
| <b>Rehabilitation</b>           | <p>Where appropriate assisting the Resident to develop skills that can help them re-establish independence</p>                                                                                                                                                                                                                                                                                              |
| <b>End of life</b>              | <p>The Provider will follow a pathway approach to end of life care, using a formal and recognised end of life care pathway. This will include use of a palliative and supportive care register.</p>                                                                                                                                                                                                         |





## QUARTERLY KEY PERFORMANCE INDICATORS

| KPI Measure                                                                                               | Target                                                                              | Performance Data and Commentary |
|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|---------------------------------|
| Client assessed for meeting care needs to commence package of care                                        | Assessed and confirmation of meeting the needs within 48 hours of request           |                                 |
| Client full assessments completed                                                                         | 100% completed within 48 hours of care services commencement                        |                                 |
| % of Client quarterly quality review cases undertaken                                                     | Sample to meet CQC standards                                                        |                                 |
| Safeguarding responded to within agreed timescales set out by the Purchaser                               | Zero Incidents                                                                      |                                 |
| First Stage Complaints responded to within 20 days.                                                       | Zero Incidents                                                                      |                                 |
| Customer satisfaction                                                                                     | 90% of Survey results state that customer/NOK are stratified with the care services |                                 |
| Safeguarding Investigation reports returned as requested.                                                 | Correctly completed and returned within 14 working days                             |                                 |
| Missed Calls ( non-attendance)                                                                            | Nil                                                                                 |                                 |
| Late Calls. This is a call received by a client in excess of 30 minutes either side from the booked time. | Nil                                                                                 |                                 |

**SCHEDULE 1 – Not Used**

**SCHEDULE 1 – Not Used**

**SCHEDULE 2**  
**Fixed Price Agreement**

This Schedule details the agreed Fixed Price for the Term of the agreement. For the avoidance of doubt all Prices for Residents will be agreed by both parties in writing with Price confirmed in the Package of Care.

**Defined Terms in this Schedule:**

|                   |                                                                                                                                                                             |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Commencement Date | Means the Commencement Date 1 <sup>st</sup> January 2019.                                                                                                                   |
| Fixed Price       | Means the hourly rate agreed for the Term of the Contract.                                                                                                                  |
| Term              | The Term of the Fixed Price agreement is from the Commencement Date to the 31 <sup>st</sup> of August 2020 with an option to extend further upon agreement by both parties. |

**1.1 Price**

The Provider shall charge the agreed hourly Fixed Price for the Term of the Contract as detailed below.

£17.95 per hour per carer which will be pro rata for the period of each call agreed in the Residents Package of Care.

### SCHEDULE 3

#### Purchaser Contact Details

| Team                                                                                              | Address                                                         | Contact telephone                                          | email                                                                            |
|---------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|------------------------------------------------------------|----------------------------------------------------------------------------------|
| First contact and duty team.<br>For Safeguarding Adults, Respite queries and Adult Services teams | Town Hall<br>St Ives Road<br>Maidenhead<br>Berkshire<br>SL6 1RF | 01628 683744                                               | <a href="mailto:access.services@rbwm.gov.uk">access.services@rbwm.gov.uk</a>     |
| Deprivation of Liberty Safeguards.<br>For referrals, further authorisations and advise.           | Town Hall<br>St Ives Road<br>Maidenhead<br>Berkshire<br>SL6 1RF | 01628 683625                                               | <a href="mailto:dols@rbwm.gov.uk">dols@rbwm.gov.uk</a>                           |
| CAM Team.<br>For Contracts, Accreditation & Monitoring.                                           | Town Hall<br>St Ives Road<br>Maidenhead<br>Berkshire<br>SL6 1RF | 01628 683800                                               | <a href="mailto:cam.team@rbwm.gov.uk">cam.team@rbwm.gov.uk</a>                   |
| Finance Team.<br>For invoice queries.                                                             | Town Hall<br>St Ives Road<br>Maidenhead<br>Berkshire<br>SL6 1RF |                                                            | <a href="mailto:socialcarefinance@rbwm.gov.uk">socialcarefinance@rbwm.gov.uk</a> |
| Emergency Duty Team.<br>Our of hours support for Safeguarding and emergencies.                    |                                                                 | 01344 786543<br>(Mon-Fri 5pm – 9am, 24 hours at weekends ) | <a href="mailto:edt@bracknell-forest.gov.uk">edt@bracknell-forest.gov.uk</a>     |

## Schedule 4

### Processing, Personal Data and Data Subjects

1. The Provider shall comply with any further written instructions with respect to processing by the Purchaser.
2. Any such further instructions shall be incorporated into this Schedule.

| Description                                                                                                                                                  | Details                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Subject matter of the processing                                                                                                                             | Delivery of Care Service Contracts                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Duration of the processing                                                                                                                                   | Until the Package of Care or contract expires.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Nature and purposes of the processing                                                                                                                        | <p>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation, or alternation, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means).</p> <p>The purpose of the processing is for the delivery of the Care Service for Residents of the borough.</p> |
| Type of Personal Data                                                                                                                                        | name, address, date of birth, NI number, NHS number, service pay contributions, images, biometric data, medical and care assessments/plan, DOLS and MCA assessment, and next of kin.                                                                                                                                                                                                                                                                                                |
| Categories of Data Subject                                                                                                                                   | Residents of the borough receiving care services                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data | Records retained six years from the expiry date of the Package of Care. It is the Provider's responsibility to destroy the data.                                                                                                                                                                                                                                                                                                                                                    |



**SCHEDULE 5**  
**TUPE**

**1. DEFINITIONS**

1.1 In this Schedule:

**Directive** means EC Council Directive 2001/23/EC,

**Direct Losses** means a loss which a party is not prohibited from recovering under condition 23 (Consequential Loss) of the Contract

**Employee Liability Information** means the employee liability information to be provided pursuant to Regulation 11 of TUPE,

**Equal Pay Legislation** means all equal pay laws, including the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Equality Act 2010, the Equal Pay Directive (Council Directive 75/117/EEC), and the Equal Treatment Directive (Council Directive 76/207/EEC),

**Future Provider** means a service provider who shall provide any service equivalent to any of the Care Services immediately after expiry or earlier termination of this Contract (or the Purchaser if it assumes direct provision),

**Relevant Transfer** means a relevant transfer for the purposes of TUPE,

**Returning Employees** means those employees wholly or mainly engaged by the Provider or a Sub-Provider in the provision of the Care Services immediately before the expiry or termination of this Contract whose employment transfers to the Purchaser or a Future Provider pursuant to TUPE,

**Sub-Provider** means any other person engaged by the Provider from time to time as may be permitted by this Contract to procure the provision of the Services (or any of them),

**Transferring Employee** means all employees engaged by the Purchaser or sub-contractor of the Purchaser (excluding, without limitation, any person engaged by the Purchaser or sub-contractor of the Purchaser as an independent contractor) whose contract of employment becomes, by virtue of the application of TUPE in relation to what is done for the purposes of carrying out this Contract between the Purchaser and the Provider, a contract of employment with the Provider,

**TUPE** means the Transfer of Undertaking (Protection of Employment) Regulations 2006 (SI No. 246).

**2. TUPE and Employees - no transfer of employees at commencement of Care Services**

- 2.1 The Purchaser and the Provider agree that the commencement of the provision of the Care Services or of any part of the Care Services on the Care Services Commencement Date will not be a Relevant Transfer in relation to any employees of the Purchaser and/or any sub-contractor of the Purchaser.

**Procedure in the event of transfer**

- 2.2 The Purchaser shall indemnify and keep indemnified in full the Provider against all Direct Losses incurred by the Provider in connection with the employment or termination of any employee of the Purchaser or sub-contractor of the Purchaser whose contract of employment transfers or is alleged to transfer under TUPE to the Provider on the Care Services Transfer Date.

**Retendering**

- 2.3 The Provider shall within the period of twelve (12) months immediately preceding the expiry of this Contract or following the service of a notice by the Purchaser of termination or of its intention to retender this Contract:

- 2.3.1 on receiving a written request from the Purchaser provide in respect of any person engaged or employed by the Provider in the provision of the Care Services (the **Assigned Employees**) full and accurate details regarding the identity, number, age, sex, length of service, job title, grade and terms and conditions of employment of and other matters affecting each of those Assigned Employees who it is expected, if they remain in the employment of the Provider as the case may be until immediately before the Termination Date, would be **Returning Employees** (the **Retendering Information**),
- 2.3.2 provide the Retendering Information promptly and at no cost to the Purchaser,
- 2.3.3 notify the Purchaser forthwith in writing of any material changes to the Retendering Information promptly as and when such changes arise,
- 2.3.4 be precluded from making any material increase or decrease in the numbers of Assigned Employees other than in the ordinary course of business or with the Purchaser's prior written consent (such consent not to be unreasonably withheld or delayed),
- 2.3.5 be precluded from making any increase in the remuneration or other change in the terms and conditions of the Assigned Employees other than in the ordinary course of business or with the Purchaser's prior written consent (such consent not to be unreasonably withheld or delayed), and
- 2.3.6 be precluded from transferring any of the Assigned Employees to another part of its business or moving other employees from elsewhere in its or their business who have not previously been employed or engaged in providing the Care Services to provide the Care Services save with the Purchaser's prior written consent (such consent not be unreasonably withheld or delayed).
- 2.4 The Provider shall indemnify and shall keep indemnified in full the Purchaser and at the Purchaser's request the Future Provider against all Direct Losses arising from any claim by any party as a result of the Provider failing to provide or promptly to provide the Purchaser and/or any Future Provider where requested by the Purchaser with any Retendering Information and/or Employee Liability Information or to provide full Retendering Information and/or Employee Liability Information or as a result of any material inaccuracy in or omission from the Retendering Information and/or Employee Liability Information provided that this indemnity shall not apply to the extent that such information was originally provided to the Provider by the Purchaser and was materially inaccurate or incomplete when originally provided.

#### **Expiry or Termination of Agreement**

- 2.5 On the expiry or earlier termination of this Contract, the Purchaser and the Provider agree that it is their intention that TUPE shall apply in respect of the provision thereafter of any service equivalent to the Care Services but the position shall be determined in accordance with the law at the date of expiry or termination as the case may be and this paragraph is without prejudice to such determination.
- 2.6 Upon expiry or earlier termination of this Contract for whatever reason (such date being termed the **Return Date**) although, for the avoidance of doubt, subject to the specific provisions in the Exit Clause, the provisions of this paragraph 2.6 and paragraph 2.7 will apply:
  - 2.6.1 the Provider shall procure (or, where the Returning Employees are employed by a Sub-Provider, shall use all commercially reasonable endeavours to ensure) that all wages, salaries, pension contributions and other benefits of the Returning Employees and all PAYE tax deductions and national insurance contributions relating thereto in respect of the employment of the Returning Employees up to the Return Date are satisfied;
  - 2.6.2 the Purchaser shall ensure or shall procure that all wages, salaries and other benefits of the Returning Employees and all PAYE tax deductions and national insurance contributions relating thereto in respect of the employment of the Returning Employees on and after the Return Date are satisfied;
  - 2.6.3 without prejudice to paragraph 2.6.1, the Provider shall, in respect of the Returning Employees, indemnify the Purchaser and the Future Provider against all Direct Losses incurred by the

Purchaser or any Future Provider resulting from any claim whatsoever by or on behalf of any of the Returning Employees in respect their employment by the Provider or Sub-Provider during the period on or after the Care Services Commencement Date but before the Return Date (whether any such claim, attributable to the period up to the Return Date, arises before, on, or after the Return Date) where such claim arises out of any act, fault or omission of the Provider including but not limited to any failure by the Provider to comply with its or their obligations under Regulation 13 of TUPE save to the extent that any such failure to comply arises as a result of an act or omission of the Purchaser or any Future Provider.

- 2.6.4 without prejudice to paragraph 2.6.2, in respect of the Returning Employees, the Purchaser shall indemnify, or shall procure that any other Future Provider shall indemnify, the Provider in full against all Direct Losses incurred by the Provider resulting from any claim whatsoever by or on behalf of any of the Returning Employees in respect of their employment by any Future Provider (including the Purchaser) during the period on or after the Return Date where such claim arises out of any act, fault or omission of any Future Provider (including the Purchaser) including but not limited to any failure by the Future Provider to comply with its or their obligations under Regulation 13 of TUPE save to the extent that any such failure to comply arises as a result of an act or omission of the Provider.
- 2.7 If TUPE does not apply on the expiry or earlier termination of this Contract, the Purchaser shall indemnify and keep indemnified in full the Provider in respect of all costs (including without limitation all redundancy and pensions costs) incurred or to be incurred by the Provider arising from or relating to the redundancy of any person employed by the Provider in the provision of the Care Services immediately before the Return Date.