



REGIONAL RESIDENTIAL & NURSING PROVIDER SPECIFICATION AND CONTRACT

1st April [] to 31st March []

Between

[.....] Health and Social Care Trust

And

[Provider] in respect ofProvider

CONTENTS

| | PAGE |
|--|-------------|
| DEFINITIONS | 4 |
| GENERAL TERMS AND CONDITIONS OF CONTRACT | 9 |
| 1. Description of Parties | 11 |
| 2. Purpose of Contract | 11 |
| 3. General Terms and Conditions | 11 |
| 4. Performance | 11 |
| 5. Timing | 12 |
| 6. Staff | 12 |
| 7. Termination | 12 |
| 8. Unsatisfactory Performance | 13 |
| 8A. Suspension | 15 |
| 9. Default by Provider | 16 |
| 10. Indemnity | 17 |
| 11. Insurance | 17 |
| 12. Employment, Equality & Discrimination Legislation | 18 |
| 13. Human Rights Obligations | 18 |
| 14. Equal Opportunities | 18 |
| 15. Section 75 Northern Ireland Act 1998 | 19 |
| 16. Severability | 19 |
| 17. Waiver | 20 |
| 18. Accrued Rights and Remedies | 20 |
| 19. Variation of Service Specification | 20 |
| 20. Transfer and Sub-contracting | 20 |
| 21. TUPE – Transfer of Undertaking/Service Provision Change | 20 |
| 22. Confidentiality | 22 |
| 23. Commitment to Openness and Access to Information | 24 |
| 24. Data Protection | 24 |
| 25. Records Management | 25 |
| 26. Bribery and Preventative Measures | 25 |
| 27. Force Majeure | 26 |
| 28. Publicity | 27 |
| 29. Use of Trust Agreements | 27 |
| 30. Dispute Resolution | 27 |
| 31. Environmental Considerations | 28 |
| 32. Comptroller and Auditor General Audit Rights | 28 |
| 33. Mandatory Exclusion of Economic Operators | 28 |
| 34. Law | 28 |
| SPECIFIC CONDITIONS OF CONTRACT AND SERVICE SPECIFICATION | 30 |
| 1. Range of Services Covered by Contract | 32 |
| 2. Provider Must be Registered | 32 |
| 3. Provider Compliance | 32 |
| 4. Compliance with Regulatory Bodies | 33 |

| | | |
|-----|--|-----------|
| 5. | Written Agreements for each Resident | 33 |
| 6. | Referral, Admission, Transfer and Discharge Arrangements | 33 |
| 7. | Risk Assessment and Contingency Arrangements | 35 |
| 8. | Adult Protection/ Safeguarding | 37 |
| 9. | Adverse Incidents and Serious Adverse Incidents | 38 |
| 10. | Complaints | 38 |
| 11. | Other Activities in the Provider | 40 |
| 12. | Meals at External Day Care | 40 |
| 13. | Closure of Provider | 40 |
| 14. | Change of Ownership | 40 |
| 15. | Financial Arrangements | 41 |
| 16. | Equipment | 46 |
| | APPENDICES | 48 |
| | Appendix 1: Trust Contact Names and Numbers | 50 |
| | Appendix 2: Serious Adverse Incident | 52 |
| | Appendix 3: Equipment List for Nursing and Residential Providers | 60 |
| | Appendix 4: Contract Price | 70 |
| | Appendix 5: Performance Notice | 71 |

DEFINITIONS

In this Contract the following definitions shall apply:

| | |
|--------------------------|--|
| Additional Services | Means any non care related services which are made available by the Provider for the Resident to purchase on an ad-hoc basis, such as confectionary, hairdressing, newspapers. |
| Adverse Incident | Means any event or circumstance that could have or did lead to harm, loss or damage to people, property, environment or reputation arising during the provision of the Services. |
| Appointee | Means the individual, organisation or representative to whom the Social Security Agency grants the right to act as appointee on a Resident's behalf for the purposes of managing social security benefits. |
| Care Management | Means a strategy for managing, co-ordinating and reviewing services for the individual Resident which takes into account continuity of care and accountability, ensuring effective and efficient use of resources. |
| Care Manager | Means an employee or agent of the Trust who is identified as the person to oversee that the appropriate package of care is being provided to the individual Resident. |
| Confidential Information | Means any Information acquired by the Provider in connection with the Contract whether before or after the date of the Contract |
| Contract | Means the agreement concluded between the Trust and the Provider in respect of Residents, including all specifications and other documents incorporated or referred to therein. |
| Contract Price | Means the price exclusive of value added tax set out at appendix 4 which is payable to the Provider by the Trust under this Contract for the full and proper performance by the Provider of its obligations under this Contract. |
| Core Services | Means those services which meet the assessment of the Resident's care needs as identified in a Trust Care Plan or any revisions thereof and which the Provider contracts to provide. |
| DPA | Means the Data Protection Act 1998 |
| DHSSPS | Means the Department of Health, Social Services and Public Safety of Northern Ireland |
| Enhanced Services | Means any services provided by the Provider as an enhancement to the Core Services and provided on an ongoing basis. This might include for example a larger than standard room. |
| Equipment | Means the equipment set out in Appendix 3 which the Provider is responsible for providing. |
| FOIA | Means the Freedom of Information Act 2000 |
| Gross Payment | Means the Provider's Weekly Charge for the Resident as set out in their Patients'/Residents' Guide which includes any Third Party contribution. |
| Guidance | Means any applicable health or social care guidance, |

| | |
|-----------------------------------|--|
| | DHSSPS circulars, guidelines, direction or determination, framework, standard or requirement to which the Trust and/or the Provider have a duty to have regard (whether specifically mentioned in this Agreement or not) to the extent that same are published and publicly available or the existence or contents of them have been notified to the Provider by the Trust or any Regulatory Body. |
| Provider | Means the registered Residential/Nursing Provider owned and/or operated by the Provider and situated at [.....address] |
| HSCB | Means the Health & Social Care Board of Northern Ireland |
| HSC Contribution to Nursing Care | Means the payment made by the Trust towards the cost of the assessed nursing needs of Residents in nursing Providers as determined in accordance with DHSSPS guidance ECCU 1/2006. |
| Information | Has the meaning given under section 84 of the FOIA. |
| Law | Means:- (i) Any applicable statute or proclamation or any delegated or subordinate legislation or regulations; (ii) Any enforceable EU right within the meaning of section 2(1) European Communities Act 1972; (iii) Any applicable judgement of a relevant court of law which is binding precedent in Northern Ireland; (iv) Any Guidance; In each case in force in Northern Ireland |
| Minimum Standards | Means the DHSSPS Nursing Providers Minimum Standards 2008 and/or the Residential Care Providers Minimum Standards 2008 as amended from time to time. |
| One Month | Means a calendar month |
| One Week | Means a period of seven consecutive days. |
| Party or Parties | Means a party to the contract and parties shall be construed accordingly. |
| Personal Expenses Allowance (PEA) | Means the protected sum which a Resident is entitled to retain by law from their personal benefits such as state pension on a weekly basis for their own personal use and which must not be spent on services that have been assessed and contracted for by the Trust. |
| Personal Data | Has the same meaning as in section 1(1) of the DPA |
| Private Resident | Means a resident of a Provider who arranges and pays for their own residential accommodation and care under a private arrangement with the Provider. For the avoidance of doubt, Private Residents do not fall within the scope of this Contract. |
| Provider | Means the entity, whether a limited company, a partnership, sole trader or otherwise, who by this Contract undertakes to supply residential accommodation at the Provider together with personal care only or personal care together with nursing care to Residents. |

| | |
|---------------------------|--|
| Quarter | Means the periods: 1 April – 30 June 1 July – 30 September 1 October - 31 December 1 January – 31 March |
| Regulatory Body | Means any statutory or other bodies responsible for assessment and regulation of health and social care service provider organisations and having authority to issue guidance, standards or recommendations with which the Provider must comply or to which it must have regard. |
| Resident | Means the identified individual who requires the Services to be provided within the terms and conditions of this Contract. |
| Resident's Contribution | Means the amount which, following financial assessment, it is determined that the Resident is liable to reimburse to the Trust by way of a contribution towards the Contract Price. |
| Resident's Representative | Means the family member or friend who is the primary point of contact for the Provider in respect of the Resident or who with the Resident's express or implied consent takes an interest on the Resident's health and welfare. |
| Self-Funded Resident | Means a Resident who is Care Managed and has been placed in the Provider under this Contract and who has been financially assessed as liable to or who has declared themselves able to reimburse the full Contract Price (excluding the HSC contribution towards nursing care) |
| Serious Adverse Incident | Means an Adverse Incident falling within any of the criteria set out in Appendix 2 of this Contract |
| Services | Means the services, including provision of residential accommodation, care and the Equipment which the Provider is required to provide under this Contract. |
| Specification | Means the specification in respect of the Services to be provided by the Provider set out in the Special Conditions of Contract & Service Specification which forms part of this Contract. |
| Staff | Means employees, agency workers, contractor (s) and/or any person working for or behalf of the Provider or assisting the Provider in the provision of the Services under this Contract. |
| Third Party | Means any person who has agreed to be responsible for the Third Party Contribution |
| Third Party Contribution | Means the difference between the Contract Price and the Provider's Weekly Charge as outlined in their Patients'/Residents' Guide. |
| Trust | Means theHealth & Social Care Trust |
| Trust-Funded Resident | Means a Resident who has been financially assessed as liable to make only a partial contribution or no contribution towards the Contract Price. |
| Working Day | Means Monday to Friday between 9am to 5pm, excluding days which are Public Holidays in Northern Ireland as defined by section 39(8) of the Interpretation Act (Northern Ireland) Act 1954. |

1.0 INTERPRETATIONS.

- 1.1 Any references to any statute, order, regulations, EU directives, by-laws, licenses, statutory instruments, rules, notices, directions, DHSSPS or other departmental guidelines, codes of practice, standards, RQIA guidelines and any guidelines from any other Regulatory Body shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force.
- 1.2 The headings in the Contract are for ease of reference only and shall not be taken into account in the construction or interpretation of any provision to which they refer.
- 1.3 In the Contract the masculine includes the feminine and the neuter and vice versa; the singular includes the plural and vice versa.
- 1.4 References to numbered clauses are references to the relevant clause in these General Terms and Conditions.
- 1.5 Any obligation on any Party not to do or to omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done.
- 1.6 The fact that the Contract specifically deals with certain aspects of legislation and guidance does not imply that compliance with other aspects of legislation and guidance included but not detailed specifically are not conditional to the Contract.
- 1.7 Where the words 'include', 'includes' and 'including' are used in the Contract, they will be understood as if they were immediately followed by the words 'without limitation'. The Specification and Schedules form part of the Contract and any reference to the Contract includes the Specification and Schedules.
- 1.8 Time shall be of the essence with regard to the obligations of the Provider under the Contract.
- 1.9 Where capital letters are used this denotes the meaning as prescribed in the definitions section above.
- 1.10 References to the Contract include these General Terms and Conditions, the Specification, all Schedules, Appendices and other documents incorporated or referred to therein.

GENERAL TERMS AND CONDITIONS OF CONTRACT

GENERAL TERMS AND CONDITIONS

1.0 DESCRIPTION OF PARTIES

1.1 This Contract is made between the Health and Social Care Trust (hereafter called “the Trust”) having its address, for the purposes of this agreement at Trust Headquarters and [Provider] [company registration number] whose address/registered office address is at.....

2. PURPOSE OF CONTRACT

2.1 The purpose of this Contract is to set out the terms and conditions under which the Services in the Home will be delivered by the Provider.

2.2 This Contract shall not apply to the provision of the Services to Private Residents which shall be the subject of an agreement directly between the Provider and the Private Resident.

2.3 Nothing in this Contract shall affect the Trust’s statutory duty under Article 4 of the Health and Personal Social Services (NI) Order 1972 to promote the social welfare of all Residents in the Home irrespective of whether or not the Resident is subject to Care Management by the Trust.

3. ENTIRE AGREEMENT

3.1 The Services shall be supplied solely in accordance with the terms and conditions contained in this Contract. All other contractual terms (whether written or oral) which in any way add to, vary or contradict these terms and conditions shall be excluded and shall not form part of this Contract (whether or not such other contractual terms post-date these conditions) unless the Trust has specifically agreed in writing to be bound by any of such other contractual terms.

3.2 No later version shall be binding unless it has been agreed in writing and signed by a duly authorised representative of each of the Parties.

(Refer to clause 19 for Variation of Service Specification).

4. PERFORMANCE

4.1 The Provider shall carry out the Services at all times fully in accordance with the Specification and in accordance with the Law and Guidance.

5. TIMING

- 5.1 Time shall be of the essence with regard to the obligations of the Parties under this Contract.

6. STAFF

- 6.1 The Provider shall employ sufficient Staff to ensure that the Services are provided at all times and in all respects in accordance with the Specification and RQIA staffing guidelines. The Provider shall ensure that a sufficient reserve of Staff is available to meet the Specification during holidays or absences.
- 6.2 The Provider shall employ for the purposes of this Contract only such persons as are skilled and experienced in the duties required of them and must ensure that every such person is properly and sufficiently trained and competent to perform the Services, has satisfied the applicable DHSS&PS health clearance requirements and shall be fully compliant with RQIA and any other Guidance.
- 6.3 The Provider shall provide its Staff with a form of identification that is acceptable to the Trust.
- 6.4 Trust reserves the right to request the Provider to withdraw a specific member of Staff from the provision of the Services at the Home and the Trust will provide or confirm in writing the reason for such request. For the avoidance of doubt, this clause does not require Staff to be dismissed from the Provider's employment or the employment of its agent or sub-contractor. The Provider agrees that the Trust will not be liable to the Provider or any member of Staff in respect of the exercise of the Trust's rights pursuant to this clause and the Provider shall fully indemnify the Trust in respect of any claim made in that regard.

7. TERMINATION

- 7.1 The Trust may at any time by notice in writing summarily terminate this Contract without compensation to the Provider in any of the following events:
- I. If the Provider being an individual (or where the Provider is a firm, any partner in that firm) shall at any time become bankrupt or shall have a receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so, or if in Scotland he shall become insolvent or notour bankrupt, or any application shall be made for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors;
 - II. If the Provider being a company shall pass a resolution, or the courts shall make an order, that the company shall be wound up (except for the purposes of amalgamation or reconstruction), or if an administrative receiver on behalf of a

creditor shall be appointed, or if the courts shall make an administration order, or if circumstances shall arise that entitle the courts or a creditor to appoint an administrative receiver, or which entitle the courts to make a winding-up order or administration order;

- III. If the Provider is unable to pay its debts within the meaning of article 103 of the Insolvency (NI) Order 1989;

Provided always that such termination shall not prejudice or affect any right of action or remedy that shall have accrued or shall accrue thereafter to the Trust.

7.2 The Trust may terminate this Contract (in whole or in part) forthwith by notice in writing if the Provider is in material breach of this Contract and shall have failed to remedy the breach within 30 days of receipt of a request in writing from the Trust to remedy such breach such request indicating that failure to remedy the breach may result in termination of this Contract.

7.3 The termination of this Contract under clauses 7.2 shall be without prejudice to:

- I. (Where this Contract is terminated in part only) the continuance and validity of the part or parts of this Contract not terminated.
- II. The rights or obligations of either party, which have accrued prior to the date of termination.

7.4 In addition to its rights under any other provision of this Contract the Trust or Provider may terminate this Contract at any time by giving the other Party three months' written notice. Upon the expiration of the notice this Contract shall terminate without prejudice to the rights of the Parties accrued to the date of termination.

8. UNSATISFACTORY PERFORMANCE

8.1 Should the Provider, in the opinion of the Trust, fail to provide the Service or any part thereof to a standard which is fully in compliance with the Contract, this will be regarded as "Unsatisfactory Performance" and the Trust may do one or more of the following:-

8.1.1 Bring such Unsatisfactory Performance to the attention of the Provider in writing requiring the Unsatisfactory Performance to be dealt with in a manner prescribed by the Trust;

8.1.2 Where the Trust considers it appropriate, it may issue a Performance Notice in the form set out in Appendix 5 ("Performance Notice") to the Provider setting out the details of the Unsatisfactory Performance, a timescale for rectification and any implications of any failure to rectify the Unsatisfactory Performance in full or in part or to the standard required by the Trust.

- 8.1.2.1 If the Provider receives a Performance Notice it must issue to the Trust, within the timescale specified in the Performance Notice, a remedial action plan setting out how it proposes to rectify the subject matter of the Unsatisfactory Performance as detailed in the Performance Notice.
- 8.1.2.2 If the Provider's remedial action fails to remedy the Unsatisfactory Performance to the satisfaction of the Trust, and that Performance Notice is not in respect of a material breach, the Trust may issue a further Performance Notice.
- 8.1.2.3 Accumulation of 3 (three) non-material Performance Notices within any consecutive rolling 12 Month period may be considered by the Trust as a material breach of the Provider's obligations. In exceptional circumstances where the Unsatisfactory Performance relates to very serious significant harm and remedial action has failed to provide the required improvement this may be considered by the Trust as a material breach of the Provider's obligation under the terms of the Contract.
- 8.1.2.4 If the Provider has committed any material breach of its obligations under the Contract and has not remedied that material breach within the timescale given within the Performance Notice then one or more of the following may occur:-
- 8.1.2.4.1 Up to 20% of the Monthly sums payable under the Contract in each Month may be withheld until the remedies specified in the Performance Notice and/or remedial action plan have been implemented, and no interest shall be payable to the Provider on any sum withheld under this clause 8.1.2.4.1 unless it can be established that the money was withheld unjustifiably; or
- 8.1.2.4.2 The Contract may be terminated or suspended in whole or in part.
- 8.1.2.5 Where the Trust has already made payment to the Provider with respect to the Service which constituted Unsatisfactory Performance, whether material or non-material, the Trust may request that such payments be reimbursed to the Trust within 21 days from request and the Provider must comply with any such request and/or the Trust may deduct the payment from future payments which may be payable to the

Provider by the Trust, including from any existing or future contract(s) between the Trust and the Provider.

8.1.3 Suspend part or all of the Contract.

8.1.4 Terminate part or all of the Contract either immediately or on a date as notified by the Trust if the Unsatisfactory Performance is in the opinion of the Trust of a serious nature to warrant same.

8A. SUSPENSION

8A.1 In addition to the provisions of clause 8.1 the Trust may suspend the Home from being included on Trust's list of available residential care accommodation where:-

8A.1.1 It considers that a breach or series of breaches of the Contract by the Provider creates an immediate or serious risk of harm to Residents;

8A.1.2 It considers that there are other circumstances presenting a risk of serious or potentially serious harm to Residents.

8A.2 Once a decision has been taken to exercise its right of suspension as per Clause 8A.1, the Trust will notify;

8A.2.1 The Provider in writing of the reason for the suspension and the date at which the suspension will take effect;

8A.2.2 The RQIA of the suspension;

8A.2.3 Any other HSC Trust which refers Residents to the Home of the suspension; and

8A.2.4 The Health and Social Care Board (HSCB).

8A.3 During the period of any suspension the Provider must continue to co-operate with and comply with any requirements of the Trust and RQIA in order to resolve the suspension and to ensure the needs of Residents continue to be met. Where applicable this will include full cooperation with an adult safeguarding investigation.

Consequences of Suspension.

8A.4 During any period of suspension:

8A.4.1 The Trust shall use reasonable endeavours to ensure that no further Trust Residents are placed in the Home and the Provider shall cease to accept new placements of Residents from the Trust;

- 8A.4.2 the Provider will notify the Trust of the names of other Residents placed in the Home by any other HSC Trust and provide the contact details for the appropriate care manager(s);
- 8A.4.3 the Trust and any other HSC Trust which has referred Residents to the Home will work together with the Provider and with RQIA to ensure that there is no interruption in the provision of the Services to existing Residents and to address the issues that led to suspension and the Provider shall co-operate fully with the Trust, any such other HSC Trust and RQIA;
- 8A.4.4 The Trust and any other such HSC Trust as referred to in this clause may organise additional care assessments for existing Residents within short timescales and will endeavour to agree with the Provider a mechanism or timetable for doing this to ensure that they are able to participate fully and the Provider acknowledges that the outcome of such additional assessments may result in the implementation of clause 14.5 of the Special Conditions of Contract and that less than 30 days notice may be given in such circumstances;
- 8A.4.5 In conjunction with RQIA, the Trust will keep the Provider informed of what progress the Provider has made in addressing the issues that led to suspension and the likely duration of the suspension.

9. DEFAULT BY PROVIDER

- 9.1 Without prejudice to any other right or remedy, if the Provider does not provide the Services in accordance with the Specification or at the times specified in this Contract (“Default”) the Trust may:
- I. Require the Provider to remedy the Default within such time as the Trust may specify by providing or providing again (as the case may be) without further charge to the Trust such part of the Services to the Specification;
 - II. Without terminating the whole of this Contract terminate this Contract in respect of part of the Services only and thereafter provide or procure the provision of such part of the Services itself as a temporary measure;
 - III. Itself provide or obtain the provision of the Services as a temporary measure until it is satisfied that the Provider is able to carry out the Services in accordance with this Contract’s special conditions and Specification;
 - IV. Terminate this Contract.
- 9.2 If the cost to the Trust of executing or obtaining services pursuant to clause 9.1 exceeds the amount that would have been payable to the Provider for the provision of such

services, such excess shall be paid by the Provider to the Trust in addition to any other sums payable by the Provider to the Trust in respect of the breach.

9.3 Consistent with the primacy of ensuring continuity of care for Residents the Trust shall take reasonable steps to mitigate the excess cost of obtaining or providing such alternative Services.

9.4 All or any of the remedies in clauses 9.1 and 9.2 may be exercised by the Trust in respect of any Default by the Provider. However such shall not affect the responsibility and liability of the Provider in regard to TUPE or the Service Provision Regulations.

10. INDEMNITY

10.1 Without prejudice to its liability for breach of its obligations under this Contract the Provider shall, indemnify the Trust in respect of any liability, loss, claim or proceedings however arising under any statute or in common law including:

10.1.1 Any loss of or damage to property real or personal;

10.1.2 Any injury to persons whether physical or otherwise including injury resulting in death, resulting out of or arising in the course of or in connection with the provision of the Services under this Contract, except in so far as such damage or injury shall be due to any direct act of negligence of the Trust or any employee of the Trust.

10.1.3 Any damage or injury as under clause 10.1.1 and or 10.1.2 arising out of the Provider failing to provide the Trust with any or sufficient information, co-operation or documentation necessary or relevant for the Trust to undertake its responsibilities.

11. INSURANCE

11.1 The Provider shall at all times for the period of the Contract at its own expense maintain in force the following minimum insurance arrangements with reputable insurers or underwriters:-

11.1.1 Employer's Liability insurance in respect of the Provider's business for the minimum amount of £10 million (£10,000,000) any one occurrence;

11.1.2. Public Liability insurance for the minimum amount of £10 million (£10,000,000) including Abuse Cover/Treatment for the minimum amount of £5 million (£5,000,000) for any one occurrence;

11.1.3 Professional Indemnity insurance to cover the Service required under the Contract for the minimum amount of £5 million (£5,000,000) any one occurrence;

- 11.1.4 Medical Malpractice insurance to cover the Service required under the Contract for the minimum amount of £5 million (£5,000,000) any one occurrence; and
 - 11.1.5 Business Money Cover including theft of Resident's money or property by Staff up to the value of £50,000.
- 11.2 The Provider must ensure that any vehicles used by the Provider's staff or organised by the Provider to convey Residents shall comply with relevant legislation and safety standards, are suitable for the Residents being conveyed in them and are appropriately and fully insured for the purposes for which they are used, including business purposes and transportation of Residents.
- 11.3 The Provider must provide to the Trust on request copies of the relevant insurance certificates under clause 11.1 and shall advise the Trust immediately of any material change in the insurance cover required under clause 11.1.
- 11.4 Prior to the commencement of this Contract the Provider will produce documentary evidence that the insurance requirements under clause 11.1 are in place.
- 11.5 Such insurance cover as referred to at clause 11.1 shall be maintained for a period of 6 years following the expiration or earlier termination of this Contract.

12. EMPLOYMENT, EQUALITY AND DISCRIMINATION LEGISLATION

- 12.1 The Provider shall comply with all current employment legislation including recruitment, anti-discrimination and equality legislation as enacted in Northern Ireland and shall take all reasonable steps to secure compliance with this legislation by Staff.

13. HUMAN RIGHTS OBLIGATIONS.

- 13.1 The Provider acknowledges that:-
- 13.1.1 The Provider shall comply with the Human Rights Act 1998 as if it were a 'Public Authority' within the meaning of the legislation; and
 - 13.1.2 It is unlawful to exercise functions deemed to be of a public nature in a way that is incompatible with those rights contained in the European Convention of Human Rights and incorporated into UK Law by the Human Rights Act 1998; and
 - 13.1.3 In providing the Services the Provider shall throughout the duration of the Contract and at its own cost be subject to the same duty in respect of human rights in the same way as if it were the Trust.
- 13.2 The Provider shall undertake or refrain from undertaking such actions as the Trust may request so as to enable the Trust to discharge its duty under the Human Rights Act 1998.

14. EQUAL OPPORTUNITIES

- 14.1 In the performance of the Services, the Provider and its Staff shall not unlawfully discriminate within the meaning and scope of any Law, enactment, order, or regulation relating to discrimination (whether on grounds of race, gender, religion, belief, disability, marital or civil partnership status, political opinion, sexual orientation, age, human rights or otherwise).
- 14.2 The Provider shall take all reasonable steps to secure the observance of the above clause 14.1 by its Staff employed in the execution of this Contract including but not limited to:-
- 14.2.1 The Provider shall have an equal opportunities policy prior to the commencement of the Services; and
- 14.2.2 The Provider shall provide such Information as the Trust may request for the purpose of assessing the Provider's compliance with this clause 14.
- 14.3 If any Court, Tribunal, the Equality Commission for N.I., or the Human Rights Commission for N.I (or any other Commission promoting equal opportunity) should make any finding of unlawful discrimination against the Provider, then the Provider shall immediately inform the Trust of such a finding and remedy the unlawful discrimination. The Provider shall take all necessary steps to prevent re-occurrence of such unlawful discrimination. The Provider will provide the Trust with details of the steps taken to prevent such a re-occurrence.
- 14.4 In the event of a re-occurrence, the Trust shall have a right to terminate the Contract if after having discussed the matter with the Provider; the Trust is of the opinion that the actions of the Provider leading up to the re-occurrence were sufficiently serious as to undermine its compliance with this clause 14. In the event that the Trust does not exercise its right of termination under this clause 14.4 the Provider shall discuss with the Trust the appropriate steps the Provider needs to take to prevent repetition of the unlawful discrimination and shall provide the Trust with details of any such steps taken.

15. SECTION 75 OF THE NORTHERN IRELAND ACT 1998

- 15.1 Section 75 of the Northern Ireland Act 1998 requires the Trust in carrying out its functions to have due regard to the need to promote equality of opportunity:-
- 15.1.1 Between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- 15.1.2 Between men and women generally;
- 15.1.3 Between persons with a disability and persons without; and
- 15.1.4 Between persons with dependents and persons without.

15.2 The Trust is also required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

15.3 The Trust requires the Provider to act in compliance with Section 75 of the Northern Ireland Act 1998 as outlined above at all times. The Trust requires the Provider to have due regard to the requirements set out in clauses 15.2 and 15.3 and to assist and co-operate to enable the Trust to discharge its duty under this legislation.

16. SEVERABILITY

16.1 If any provision of this Contract is or becomes illegal, void or invalid, that shall not affect the legality and validity of its other provisions.

17. WAIVER

17.1 The failure of either Party to seek redress for breaches or to insist on strict performance of any provision of this Contract or the failure of either Party to exercise any right or remedy to which it is entitled under this Contract shall not constitute a waiver thereof and shall not cause a diminution of the obligations under this Contract.

17.2 No waiver of any provision of this Contract shall be effective unless it is agreed to by both Parties in writing.

17.3 No waiver of any default shall constitute a waiver of any subsequent default.

18. ACCRUED RIGHTS AND REMEDIES

18.1 Neither the expiration nor the termination of this Contract shall prejudice or affect any right of action or remedy, which shall have accrued or shall thereafter accrue either to the Trust or to the Provider.

19. VARIATION OF SPECIFICATION

19.1 Any variation or amendment to the terms and conditions of this Contract or any of the documents referred to it can only be valid if in writing and signed by or on behalf of each of the Parties.

19.2 The Parties may negotiate on a case-by-case basis where, upon review, the assessed needs of an individual Resident, as set out in a Trust Care Plan or any revision thereof, cannot be met within the placement presently provided for that Resident.

20. TRANSFER AND SUB-CONTRACTING

20.1 The Provider shall only be entitled to assign the whole or any part of this Contract with the previous consent in writing of the Trust, such consent not to be unreasonably withheld or delayed. The Provider shall not sub-contract the supply of any of the Services without

the previous consent in writing of the Trust, such consent not to be unreasonably withheld or delayed.

- 20.2 The Provider acknowledges that at a time within the period of the Contract, there may be a need for reassignment from the Trust to an alternatively named body within Northern Ireland Health and Social Care due to administrative reorganisation. The name of the alternative body will be that as defined under the reorganisation and any subsequent enabling legislation. The Provider will accept any reassignment of the Contract and the Trust will not be liable to pay any compensation whatsoever in connection therewith.

21. TUPE -TRANSFER OF UNDERTAKINGS /SERVICE PROVISION CHANGE (SPC)

- 21.1 The Provider must comply with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE Regulations) and/or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006 ("SPC Regulations") if and when there is a relevant transfer of an undertaking or a service provision change relating to the Services provided at the Provider under either the TUPE Regulations or the SPC Regulations.

- 21.2 Where there is deemed to be a transfer pursuant to 21.1, there will be a relevant transfer on the date on which the Services transfer from the Provider to a new provider ("the New Provider") and the contracts of employment of any of the Provider's employees who immediately prior to that transfer are wholly or mainly assigned to the provision of the Services being transferred (referred to as "Affected Employees") will take effect as if originally made between the New Provider and the Affected Employees (save for those who object to transfer pursuant to regulation 4(7) of the TUPE or SPC Regulations).

- 21.3 In the event that a transfer pursuant to clause 21.1 is anticipated, then the following shall apply:-

21.3.1 In addition to its statutory obligations under the TUPE Regulations and/or the SPC Regulations, the Provider shall provide to the Trust or any New Provider at the direction of the Trust all the information which it is required to disclose pursuant to Regulation 11 of the TUPE Regulations or the SPC Regulations no later than 3 months before the proposed date of the transfer or the service provision change.

21.3.2 The Provider must as soon as they become aware of any material up-dates to the information provided under clause 21.3.1 advise the Trust in writing of such changes

- 21.4 The Provider warrants that the information to be provided by the Provider pursuant to Regulation 11 of the TUPE Regulations or the SPC Regulations and pursuant to clause 21.3 of this Contract shall be true, accurate and complete in all material respects.

- 21.5 The Provider hereby fully indemnifies the Trust and any New Provider from and against:
- 21.5.1 Any liabilities arising as a result of breach of the warranty at clause 21.3 above; and
 - 21.5.2 All pre-transfer liabilities arising from or relating to the period up to and including the date of the transfer or the service provision change.
- 21.6 The Provider undertakes to the Trust that, during the twelve Months prior to the end of the Contract Period the Provider shall not (and shall procure that any sub-contractor shall not) without the prior consent of the Trust (such consent not to be unreasonably withheld or delayed):-
- 21.6.1 Amend or vary (or purport or promise to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any member of Staff (other than where such amendment or Variation has previously been agreed between the Provider and the member of Staff in the normal course of business, and where any such amendment or variation is not in any way related to the transfer of the Service);
 - 21.6.2 Terminate or give notice to terminate the employment or engagement of any member of Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
 - 21.6.3 Transfer away, remove, reduce or vary the involvement of any member of Staff from or in the provision of the Service (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Provider, (PROVIDED THAT any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services)); or
 - 21.6.4 Recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.
- 21.7 The provisions of this clause 21 shall survive following termination of this Contract for any reason whatsoever and without limit in time.

22. CONFIDENTIALITY

- 22.1 The Provider and its Staff must not disclose to any person (other than a person authorised by the Trust) and must treat as confidential any information acquired by them in connection with this Contract.

- 22.2 Without prejudice to the generality of condition 22.1, the Provider and its Staff must not disclose to any person (other than a person authorised by the Trust or in accordance with relevant legislation) any information acquired by them in connection with the provision of the Services which concerns:
- 22.2.1 The Trust, its staff or its procedures;
 - 22.2.2 The identity of or any Personal Data concerning any Resident or their family/friends, Resident's Representative;
 - 22.2.3 The identity of or any Personal Data concerning any Resident referred to or discharged from any hospital;
 - 22.2.4 The medical condition of or the treatment received by any Resident.
- 22.3 The Provider shall take all necessary precautions to ensure that all Confidential Information obtained from the Trust under or in connection with this Contract:-
- 22.3.1 is given only to such of the Staff engaged to advise it in connection with the Contract as is strictly necessary for the performance of this Contract and only to the extent necessary for the performance of this Contract; and
 - 22.3.2 is treated as confidential and not disclosed (without prior approval) or used by any Staff otherwise than for the purposes of this Contract.
- 22.4 The Provider shall not use any Confidential Information it receives from the Trust otherwise than for the purposes of this Contract.
- 22.5 The Provider will ensure that Staff sign a confidentiality undertaking on commencing work in connection with the provision of the Services with regard to the following:-
- 22.5.1 All Staff must respect the privacy of the Residents. Nothing concerning the Residents must be discussed with anyone other than the Provider Manager, relevant Trust representatives and the Resident's health care professionals, the Resident's Representative, or the PSNI in the course of a related enquiry; and
 - 22.5.2 All Resident's records must be carefully documented, bearing in mind confidential nature of Information within these records.
- 22.6 Where the Provider or any of its Staff receives a request for information about a Resident or their circumstances from any source, e.g. the press, news media, or from family members other than the Resident's Representative, unless the release of such information is expressly authorised by a fully informed Resident with capacity to provide such authorisation, such a request for information must be referred to the Trust to be dealt with.

22.7 The Provider will indemnify and hold harmless the Trust in respect of any loss, damage or claim including costs where such loss, damage or claim results from any breach of confidentiality by the Provider or its Staff or agents or sub-contractors arising out of or in any way connected with the delivery of the Services under this Contract.

22.8 Nothing in this Condition will prevent the Trust: -

22.8.1 Disclosing such information relating to the outcome of the procurement process or the Contract as may be required to be published in the supplement to the Official Journal of the European Union in accordance with the EU directives or elsewhere in accordance with requirements of United Kingdom Government policy on the disclosure of information relating to Government contracts; or

22.8.2 Disclosing any information from the Provider: -

22.8.2.1 To any other Trust, Trust Officer, HSCB, DHSSPS, office or agency of the Crown, or RQIA, PSNI, PPS, or any other public body; or

22.8.2.2 To any person engaged in providing any Services to the Trust for any purpose relating to or ancillary to the Contract

Provided that in disclosing information, the Trust discloses only the information which is necessary for the purpose concerned.

22.9 The Provider shall report any breaches or suspected breaches of this clause 22 to the Trust.

22.10 The obligations imposed by this clause 22 will continue to apply after the expiry or termination of the Contract.

23. COMMITMENT TO OPENNESS AND ACCESS TO INFORMATION

23.1 The Provider must acknowledge the Trust's commitment to openness and public access to information. The Freedom of Information Act 2000 applies to the Trust. The Trust has a policy on managing requests for information in accordance with its legal obligations. Where reasonably practicable, the Trust shall inform the Provider regarding any request for information concerning the Provider and the Provider shall and shall procure that its sub-contractors shall (each at their own expense) assist the Trust to comply with its obligations under the Freedom of Information Act 2000.

23.2 The Provider must ensure that all information produced in the course of this Contract or relating to the Contract is retained for disclosure and must permit the Trust to inspect such records as requested from time to time.

24. DATA PROTECTION

- 24.1 The Provider including its Staff, shall comply with the requirements of the DPA in relation to the provision of the Services and shall not knowingly or negligently by any act or omission, place the Trust or any of the Personal Data held by the Trust in breach, or potential breach of DPA.
- 24.2 The Provider shall provide the Trust with such information as the Trust may reasonably require to satisfy itself that the Provider is complying with its obligations under the DPA
- 24.3 The Provider must ensure that it has in place appropriate technical and organisational measures to protect the security of, (and to guard against unauthorised or unlawful processing and accidental loss or damage to), Personal Data relating to Residents in accordance with DPA and the Information Commissioners Office (ICO) Code of practices.
- 24.4 The Provider must ensure compliance with the Trust's information security policies.
- 24.5 The Provider shall only process such Personal Data as is necessary to perform its obligations under this Contract.
- 24.6 The Provider must provide training to its Staff in relation to data protection and will take all reasonable steps to ensure that its staff comply with the principles set out in the DPA at all times.
- 24.7 In addition, if the Provider is required to access or process Personal Data held by the Trust, the Provider shall keep all such Personal Data secure at all times and shall only process such data in accordance with written instructions received from the Trust.
- 24.8 The Provider shall not disclose, transfer or provide any third part with any personal data without the prior written consent of the Authorised Officer of the Trust
- 24.9 When transferring Personal Data to the Trust, the Provider must use all reasonable measures to ensure the security of such data, including the use of encryption.
- 24.10 The Provider will notify the Trust immediately, or as soon as reasonably practicable if there is loss or suspected loss or unlawful disclosure of Personal Data in relation to this Contract or of any breach of this clause 24.
- 24.11 The Provider shall indemnify the Trust and the Minister for Health, Social Services and Public Safety against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith made or brought by any person in respect of any loss, damage or distress caused to that person as a result of breach of the Provider's obligations under clause 24.
- 24.12 On termination of the Contract the Provider shall deal with the transfer of required Personal Data and retention of records in accordance with the written instruction from the Trust and current legal requirements.

24.13 The provisions of this clause 24 shall survive following termination of this Contract for any reason whatsoever and without limit in time.

25. RECORDS MANAGEMENT

25.1 The Provider shall at its own expense fully complete, update, maintain, store and dispose of records under the Contract to include but not limited to those regarding Residents, the Provider, its Staff and the Services in accordance with all applicable Law and Guidance including without limitation in accordance with 'Good Management Good Records (GMGR) Disposal Schedule' DHSSPS November 2011. The schedule can be accessed at the following link <http://www.dhsspsni.gov.uk/gmgr.hm>

25.2 Residents shall have access to their records in accordance with the DPA and where relevant FOI.

26. BRIBERY AND PREVENTATIVE MEASURES

26.1 The Provider warrants and undertakes to Trust that:

26.1.1 It will comply with applicable Laws, Regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Anti-Bribery Law");

26.1.2 It will have and operate an anti-bribery policy which is in accordance with the guidelines referred to in The Bribery Act 2010. Failure to do so may result in termination of this Contract;

26.1.3 It will procure that any person who performs or has performed the Services for or on its behalf ("Associated Person") in connection with this Contract complies with this clause 26;

26.1.4 It will not enter into any agreement with any Associated Person in connection with this Contract, unless such agreement contains undertakings on the same terms as contained in this clause 26; and

26.1.5 It has and will maintain in place effective accounting procedures and internal controls necessary to record all expenditure in connection with this Contract.

26.2 From time to time, at the reasonable request of Trust, it will confirm in writing that it has complied with its undertakings under clause 26 and will provide any Information reasonably requested by the Trust in support of such compliance.

26.3 It shall notify the Trust as soon as practicable of any breach of any of the undertakings contained within this clause 26 of which it becomes aware.

- 26.4 Failure to comply with any of the undertakings in this clause 26 shall be deemed to be a default of the Contract for the purpose of clause 9.
- 26.5 If the Provider is charged under The Bribery Act 2010 or any person employed by it or acting on its behalf is charged with any offence under the Bribery Act 2010, or shall have given any fee or reward to any officer of the Trust which shall have been exacted or accepted by such officer and is otherwise than such officer's proper remuneration, the Trust may terminate this Contract forthwith.
- 26.6 The Provider shall indemnify the Trust in full from and against any other loss sustained by the Trust in consequence of any breach of this clause 26, whether or not this Contract has been terminated.
- 26.7 The Provider warrants that it, or its Staff has not paid commission or agreed to pay commission to the Trust or any other public body or any person employed by or on behalf of the Trust or any other public body in connection with this Contract.

27. FORCE MAJEURE

- 27.1 The Parties to this contract shall not be in breach of this Contract, nor liable for any failure or delay in the performance of any obligations under this Contract arising from or attributable to acts, events, omissions or accidents beyond their reasonable control, and beyond such contingency plans including but not limited to any of the following:
- 27.1.1 Acts of God, including but not limited to fire, flood, earthquake, wind storm or other natural disaster;
 - 27.1.2 War, threat or preparation for war, armed conflict, imposition of sanctions, embargo, breaking of diplomatic relations or similar actions;
 - 27.1.3 Terrorist attack, civil war, civil commotion or riot;
 - 27.1.4 Nuclear, chemical, biological or radiological contamination or sonic boom;
 - 27.1.5 Fire or explosion
- 27.2 Any Party that is subject to any of the events set out in clause 27.1 above shall not be in breach of this Contract provided that it immediately notifies the other Party, using out-of-hours service where appropriate (contact numbers included in appendix 1), and follows up in writing the nature and extent of the event causing its failure or delay in performance. Nothing in this clause shall limit the obligations of the Provider to use its best endeavours to fulfil its obligations under this Contract.
- 27.3 If the event prevails for a continuous period of more than 4 months either Party may terminate this contract by giving 30 days written notice to the other Party. On the expiry of this notice period, this Contract will terminate. Such termination shall be without prejudice to the rights of the Parties in respect of any breach of this Contract occurring prior to such termination.

28. PUBLICITY

- 28.1 The Provider shall not advertise or publicly announce that it is supplying services or undertaking work for the Trust without the prior written consent of the Trust, such consent not to be unreasonably withheld or delayed. Any content and placement of advertisements or public notices to also be agreed with the Trust.

29. USE OF TRUST PURCHASE AGREEMENTS

Upon receiving a written request the Trust may allow the Provider to use Trust purchase agreements for goods or services. Should the Trust allow such use, the goods or services so purchased by the Provider must be used only for the performance of this Contract. The Trust retains the right to withdraw consent for the use of any agreement instantly at any time without giving any period of notice and without giving any reason. All information received by the Provider concerning Trust purchase agreements shall be held in absolute confidence.

30. DISPUTE RESOLUTION

- 30.1 In the event of any dispute arising between the Parties in connection with this Contract this may be raised in writing in the first instance with the Care Manager or Provider and both Parties will meet within 21 days with a view to resolving the dispute, negotiating in good faith.
- 30.2 If the dispute remains unresolved after the meeting as detailed in clause 30.1 a written request stating the specific issues under dispute may be raised with senior management of both Parties, who will meet within 21 days of receipt with a view to resolving the dispute, negotiating in good faith.
- 30.3 Should the dispute remain unresolved after the meeting as detailed in clause 30.2 either Party may give notice to the other that it wishes to attempt to resolve the dispute by mediation. If the parties do not agree on the identity of the mediator, where disputes or differences between the Parties relate to a financial or accounting issue, the Chairman for the time being of the Ulster Branch of the Institute of Chartered Accountants in Ireland should nominate a mediator. If the dispute or difference between the Parties relates to a legal issue, the President of the Law Society N.I. should nominate the mediator. The costs of the mediation shall be borne equally between the Parties and any agreement reached as a result of the mediation shall be binding on the parties.
- 30.4 The commencement of mediation pursuant to clause 30.3 above shall not prevent the Parties commencing or continuing court proceedings.

31. ENVIRONMENTAL CONSIDERATIONS

- 31.1 The Provider must comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services and Equipment.
- 31.2 The Provider must develop good working practices in relation to sustainability, recycling and disposal of waste.
- 31.3 The Provider must meet all reasonable requests by the Trust for information evidencing compliance by the Provider with the provisions of Clauses 31.1 and 31.2.

32. COMPTROLLER AND AUDITOR GENERAL AUDIT RIGHTS

- 32.1 The Provider shall keep secure and maintain until six years after the final payment of all sums due under this Contract, or such longer period as may be agreed between the Parties or as may be specified in line with GMGR, full and accurate records of the Services, all expenditure reimbursed by the Trust and all payments made by the Trust.
- 32.2 The Provider shall grant to the Trust or its authorised agents, including RQIA, any other Regulatory Body, internal and external auditors and NIAO, such access to those records in relation to the Contract as they may reasonably require.

33. MANDATORY EXCLUSION OF ECONOMIC OPERATORS

- 33.1 The Public Contracts Regulations and the Utilities Contracts Regulations 2006 require contracting authorities to exclude economic operators (suppliers, contractors and service Providers) from public contracts where they have actual knowledge that the economic operator has been convicted of offences as listed in Regulation 23(1). The Provider must inform the Trust if they have been charged or convicted of such offences or allegations relating to such offences have been raised against them.

34. LAW

- 34.1 The Parties submit to the exclusive jurisdiction of the Northern Ireland courts and agree that this Contract is to be governed and construed according to Northern Ireland law.

SPECIAL TERMS AND CONDITIONS OF CONTRACT AND SERVICE SPECIFICATION

SPECIAL TERMS AND CONDITIONS OF CONTRACT FOR RESIDENTIAL & NURSING HOMES

1. RANGE OF SERVICES COVERED BY THIS CONTRACT:

- Residential Home Care – Core Services in relation to residential accommodation, equipment, meals, support, supervision and personal care.
- Nursing Home Care – Core Services as set out above but with the addition of nursing care.
- In respect of individuals who are:
 - elderly
 - elderly and mentally infirm
 - physically disabled
 - learning disabled
 - under 65 years old and suffering from dementia
 - mentally ill
 - drug or alcohol dependent.

2. PROVIDER MUST BE REGISTERED

- 2.1 The Provider shall be registered with the Regulation and Quality Improvement Authority (RQIA) throughout the period of this Contract.

3. PROVIDER COMPLIANCE

(A) Nursing Home Providers shall comply with:

- The Nursing Homes Regulations (Northern Ireland) 2005, and
- Care Standards for Nursing Homes 2015 issued by DHSSPS, and
- Any subsequent and/or relevant legislation or DHSSPS guidance.

(B) Residential Home Providers shall comply with:

- The Residential Provider s Regulations (Northern Ireland) 2005, and
- Residential Care Home Minimum Standards 2011 issued by DHSSPS, and
- Any subsequent and/or relevant legislation or DHSSPS guidance.

(C) All Providers must comply with:

- The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (NI) 1997 (RIDDOR)
- DHSSPSNI health clearance requirements, including but not limited to Circular HSS (MD)14/2013 Guidance on health clearance for TB, Hep B, Hep C, HIV for new healthcare workers with direct clinical contact with patients.
- Any subsequent and/or relevant legislation or DHSSPS guidance.

4. COMPLIANCE WITH REGULATORY BODIES.

- 4.1 The Provider will comply with the Northern Ireland Social Care Council's Code of Conduct for Employers 2002.
- 4.2 The Provider will ensure that Staff working as nurses are registered with the Nursing and Midwifery Council and that the registration is valid.

5. WRITTEN AGREEMENTS FOR EACH RESIDENT

- 5.1 The Provider shall provide each Resident who is the subject of Care Management by the Trust with an individual written agreement ("Residency Agreement") which must be consistent with the terms and conditions of this Contract and the requirements of the Minimum Standards. If any difference or conflict arises between a Residency Agreement and this Contract relating to the Resident, this Contract will take precedence.

6. REFERRAL, ADMISSION, TRANSFER AND DISCHARGE ARRANGEMENTS

- 6.1 Admission, transfer and discharge to or from the Home shall be made via the Care Manager following a comprehensive assessment process.
- 6.2 The Provider shall ensure that Residents are placed appropriately in line with registered categories of care for the Home and in conjunction with the Care Manager's

assessment. Categories of care are listed under paragraph 1, above. The Trust will ensure that Care Managers follow appropriate guidelines in this regard.

- 6.3 In relation to waiting lists for places, the Provider will be expected to work closely with the Care Managers. The Provider will keep the Trust informed of place availability as it changes to aid the Trust in identifying available places to support client choice and aid care planning. The Trust and the Provider will work together to respond to the needs of prospective Residents in a timely manner. This will include facilitating admissions 7 days per week.
- 6.4 The Provider must, subject to the relevant Resident's permission, notify the Trust of new Private Residents within 7 days of admission to the Home in order that Care Management can be offered.
- 6.5 Emergency admissions must not be registered as permanent admissions. Emergency admissions outside working hours must be processed through the Trust's out-of-hours social work service or as otherwise advised by the Trust.
- 6.6 For admissions arranged by individuals other than Trust staff, no payment will be made by the Trust until a full needs assessment has been completed by Trust staff, confirming that placement in the Home is appropriate to meet the Resident's care needs. Payment will be back-dated to the date of admission if the Trust accepts placement and provided the Resident is entitled to care provided by the Trust.
- 6.7 The Provider will notify the relevant Care Manager and the relevant Trust finance department of the death of a Trust Funded Resident within one Working Day.
- 6.8 The Provider will notify the relevant Care Manager of any planned/unplanned absences from the Home whether temporary (for example hospital admission) or permanent in a timely manner and in any event within 2 Working Days.
- 6.9 In the event of a Resident's absence from the Home on a temporary basis for whatever reason, that Resident's place must not be occupied by another person.
- 6.10 In the case of planned admissions, the Trust and the Provider undertake to comply with the relevant DHSSPS minimum standards for admissions. It is recognised that it may not be possible to complete all the pre-admission processes for Residents who may be admitted in an emergency or for those who are admitted at short notice from hospital. For Residents who are admitted from hospital or at short notice, guidance issued by RQIA should be adhered to.
- 6.11 Where an existing Private Resident chooses to come under care management arrangements with the Trust any existing agreement between such Private Resident and the Provider shall be terminated in accordance with its terms and the Resident will be the subject of Care Management by the Trust from the date of referral to the Trust. The terms and conditions applicable to the Resident shall be those set out between the Trust

and the Provider as at the date of receipt of referral by the Trust. As this constitutes a new placement, all documents relevant to new placements should be provided.

- 6.12 If the Provider considers themselves to no longer be able to meet the needs of a Resident, they must inform the Trust as soon as possible to ensure that the interests of the Resident are fully considered when alternative accommodation is being sought. Until alternative accommodation is available, the Trust and the Provider will work together to ensure the needs of the Resident are met. Payment will cease on the date the Resident leaves the Provider.
- 6.13 In extreme cases where the behaviour of the Resident or any other circumstances relating to the Resident are materially detrimental to the safety and welfare of other Residents or the conduct of the Provider, the Provider will be entitled to terminate the placement by giving the Trust 48 hours written notice. The Trust and the Provider will work together in making interim arrangements to reduce any risk.

7. RISK ASSESSMENT AND CONTINGENCY ARRANGEMENTS

7.1 Providers shall have a Risk Assessment policy in place that includes:

- 7.1.1 Identification of risk and hazards in the delivery of the Services.
- 7.1.2 Identification of who might be harmed and how.
- 7.1.3 A method for evaluating the risks arising from the hazards and detailed methods of prevention.
- 7.1.4 A record of the Provider's findings and a review mechanism for policies, precautions and actions taken.

7.2 Contingency Arrangements:

- 7.2.1 The Provider shall have a robust emergency plan for response to major incidents and a business continuity plan ("Business Continuity Plan") to ensure that any disruption to delivery of the Services to the Residents in the event of a major incident is eliminated or minimised.
- 7.2.2 The Provider's Business Continuity Plan must detail:
- 7.2.2.1 The trigger points for initiating the plan;
- 7.2.2.2 Procedures and processes to be followed;
- 7.2.2.3 The roles and responsibilities of all Staff, business continuity manager(s) and officer(s);

- 7.2.2.4 Contact details of all Staff and other Parties with roles and responsibilities in the continuity of Service provision;
 - 7.2.2.5 Details of co-ordination plans and information sharing protocols with other Providers;
 - 7.2.2.6 Actions to be taken; and
 - 7.2.2.7 Processes to test plans and train Staff not less than once in every twelve Month period.
- 7.2.3 The Provider shall, if requested, provide the Trust with a copy of its Business Continuity Plan and other relevant documentation, such as a business impact analysis and/or risk assessments. Whilst the Trust may discuss improvements and remedial measures that may be made to the Business Continuity Plan the Trust does not accept any liability in respect of deficiencies within the policies and procedures adopted by the Provider in respect of business continuity management.
- 7.2.4 The Trust may require the Provider to undertake additional tests of the Business Continuity Plan in circumstances to include where there has been:
- 7.2.4.1 Substantial changes to the service;
 - 7.2.4.2 A change in underlying business processes; or
 - 7.2.4.3 An increased likelihood of an event happening which would necessitate the implementation of the Business Continuity Plan.
- 7.2.5 The Trust reserves the right to attend any Business Continuity Plan test undertaken by the Provider.

8. Adult Protection/Safeguarding

- 8.1 The Provider will ensure that it has adult protection/safeguarding procedures in place which incorporate guidance for the management of adult protection and safeguarding matters as referenced in the Regional Adult Protection Policy and Procedures Guidance, Sept 2006, DHSSPS "Safeguarding Vulnerable Adults" or any subsequent amendments or updates or replacement regional adult protection/safeguarding policies & procedures.
- 8.2 The Provider will ensure that Staff are informed of and abide by the "Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults" published by DHSSPS July 2009 or any subsequent amendments or updates or replacement protocol.

- 8.3 The Provider will provide appropriate adult safeguarding training for all Staff, relative to their role in the Home. The training should be consistent with the requirements as set out in the relevant Law and Guidance and will include information specific to the Provider's own procedures and will detail requirements in relation to internal and external reporting requirements. The Provider will be required to demonstrate that all Staff have received appropriate and up to date training in accordance with this clause 8.3.
- 8.4 The Provider will ensure that there are appropriate internal reporting and review arrangements in place to give assurance to the Trust with regard to compliance with the adult protection/ safeguarding procedures.
- 8.5 The Provider must ensure full disclosure of all adult protection/safeguarding allegations to the Trust including any possible allegations made against Staff or volunteers. Reports should initially be made by telephone to the Trust's Adult Protection Team on the telephone number detailed in Appendix 1. Outside of office hours telephone contact should be made with the Regional Emergency Social work Service on the telephone number detailed in Appendix 1. The telephone contact with the Trust should be made on the same day the incident / allegation occurred and should be followed up within 48 hours or earlier with a written report. Any future regional adult safeguarding referral template will be implemented by Provider to record incidents/allegations to the Trust.
- 8.7 The Provider is responsible for the safety and wellbeing of Residents placed by the Trust or care managed by the Trust. When concern is raised in relation to a vulnerable adult, the Provider must ensure the protection of the vulnerable adult and/or other vulnerable adults, and children, if applicable.
- 8.8 The Provider must co-operate fully with the Trust in relation to adult protection/safeguarding investigations including facilitating access to relevant documentation for all residents of the Home, sharing of appropriate information, attendance at adult protection meetings as required and ensuring that interim protection plans are in place.
- 8.9 Failure to comply with the requirements in relation to adult protection/safeguarding procedures will be a material breach of this Contract.

9. ADVERSE INCIDENTS AND SERIOUS ADVERSE INCIDENTS

- 9.1 From the 1st May 2010, and as set out in the HSCB Procedure for the Reporting & Follow up of Serious Adverse Incidents (October 2013) ("the SAI Procedure") Health and Social Care Organisations (including Trusts) have a requirement to routinely report Serious Adverse Incidents to the Health and Social Care Board (HSCB). Therefore, in accordance with this clause 9, the Provider is required to bring to the attention of the Trust's Corporate Governance Office any Serious Adverse Incident arising during the provision of the Services. Additionally, the Provider must report any incident which it is

required to notify to the Regulation Quality and Improvement Authority ("RQIA"), or the police.

- 9.2 The Trust must be informed within one Working Day and, in writing in the form of the documents contained at Appendix 2 of this Contact, not later than 48 hours after the occurrence of a Serious Adverse Incident in order for the Trust to notify the HSCB, and where appropriate RQIA, in accordance with the SAI Procedure.
- 9.3 In the event that a case conference is convened by the Trust as a result of a Serious Adverse Incident, the Provider will be required to send an appropriate representative to the case conference, produce information as required and provide such cooperation as is required to enable the Trust to comply with its obligations under the SAI Procedure.

10. COMPLAINTS

- 10.1 The Provider shall ensure that it has a complaints procedure in place which meets the requirements of Guidance on Complaints Handling in Regulated Establishments and Agencies issued by the DHSS&PS (Circular HSC (SQSD) 23/2009, the Minimum Standards and the HSC Complaints Procedure. The Provider's complaints procedure must be notified to all new and current Residents and their Representative. All Residents and their Representative must be provided with information on making a complaint. Such information must be both in the admission pack and on display in the Home. The Provider's Complaints Procedure must be shared with the Trust on request.
- 10.2 The Provider has responsibility to investigate and respond to complaints in the first instance in accordance with Guidance on Complaints Handling in Regulated Establishments and Agencies issued by the DHSS&PS (Circular HSC (SQSD) 23/2009. The Provider shall keep a record of complaints, the subsequent investigation and its outcome and any action taken as a result. This record must be submitted to the Trust no longer than 10 working days after the end of each Quarter for complaints closed in that period. (See Appendix 6)
- 10.3 Complaints of a serious nature, including those associated with alleged abuse, contraventions of employment legislation, accidents resulting in personal injury to staff or Residents, or theft must be notified immediately to the nominated Trust Corporate Governance Office/Quality Assurance Office and in any event in writing within one Working Day of the complaint being received.
- 10.4 Providers should ensure that their complaints procedure includes appropriate sign-posting to available advocacy services e.g. advice centres or the Patient and Resident Council and must ensure that their complaints procedure includes information on options if the complainant is dissatisfied with the Provider's investigation, i.e. approach the Trust and/or Ombudsman.

- 10.5 Providers shall review their complaints procedure on an annual basis and in this annual review shall include a review of the outcome of any complaints investigations during the preceding year to ensure that where necessary any changes to practice and procedure are implemented. This annual review must be available for inspection by Trust staff on request.
- 10.6 Where complaints have been received by the Trust or the Trust deems it necessary, the Trust will reserve the right to take any and all actions required to carry out the investigation, this may include:
- Access to all or some Residents records;
 - Access to all or some Staff records;
 - Access to all record or recording proforma's in all formats in pursuit of any audit trail;
 - Access to operational procedures;
 - Access to all parts of the Provider ; and,
 - Access to all Residents and where appropriate physical examination (with the Resident's consent).

The Trust Representative will discuss with the Provider any areas where the quality of service falls short of this Contract and where necessary give directions for improvement. In the case of the Provider and the Trust Representative failing to resolve the issues, the matter will be referred to the Trust's Senior Management who will address it under the terms of this Contract including, where appropriate, the Unsatisfactory Performance provisions contained at clause 8 of the General Terms and Conditions.

- 10.7 A report of all investigated complaints undertaken by the Trust relating to the Provider will be furnished to the Provider upon request.
- 10.8 The Provider shall ensure that it has a whistleblowing policy in place which is notified to all Staff and any issues raised must be adequately investigated and, where necessary, appropriate action taken. Details of all such issues raised must be recorded and provided to the Trust within 3 Working Days.
- 10.9 The Provider acknowledges that the Trust is authorised as a person to whom the Provider's Staff may make a qualifying disclosure under the Public Interest Disclosure (Northern Ireland) Order 1998 and declares that any of its Staff making a protected disclosure (as defined by the said Order) shall not be subjected to any detriment including dismissal for doing so and its Staff will be made aware of this provision. The Provider declares that any provision in any contract purporting to preclude a member of its Staff from making a protected disclosure is void.

11. OTHER ACTIVITIES IN THE HOME.

- 11.1 Facilities for day care or other activities not directly related to care of Residents should be organised and located so as not to interfere with the life-style of Residents.

12.0 MEALS AT EXTERNAL DAY CARE

- 12.1 The Provider is ultimately responsible for the provision of Resident's meals. Where Residents are receiving meals in day care facilities outside the Home, the Provider is to meet the Resident's contribution cost of these meals.

13. CLOSURE OF PROVIDER

- 13.1 In the event of the Provider ceasing to conduct business the appropriate guidelines as issued by RQIA should be adhered to. The Provider shall inform the Trust and RQIA at least three months in advance, or at the earliest possible stage, in the event of the possibility of sudden Provider closure. The Provider will support the Trust in any subsequent plans to facilitate the transfer of Residents and minimize disruption.
- 13.2 The Provider will comply with the relevant legislation and GMGR in relation to the retention of records relating to Residents. However, should the Provider close, copies of all records relevant to the retention period relating to Trust Funded Residents must be forwarded to the Trust.

14. CHANGE OF OWNERSHIP

- 14.1 If there is to be a change of ownership the Provider will inform the Trust immediately. The existing and new owners must work collaboratively to ensure the continuity of care in the Provider until such time as the new owner is registered with the Regulation and Quality Improvement Authority. The new owner will be bound by the terms and conditions of the existing owner and shall sign to that affect upon date of ownership.

15. FINANCIAL ARRANGEMENTS

15.1 Contract Price

- 15.1.1 The Contract Price per place per week which the Trust agrees to pay to the Provider is listed in Appendix 4

15.2 Invoicing/Payments

- 15.2.1 The Trust will produce a remittance advice on a monthly basis detailing Trust Funded Residents' names, status and amount paid to the Provider for that period. Payment will be made directly into the Provider's bank account via the BACS system on the third Friday of the month. The Provider will be responsible for checking that the Trust Funded Resident details/status shown on the remittance advice is correct. It will also ensure that the remittance advice is signed and returned to the Finance Department of the Trust within five working days confirming or highlighting any discrepancies in these details.
- 15.2.2 The Trust will include all new Trust Funded Residents on the remittance advice within one month of admission.
- 15.2.3 The Trust will ensure that any discrepancies regarding a Trust Funded Resident's details or status will be adjusted in the following month's payment.
- 15.2.4 If the Provider does not return signed remittances the Trust has the right to suspend payment.
- 15.2.5 When the Trust becomes aware that it has made a payment in error to the Provider or an overpayment has been made to the Provider by the Trust, the Trust shall identify the sum and such shall be payable by the Provider within 21 days of request and/or may be deducted by the Trust from any sum owing to or due to the Provider or which at any time may become payable to the Provider from any contract between the Trust and the Provider/ or any future contract between the Trust and the Provider.
- 15.2.6 The Provider shall inform the Trust as soon as it becomes aware of any payment for which the Trust/Resident has received no benefit.

15.3 Resident Contributions

- 15.3.1 The Trust shall pay the Contract Price (which for the avoidance of doubt shall include the Trust Funded Residents' contributions) unless agreed otherwise between the Trust, Resident and Provider.
- 15.3.2 However as permitted under Article 36(7) of the Health and Personal Social Services (Northern Ireland) Order 1972, (as amended by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991), the Resident may pay directly to the Provider his/her Resident's Contribution if it is agreed by the Trust, Resident and Provider. The Provider shall facilitate all Residents who wish to pay their Resident's Contribution in this

way. Where a Resident pays their Resident's Contribution in this manner, the Trust's payment to the Provider in respect of that Resident shall be the Contract Price less the Resident's Contribution ("the Trust Payment").

- 15.3.3 Where a Resident is paying their Resident Contribution to the Provider and defaults on payment, the relevant Trust finance department will take responsibility for the 4 weeks prior to receipt of notification. The Trust will pay the Contract Price to the Provider, until such time as the Resident resumes payment of the Resident Contribution. Thereafter payment by the Trust to the Provider will revert to the Trust Payment.
- 15.3.4 For the avoidance of doubt, a Resident who is a Private Funder who does not wish to avail of Care Management and/or any Trust contribution towards their care costs can agree any fees and payment arrangements directly with the Provider. In such cases, the Trust shall not be liable or responsible for any defaults on payment.

15.4 Retainer Fee

- 15.4.1 If a Resident is temporarily absent due to hospitalisation or some other reason from the Home, the Trust must be notified within two working days and followed up in writing. The Trust will undertake to fund the full cost per day for a period up to 28 days and thereafter 80% of the normal charge for a period as decided by the Care Manager. This also applies to temporary admissions. During the absence the Provider shall ensure that the Resident's room is kept available for them. The Provider should make all reasonable arrangements to facilitate the transfer of a Resident, who has had a period of hospitalisation, back to the Home on the day they are assessed as medically fit for discharge.
- 15.4.2 In the event of a Trust Funded Resident's death where the Trust agrees with the Provider that the room should not be immediately reallocated, the Trust will undertake to pay the full cost per day up to a maximum of 4 days (including day of death).
- 15.4.3 Where the Trust is only paying the HSC Contribution to Nursing Care, payment will be suspended for the duration of any period of absence where the period exceeds 7 consecutive days. For the avoidance of doubt, it should be noted that existing regulations require that such payments cease on the date of death.

15.5 Change of accommodation

- 15.5.1 The Provider shall be given 30 calendar days notice should a Resident or Resident's representative wish to move accommodation.
- 15.5.2 Should a Resident who is the subject of Care Management by the Trust move out of the Home before the expiry of the notice period of 30 days, any period remaining of the notice will only be paid up to a maximum of seven days upon confirmation by the relevant Care Manager that no further placement is made to the Provider during this period.
- 15.5.3 In the event that the assessed needs of a Resident who is the subject of Care Management by the Trust necessitate alternative placement the Trust will advise the Provider as soon as reasonably practicable. In such circumstances the Trust will only pay up to a maximum of 7 days by way of payment in lieu of notice.
- 15.5.4 The Trust will only pay upon written request furnished within 4 weeks of date of notice

15.6 Personal Allowance/Statutory Disregards'

- 15.6.1 The Personal Expenses Allowance ("PEA") and/or any disregarded monies of the Resident's total income shall not be included as part of the Resident's Contribution and must not be used to pay for Core Services. Payment in respect of any Additional Services shall be made from the PEA subject to agreement in advance between the Resident, the Provider and subject to the Provider complying at all times with all relevant Guidance, the Minimum Standards and DHSSPS Circular HSC (F) 08-2015 Safeguarding of Service Users' Finances within Residential and Nursing Homes and Supported Living Settings or as may be amended from time to time. The Provider will complete and return the proforma, Annex A of the DHSSPS Circular, issued by Trusts, in accordance with the instructions detailed on the proforma. The Trust will share significant issues identified within the Trust and with other Trusts Internal audit and RQIA. Failure to complete and return the proforma, or failure to implement adequate controls and procedures where these are deemed necessary by the Trust to confirm adherence to the Circular within a set timescale, will be deemed by the Trust to be Unsatisfactory Performance and will be actioned in line with Clause 8 of the General Terms and Conditions.

- 15.6.2 The same provisions shall equally apply to the payment and receipt of Mobility Allowance in respect of each Resident. This will not prevent the provision of a transport service to Residents, where there is agreement on the level and nature of any charges to be made in advance, and agreed with the Trust.
- 15.6.3 No disregarded Resident's income can be included as part of the Resident's Contribution
- 15.6.4 Upon the death of a Care Managed Resident any monies in a private patient account of the Resident must be notified to the Trust when reporting the death and cannot be accessed by any party except in accordance with the Law on administration of estates.

15.7 Resident's Income

- 15.7.1 The Provider shall have a procedure for assisting any Resident who requests to open savings or bank accounts in an establishment of the Resident's choice.
- 15.7.2 Any disputes regarding monies charged to Residents for Additional Services provided by the Provider shall be referred to the Resident's Representative and Care Manager. The Care Manager may take such action as is deemed appropriate in the circumstances.
- 15.7.3 The Provider will ensure that appropriate and clear procedures and written guidelines are in place to ensure that any monies held by a Resident in the Home are, if accessed, fully noted, signed and dated by the Resident or by their Appointee (unless the Provider is Appointee) with Enduring Power of Attorney (EPA) and at least two appropriate officers of the Provider with receipts provided and attached to the Residents records. Any purchase by or on behalf of the Resident or any monies taken from a Resident's account must be fully identified and authorised by the Resident/Appointee and the Provider's authorised officers.

Where any purchase by or on behalf of the Resident or any monies taken from a Residents account

- Does not form part of the agreed pattern of financial expenditure as detailed in the care plan, or
- Such may be payable to the Provider; or anyone associated with the Provider; or
- Where there may be a potential conflict such as where the Provider maybe Appointee; or
- The amount is over £100 within a monthly period.

This must be referred to the Care Manager before purchase or access to ensure that the Resident clearly understands and wants the purchase, or that if Appointee authorising that such is appropriate and reasonable for the Resident and their needs. All such procedures, guidelines and records relating to the operation of same in respect of each Resident will be made available on request to Trust authorised personnel to review and /or to any other departmental/health service agencies. The Provider will be responsible for any discrepancies, theft or loss.

15.7.4 The Providers will comply with the DHSSPS Circular HSS (F) 08-2015 Safeguarding of Service Users` Finances within Residential and Nursing Homes and Supported Living Settings, issued on the 13th January 2015, and the RQIA Report on Oversight of Service User's Finances in Residential & Supported Living Settings – June 2014 or as amended from time to time. The Provider must ensure that adequate financial controls and procedures are in operation to safeguard Residents' monies in relation to

- Authorisation.
- Procedures
- Clients' Agreements & Accounts
- Deposits and Income
- Withdrawals and Expenditure
- Monitoring
- Authorising Signatures
- General Security of Property Held
- All controls and procedures outlined in the proforma to the Circular HSS (F) 08-2015.

15.8 HPSS Contribution to Nursing Care

15.8.1 To discharge their duty in meeting the legislation in respect of the HPSS contribution towards the cost of care in nursing homes, Providers of care in nursing homes shall ensure that they discount the full financial benefit of any HPSS payment for nursing care in any fee payable by the Resident. Failure to do so will be viewed as a contravention of this Contract and may result in the placement being terminated.

15.9 Self Funders under Care Management

15.9.1 The Provider undertakes that it shall not charge a Self Funder a weekly rate for the Core Services that is different than the weekly rate applied to Trust-funded Residents as at the date of receipt of referral to the Provider.

15.10 Annual Fee Review

- 15.10.1 The Contract Price will be reviewed at the beginning of each financial year, or at such other times as are agreeable to all Parties. Where the need for a review is disputed, Clause 27 General Conditions shall apply. Where a Provider is unhappy with the outcome of the review, they should follow the processes outlined in Clause 27 General Conditions. Residents or Third Parties shall not be approached directly by the Provider for additional contribution, before, during or subsequent to any review as a result of disagreement between the Trust and the Provider, pending the completion of dispute resolution process.

15.11 Third Party Contributions

- 15.11.1 The Contract Price for Core Services to be provided to individual Residents shall be agreed between the Trust and the Provider at the time of the placement.
- 15.11.2 Where a Third Party agrees to fund a more expensive placement than the option offered by the Trust, the Third Party Contribution shall be agreed between the third party and the Trust and any contract relating thereto must be between the Trust and the Third Party unless agreed otherwise between the Trust, Third Party and the Provider.
- 15.11.3 Where a Third Party wishes to purchase Enhanced Services from the Provider these must be agreed at time of placement between the Trust, Third Party and Provider or subsequently between the Trust, Third Party and Provider.
- 15.11.4 The Provider shall not agree the introduction or increase of any Third Party contributions directly with the Resident or Third Party.
- 15.11.5 Should the Provider wish to introduce or increase any Third Party contribution a proposal setting out the basis shall be put forward in the first instance with the Trust and the Trust will refer this to the Third Party. At no time shall the Provider approach the Third Party or Resident direct without the agreement of the Trust.
- 15.11.6 Proposals to increase charges for Core Services subsequent to initial placement require negotiation with the Trust and must provide full detail as regards the basis of such before being implemented. Third Party Contributions for Core Services shall not be introduced or increased directly with Residents or Third Parties. Where agreement between the Provider and Trust is not achieved, then the dispute resolution provisions at Clause 27 General Conditions shall be implemented.
- 15.11.7 Where a defaulted payment of Third Party Contribution occurs, the Trust shall take responsibility for the 4 weeks prior to the date of notification to it by the Provider.

- 15.11.8 Where the Trust is asked to pay a defaulted Third Party contribution, a review of the Resident's placement will take place as soon as is reasonably practicable. The review may result in the placement being terminated.
- 15.11.9 Under no circumstances shall a Resident be required to use his own resources, including the PEA, to pay for a more expensive placement that the Trust is prepared to pay for.
- 15.12 For the avoidance of doubt, the provisions of Clause 30 General Conditions (Dispute Resolution) of this Agreement may apply to determine any dispute relating to the obligations of either Party pursuant to this Clause 15.

16.0 EQUIPMENT

- 16.1 The respective responsibilities of the Nursing Home and the Trust for the provision of equipment, including specialist equipment for individual Residents, are detailed in appendix 3.

16.2 Pressure Reducing and Relieving Mattresses in Nursing Homes

- 16.2.1 All mattresses in a nursing home should have pressure reducing or relieving qualities. It is expected the Provider should have in region of 25% of their mattresses in nursing home pressure relieving alternating mattresses.
- 16.2.2 Where the Provider meets the required levels of mattress provision and a Resident's assessed needs cannot be met within the Provider's current available stock, the Trust will provide an appropriate mattress on loan.

| | |
|-----------------------------|---|
| SIGNED ON BEHALF OF: | SIGNED ON BEHALF OF: NORTHERN HEALTH AND SOCIAL CARE TRUST |
| | |
| PRINT NAME | PRINT NAME |
| DESIGNATION | DESIGNATION |
| DATE | DATE |

| | |
|-----------------------------|-----------------------------|
| SIGNED ON BEHALF OF: | SIGNED ON BEHALF OF: |
| | |
| PRINT NAME | PRINT NAME |
| DESIGNATION | DESIGNATION |
| DATE | DATE |

APPENDICES

Trust Contact Names and Numbers

NORTHERN HEALTH AND SOCIAL CARE TRUST

Financial Assessment Staff

| Name | Address | Telephone Number |
|--------------------|---------|------------------|
| Mrs Isabel Selwood | | |

Contract Staff

| Name | Address | Telephone Number |
|-------------------|---------|------------------|
| Mrs Dawn Winsbury | | |

Out of Hours Contacts

| Name | Address | Telephone Number |
|------|---------|------------------|
| | | |

Incident Reporting

| Name | Address | Telephone Number |
|------|---------|------------------|
| | | |

Provider Responsible Person

| Name | Address | Telephone Number |
|-------------|----------------|-------------------------|
| | | |

SERIOUS ADVERSE INCIDENT DEFINITION AND CRITERIA

Section 1 – Serious Adverse Incident

Adverse Incident is defined as:-

‘Any event or circumstances that could have or did lead to harm, loss or damage to people, property, environment or reputation ‘ 1 arising during the course of the business of an HSC organisation / Special Agency or commissioned service.

The following criteria will determine whether or not an Adverse Incident constitutes a Serious Adverse Incident (SAI).

SAI criteria

- Serious injury to, or the unexpected/ unexplained death of:
 - A service user (including those events which would be reviewed through a significant audit event)
 - A staff member in the course of their work
 - A member of the public whilst visiting an HSC facility.
- Any death of a child in receipt of HSC services (up to eighteenth birthday). This includes hospital and community services, a looked after child or a child whose name is on the Child Protection Register;
- Unexpected serious risk to a service user and/or staff member and/or member of the public;
- Unexpected or significant threat to provide service and/or maintain business continuity;
- Serious self harm or serious assault (including homicide and sexual assaults)
 - On other service users
 - On staff or
 - On members of the public
 by a service user in the community who has a mental illness or disorder (as defined within the Mental Health (NI) Order 1986) and known to/referred to mental health and related services (includes CAMHS, psychiatry of old age or leaving and aftercare services) and or learning disability services, in the 12 months prior to the incident;
- suspected suicide of a service user who has a mental illness or disorder (as defined within the Mental Health (NI) Order 1986) and known to/referred to mental health and related services (includes CAMHS, psychiatry of old age or leaving and aftercare services) and or learning disability services, in the 12 months prior to the incident;
- serious incidents of public interest of concern relating to:
 - any of the criteria above
 - theft, fraud, information breaches or data losses
 - a member of HSC staff or independent practitioner.

IT SHOULD BE NOTED THAT ANY ADVERSE INCIDENT WHICH MEETS ONE OR MORE OF THE ABOVE CRITERIA SHOULD BE NOTIFIED TO THE TRUST.

¹ Source DHSSPS How to classify adverse incidents and risk guidance 2006
www.dhsspsni.gov.uk/ph/how_to_classify_adverse_incidents_and_risk_-_guidance.pdf

Section 2 - Reporting Incidents to RQIA

As required pursuant to its registration with RQIA, the Provider must report to RQIA any “notifiable events” following the guidance given on the RQIA website:

www.rqia.org.uk/what_we_do/registration_inspection_and_reviews/notifiable_events.cfm

**INDEPENDENT SECTOR
ADVERSE INCIDENT REPORT FORM**

To be completed following any Adverse Incident involving a Service User of
..... Health & Social Care Trust

| | |
|---|--------------------------|
| Provider Name | |
| Name of Service User | |
| DOB | |
| Male | <input type="checkbox"/> |
| Female | <input type="checkbox"/> |
| Care Manager | |
| Address (including post code) where incident occurred | |
| | |
| Exact location where incident occurred | |
| | |
| Date of Incident | |
| Time of Incident | |
| Brief, factual description of incident (including details of any equipment or medication involved) | |
| | |

| | |
|--|--|
| Nature of Injury Sustained | |
| | |
| Details of immediate action taken and treatment give (ie. First aid, GP, hospital admission etc) | |
| | |
| Persons notified including designation / relationship to Service User | |
| | |
| | |
| | |
| Name and designation of any witnesses | |
| | |
| | |
| | |
| Name and designation of any staff member or any other Service User(s) involved. If other Service User(s) involved please include DOB. | |
| | |
| | |
| | |
| Name of person reporting the incident | |
| Signature | |
| Designation | |
| Date reported | |

To be completed by Provider Senior Staff / Service Manager

| Actions taken to prevent recurrence | |
|--|--|
| | |
| Date Service User's risk assessment and care plan updated following this incident | |
| | |
| Other Comments | |
| | |
| Name | |
| Signature | |
| Designation | |
| Date | |

To be completed by Provider Senior Staff / Service Manager

| Actions taken to prevent recurrence | |
|--|--|
| | |
| Date Service User's risk assessment and care plan updated following this incident | |
| | |
| Other Comments | |
| | |
| Name | |
| Signature | |
| Designation | |
| Date | |

Equipment List for Nursing and Residential Home Providers

| Type of Equipment | Arrangements for Provision to <u>Nursing</u> Provider | Arrangements for Provision to <u>Residential Provider</u> | Comments |
|---|---|---|--|
| For administration of oral medicine e.g. measures, medication | Provider and supplying pharmacist | Provider and supplying pharmacist | |
| For administration of rectal medication e.g. gloves | Provider and GP | - | Standard for Nursing Provider |
| For administration of medication by injection | Provider and GP | - | Provider to hold supply for emergency use. GP to provide when an identified need. |
| Diabetic needles and syringes | GP | - | GP to provide when an identified need. |
| Standard syringe drivers & giving sets | Trust | - | Occasionally provided by voluntary organisations e.g. Marie Curie etc. |
| Medicines Fridge | Provider | Provider | Standard for Nursing Provider |
| Drip Stands | Provider | - | Standard for Nursing Provider |

| Diagnostic Equipment | | | |
|--|-------------------|---|---|
| Clinical thermometers, pencil torch, tape measure, tongue depressors, scales | Provider | - | Standard for Nursing Provider |
| Nursing Equipment | | | |
| Venepuncture | Provider/Trust/GP | - | |
| Vacutaine bottles for blood tests | Provider/Trust/GP | - | |
| Syringes and needles | Provider and GP | - | Provider to hold supply for routine use. GP to provide when an identified need. |
| Vac Therapy (TNP) for Wound Care | Trust/GP | - | Specialised wound closure. Equipment provided by consultant. (Consumables provided by GP. Device and rental from Trust. Disposables/consumables – dressings and vacuum canister from GP prescription) |
| Dressing trolley and clinical waste containers | Provider | - | Standard for Nursing Provider |

| | | | |
|--|-----------------|----|--|
| Dressing trays, sterile dressing packs, gauze swabs, sterile scissors, sterile absorbent dressings, sodium chloride 0.9% for irrigation, adhesive tapes and strapping, bandages. | Provider and GP | - | Standard for Nursing Provider. Provider to hold supply for emergency use. GP to provide when an identified need on a named patient basis. |
| Dressings for wound management. | GP | GP | GP to provide when need identified on individual patient prescription. |
| Nursing Procedures | | | |
| Routine nursing procedures e.g. testing urine, BP, BM (glucometer) equipment. | Provider and GP | - | Standard for Nursing Provider. GP to provide for individual assessed need. |
| | | | |
| Catheterisations | | | |
| For management of catheterisation e.g. bag, stand, packs, measuring jugs. | Provider/GP | GP | Standard for Nursing Provider. GP to provide when an identified need on a named patient basis. |
| Prescription for | GP | GP | |

| | | | |
|---|---------------------------|----------|-------------------------------------|
| catheters and bags. | | | |
| Help with Feeding | | | |
| PEG feeding pump. | Private Company and Trust | - | |
| PEG giving set and attachments. | Trust | - | |
| PEG feeding consumables inc. enteral syringes. | GP/Trust | - | |
| Equipment e.g. plate accessories. | Provider | Provider | |
| Range of feeding equipment. | Provider | Provider | |
| Gastrostomy Tube. | Trust | - | |
| Respiration | | | |
| For maintenance for respiration e.g. suction units. | Provider | - | Standard for Nursing Provider |
| Oxygen cylinders. | Provider and GP | - | Provider to hold for emergency use. |
| Oxygen administration consumables. | Provider and GP | - | Provider to hold for emergency use. |
| Simple nebulisers. | Provider | - | Standard for Nursing Provider |

| | | | |
|---|------------|-------------------|--|
| Resuscitation equipment (e.g. mouth to mouth). | Provider | - | Standard for Nursing Provider |
| Non-standard complex nebuliser and humidifiers (eg for ENT, CPAP BIPAP). | Trust | - | |
| Beds | | | |
| *A Nursing Provider is expected to have approximately 25% of their beds standard hospital/height adjustable and a further 25% standard electric profiling. If these stock levels are met and a Resident's assessed needs cannot be met within current available stock, the Trust will provide an appropriate bed on loan. | | | |
| General beds. | Provider | Provider | |
| Standard hospital beds – height adjustable | Provider * | Provider or Trust | By Trust to Residential Provider if assessed need. |
| Standard electric profiling. | Provider * | Provider or Trust | By Trust to Residential Provider if assessed need. |
| Non-standard beds e.g. for people with complex treatment and care needs e.g. Egerton | Trust | Trust | |
| Bed Attachments | | | |
| Range of back rests. | Provider | Provider | |
| Over bed trolley table | Provider | Provider | |
| Lifting pole. | Provider | Provider | |

| | | | |
|--|--|--------------------------|---|
| Bed rails | Provider or Trust | Provider or Trust | Provider responsible if they own bed. Trust responsible if providing bed. |
| Fall Out Mattresses | Provider or Trust | Provider or Trust | Trust to provide where part of a risk assessment and the Trust is providing the bed, and the Provider do not have a mattress available. |
| Patient Repositioning | | | |
| For moving and manual handling under Health & Safety at Work Act e.g. hoists, slings, transfer boards, glide sheets. | Provider | Provider | |
| Hoists: ceiling tracks | Trust when assessed need | Trust when assessed need | |
| Hoists: toileting | Provider | Provider | |
| Non-standard sling | Trust | Trust | |
| Standing turntable | Provider | Provider | |
| PREVENTION AND MANAGEMENT OF PRESSURE ULCERS | | | |
| Mattresses – Pressure Relieving | *See Residential & Nursing Provider Specification and Contract, Special Conditions section 16.2 | | |
| Pressure reducing foam | Provider* | Trust | Trust will provide to Residential |

| | | | |
|---|--|----------|--|
| mattresses. | | | Provider if assessed need. |
| Alternating pressure relieving mattress overlay. | Provider* | Trust | Trust will provide to Residential Provider if assessed need. |
| Alternating pressure relieving mattress replacement | Provider* | Trust | Trust will provide to Residential Provider if assessed need. |
| Cushions with stretch vapour permeable cover: | A Nursing Provider is expected to have a selection of pressure reducing static cushions and seating to meet their statement of purpose. | | |
| Foam for at risk/low risk. | Provider | Provider | |
| Foam/gel/visco elastic for medium/high risk treatment. | Provider | Trust | Trust will provide to Residential Provider if assessed need. |
| Alternating systems: electric alternating air cushions. | Provider | Trust | Trust will provide to Residential Provider if assessed need. |
| Electric alternating cushions for wheelchair. | Provider | Trust | Trust will provide to Residential Provider if assessed need. |

| | | | |
|---|----------|----------|-------------------------------|
| Seating | | | |
| Range of chairs and seating to include: riser chairs, recliner chairs, postural chairs, with varying heights, including a number with in-built pressure relief. | Provider | Provider | |
| Specialist Seating for Postural Management | | | |
| According to assessed need as a complex seating solution. | Trust | Trust | |
| Mobility Equipment | | | |
| According to individual assessed need. | Trust | Trust | |
| Portering Equipment – Wheelchairs | | | |
| | Provider | Provider | |
| Wheelchairs – Individual Assessed Need | | | |
| Attendant controlled or self propelled wheelchairs, standard transit chairs and wheelchair cushion. | Trust | Trust | |
| Powered wheelchairs. | Trust | Trust | As part of a needs assessment |

| | | | |
|---|----------|----------|---|
| Wheelchair accessories | Trust | Trust | |
| Bathing Equipment | | | |
| Range for bath seats. | Provider | Provider | |
| Range of bath boards. | Provider | Provider | |
| Electric/manual bath lift. | Provider | Provider | |
| Basic shower chairs. | Provider | Provider | |
| Basic shower stools. | Provider | Provider | |
| Specialist shower chair | Trust | Trust | As individually prescribed for complex need |
| Toileting | | | |
| Fracture pan (bed pan). | Provider | Provider | |
| Range of commodes: standard. | Provider | Provider | |
| Toilet seats: standard raised 2", 4", 6". | Provider | Provider | |
| Urinals/bottles. | Provider | Provider | |
| Urinals/bottles: non-return valves. | Provider | Provider | |
| Contenance pads. | Provider | Trust | |
| Commodes: bespoke | Trust | Trust | |

| Catheterisation | | | |
|---|-------------|----------|--|
| For management of catheterisation e.g. bag, stand, packs, measuring jugs. | Provider/GP | GP | |
| Prescription for catheters and bags. | GP | GP | |
| Bariatric (weight over 28 stone or BMI>40) – Bariatric equipment according to assessed need | | | |
| Commode. | Trust | Trust | |
| Bed. | Trust | Trust | |
| Hoists/Slings. | Trust | Trust | |
| Mattress | Trust | Trust | |
| Miscellaneous | | | |
| Alarm Mats. | Provider | Provider | |

In some instances items or equipment may be purchased by Residents or their family. If a family wishes to purchase any piece of equipment they should be assisted by a competent practitioner within an evaluated range of products. Assistance provided will not include financial assistance.

Contract Fees

| 2015/16 | Residential Per Week | Nursing Per Week |
|----------------------------|-----------------------------|-------------------------|
| Elderly | | |
| Physical Disability | | |
| Mental Health | | |
| Learning Disability | | |

For Issue from the «Trust_Name_in_full» to «Provider»

[ON THE HEADED PAPER OF THE «Trust_ID»

[Covering letter to be issued with this Notice]

PERFORMANCE NOTICE

Reference:

[Insert the date reference (Year Month Day) add .1 or .2 etc. if more than one issued on the same day]

This Performance Notice dated [insert date] is issued by the «Trust_ID» (“the Trust”) to «Provider» (the “Provider”) under clause 8.1.2 (Unsatisfactory Performance) of the General Terms and Conditions of Contract between the Provider and the Trust_.

This Performance Notice is being issued because:

Detail:

- the exact reasons for the Notice in accordance with Clause 8.1.2;
- refer to any previous Performance Notice;
- reference the information / source documentation / report(s) used to make the decision to issue the Performance Notice;
- the time period within which Provider is required to resolve the performance deficiency (not more than 3 months).

The Trust_ considers that the above demonstrates a failure by the Provider to meet the requirements of the Contract.

The Provider is reminded that under Clause 8.1.2 of the Contract, failure to rectify the performance to which this Notice relates within the time period specified in this Performance Notice, may result in the activation of clause 8.1.2 (penalties for non compliance).

Complaints Report for <Enter Residential/Nursing Home Name>

Return Quarter Ending: <Enter Date:>

Officer Completing Return: <Enter Name>

| Ref No: | Placement (2) | Date complaint Received | Date Response Issued | Identify nature of Complainant (5) | Subject of Complaint | Summary of Investigation | Brief overview of Actions Taken/Lessons Learned |
|---------|---------------|-------------------------|----------------------|------------------------------------|----------------------|--------------------------|---|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

Include only complaints 'Closed' within the Quarter returned

2. Identify placing Trust, (BHSCT;NHSCT;SEHSCT;SHSCT;WHST) Authority outside NI; Self Funding; Other

5. Identify nature of complainant, Eg: Staff;public; family; resident

This proforma is to be returned, via e-mailed, within 10 days of the end of each quarter to ...