



**AGREEMENT
FOR THE PROVISION
OF DOMICILIARY CARE SERVICES**

Between

BUCKINGHAMSHIRE COUNTY COUNCIL ADULT SOCIAL CARE

And

BUCKINGHAMSHIRE COUNTY COUNCIL ADULT SOCIAL CARE AGREEMENT FOR THE PROVISION OF DOMICILARY CARE SERVICES

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Conditions

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AGREEMENT FOR THE PROVISION OF DOMICILIARY CARE SERVICES

INTRODUCTION

1. Buckinghamshire County Council invites you to submit a proposal for Domiciliary Care Services.

PREPARING YOUR PROPOSAL

2. If you are unclear about any part of this document, please contact the Contracts Team (Tel. 01296 383147)
3. The Form of Offer, Declaration and Price Schedule must be signed by a person or persons authorised to do so by the individual or organisation submitting a proposal.
4. **The Insurance Certificate must be completed by your insurance company or broker and NOT by the applicant.** Copies of insurance policies are not required.

SUBMITTING YOUR PROPOSAL

5. Please complete and sign the documents and **return one complete set of this Agreement** and the following in support of your proposal:
 - a) A copy of your most recent Care Quality Commission (CQC) Inspection Report and current CQC Certificate of Registration (CQC formerly known as the Commission for Social Care Inspection.)
 - b) The Insurance Cover Form (Pages 11 & 12), completed by **your insurance company or broker.**
 - c) A copy of any available publicity material about your service.
6. Please send the above to:

**Commissioning and Service Improvement
Buckinghamshire County Council
Adult Social Care
Contracts Team
11th Floor
New County Offices, Walton Street
AYLESBURY
Buckinghamshire
HP20 1YU**

7. The second copy of the Agreement is for your retention.

AGREEMENT FOR THE PROVISION OF DOMICILARY CARE SERVICES

FORM OF OFFER

For (Organisation)

To Buckinghamshire County Council

I/We

of:

hereby agree that upon the Council placing a Service User for care with me/us, to provide the Services in accordance with all the provisions, terms and conditions of the Agreement.

This Offer is open for acceptance by the Council for a period of 90 days from the date of given below.

DATED THIS

DAY OF

20

Signed:.....

Name and capacity (in capitals please):

.....

Company

Address.....

.....

.....

.....

(and Registered Office if different)

.....

.....

Telephone No:..... Fax No:..... Email:.....

DECLARATION

Please complete and sign the declaration below:

1. Have you ever provided a service for Buckinghamshire County Council?

Yes/No

If yes, please provide details:

.....

.....

.....

.....

2. Have your services ever been suspended from providing care by your local authority or any other authority?

Yes/No

If yes, please give details:

.....

.....

.....

.....

To the best of my knowledge, all the information above is accurate and correct.

Signed:.....

On behalf of:

Name and capacity:

Date:

PROVIDER DETAILS

Section No. 4

Registration Details

Please complete the following as appropriate to the type of care being offered:

Name and Address of organisation referred to in the Price Schedule:

.....
.....
.....

Telephone No: Fax No:.....

Email address:

Contact person (for purchasing care):

Date of Registration.....

Registration Categories.....

.....
.....

Are you an approved/accredited provider of services by your local authority
(please state the full name of your local authority and, if possible a contact
person):

.....
.....
.....

Services Provided**Section No. 5**

Please indicate which of the following services are to be provided:

<input type="checkbox"/>	Residential Older People (over 65)	<input type="checkbox"/>	Adults (18-65)	<input type="checkbox"/>	Nursing Older People
<input type="checkbox"/>	Elderly Mentally Infirm (EMI) (Note this service can only be offered subject to the agreement of the CQC)			<input type="checkbox"/>	Nursing (18 – 65)

Service User Groups**Section No. 6**

Please indicate the service user groups for whom services are to be provided:

<input type="checkbox"/>	Elderly	<input type="checkbox"/>	Physical Disability	<input type="checkbox"/>	Alcohol/Drug Dependency
<input type="checkbox"/>	Learning Disability	<input type="checkbox"/>	Mental Health	<input type="checkbox"/>	Other (please specify below)

.....

Status**Section No. 7**

Please indicate the status of your service:

<input type="checkbox"/>	Charity	<input type="checkbox"/>	Public Limited Company		
<input type="checkbox"/>	Private Company	<input type="checkbox"/>	Voluntary	<input type="checkbox"/>	Other (please specify below)

PRICE SCHEDULE

Section No. 8

1. During the period of this Agreement prices for the care of existing Service Users may be reviewed in accordance with Clause 13 (Financial Matters) so that any new prices shall be effective from 1 April of each year.
2. For all new Service Users, the fees will be agreed at the time of the placement
3. The Council does not undertake to make any placement or to guarantee the number of placements it will make with the Provider but any placements that are made will be in accordance with the terms, Conditions, specifications and standards contained in this Agreement. Providers are not obliged to accept particular Service Users. A Purchase Order (PO) will be placed by the Council for each Service User placed with the Provider setting out the fees and funding details.
4. The Provider will be required to provide a comprehensive breakdown of the costs for the Service to be delivered for the stated fee.
5. Actual fees should be quoted
6. All costs will include travel time and mileage.
7. Any visit longer than 1 hour will be pro-rated to the hourly cost.

	15 Minute Visit	30 Minute Visit	45 Minute Visit	1 Hour Visit
Weekday 7am – 7pm	£	£	£	£
Weeknight 7pm – 7am	£	£	£	£
Weekend Day 7am – 7pm	£	£	£	£
Weekend Night 7pm – 7am	£	£	£	£
Bank Holiday Day 7am – 7pm	£	£	£	£
Bank Holiday Night 7pm – 7am	£	£	£	£

Name of Provider:

Date:

.....

.....

Authorised Signature:

Capacity:

.....

.....

FOR ADULT SOCIAL CARE USE ONLY

Approved for services:

Signed:

Date:

.....

.....

(Contracts Officer)

AGREEMENT FOR THE PROVISION OF DOMICILIARY CARE SERVICES

INSURANCE COVER

****NB: THIS FORM MUST BE COMPLETED BY AN INSURANCE COMPANY OR BROKER, not by the applicant.**

I/We hereby certify

1. that the under mentioned insurance policies are held by

Name of Insured

Address

Employer Liability Policy No:

*with.....

Public Liability Policy No:

*with.....

2. That the Public Liability policies contain a **Principal's Condition** which will indemnify the Council in respect of the Insured's negligence giving rise to claims in respect of the provision of the services under the contract with the Council.

Please tick

3. That the indemnity provided by the Public Liability Policy is not less than £10,000,000, for any one claim with an unlimited number of claims in any one period of insurance.

Please tick

4. That the indemnity provided by the Employers Liability Policy is not less than £10,000,000, for any one claim with an unlimited number of claims in any one period of insurance.

Please tick

5.. That policy premiums have been paid and the policies are in force until:

Employers. Liability

Public Liability

Signed:.....

For and on behalf of.....

Address.....

.....

Date.....

* Name of Insurance Company to be inserted by Insurance Broker.

AGREEMENT FOR THE PROVISION OF DOMICILARY CARE SERVICES
Section No. 10

CONDITIONS

1. DEFINITIONS

In this Agreement the following expressions shall, unless the context requires otherwise, have meanings as follows:

- 1.1 "Absence" means any break in the provision of Services for a period of 24 hours or more whether of a temporary or permanent nature and including hospitalisation or the death of a Service User.
- 1.2 "Act" meaning an Act of parliament.
- 1.3 "Agreement" means this Agreement entered into between the Council and the Provider and comprising of the Agreement Documents.
- 1.4 "Agreement Documents" means the enclosed documents entitled:
 - a) Introduction
 - b) Form of Offer
 - c) Declaration
 - d) Provider Details
 - e) Services Provided
 - f) Service User Groups
 - g) Status
 - h) Price Schedule
 - i) Insurance Cover
 - j) Conditions
- 1.5 "Agreement Manager" means the person appointed by the Provider as his authorised representative in accordance with Condition 2.2 (Provider's Obligations) to act on behalf of the Provider for all purposes in connection with this Agreement.
- 1.6 "Agreement Period" means the period from the Commencement Date defined in Condition 6 (Agreement Period).
- 1.7 "Approved/Accredited" means a process by which the Provider's host authority has agreed the stability of the Provider's Establishment to provide residential care.
- 1.8 "Assessment" means a review of a Service User's needs to facilitate services to be arranged to meet the identified needs.
- 1.9 "Breach" means when either Party fails to comply with their obligations/responsibilities under this Agreement.
- 1.10 "Business Continuity Plan" means a plan that guards against business disruption in case of unforeseen events.
- 1.11 "Purchase Order" or "PO" means a formal order placed by the Council's Designated Officer with the Provider for the supply of Services (formerly known as the Care Service Order)

- 1.12 "Commencement Date" means the date given in any formal letter of acceptance from the Council to the Provider.
- 1.13 "Care Quality Commission" or "CQC" registers, inspects and reports on social care services in England (formerly known as the Commission for Social Care Inspection.)
- 1.14 "Conditions" means these Conditions of Agreement and any reference herein to "Condition" shall mean one of these Conditions or part of one of these Conditions.
- 1.15 "Council" means Buckinghamshire County Council.
- 1.16 "Default Notice" means a notice that sets out the nature of the Breach committed and the actions and timescales required to rectify the Breach.
- 1.17 "Officer" means the appointed representative of the Council's Head of Adult Social Care authorised to manage and administer this Agreement.
- 1.18 "Directive" meaning a legislative Directive of the European Union.
- 1.19 "Establishment" means the place, or places, where the Services are to be performed by the Provider or where documents or records are held or stored by or on behalf of the Provider in connection with the provision of the Services.
- 1.20 "Exchequer Team" means the team responsible for the payment of residential, nursing and domiciliary care services.
- 1.21 "Fundamental Breach" means a Breach, which seriously affects the welfare of the Service Users and/or the basis of this Agreement.
- 1.22 "NMS" means the National Minimum Standards as set by the CQC for the provision of residential care for adults or older people as applicable.
- 1.23 "Party" means Buckinghamshire County Council and the Provider.
- 1.24 "Persistent Breach" means when either Party commits more than 3 Breaches in the same 3 month period.
- 1.25 "Personal Benefits Allowance" means a Service User's personal allowance to cover the cost of all personal items not covered by the care package.
- 1.26 "Provider" means the person, firm or company whose proposal has been accepted for the performance of Services under this Agreement.
- 1.27 "Regulation" meaning a regulation of either parliament or European Union.
- 1.28 "Services" means the whole of the Services to be performed including all work to be carried out and all incidental or ancillary matter in connection therewith and including any equipment or materials to be supplied by the Provider in accordance with the terms, Conditions, specifications and standards contained in this Agreement.
- 1.29 "Residential and Nursing Care Payment Schedule" means a schedule identifying each Service User for a service, or part of a service.
- 1.30 "Service User" means a person placed for care with a Provider by the Council.

- 1.31 "The Independent Safeguarding Authority" means a non-departmental public body whose role it is to help prevent unsuitable people from working with children and vulnerable adults.
- 1.32 "Trial Period" means up to the first eight weeks of a Service User's period of stay.
- 1.33 "Working Day" means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London.
- 1.34 In this Agreement the masculine includes the feminine and the singular includes the plural.
- 1.35 Where any inconsistencies exist these Conditions shall prevail and override any terms printed on notepaper, invoices, delivery notes and any further documentation which may at any time be submitted to the Council by the Provider.

Communications

- 1.36 It will be presumed that any communication sent by 1st class post, telex, electronic mail, fax or the internet to the Agreement Manager at the Provider's address as given in this Agreement will be received by the second business day after the date of posting or sending, unless there is proof to the contrary.
- 1.37 Condition 1.33 shall apply to any communication sent to the Council. These shall be addressed to the Head of Adult Social Care, County Hall, AYLESBURY, Buckinghamshire, HP20 1YA.

2. PROVIDER'S OBLIGATIONS

- 2.1 During the Agreement Period the Provider shall deliver the Services in a proper skilful and careful manner to the National Minimum Standards in accordance with these Conditions and the Purchase Order (PO.)
- 2.2 The Provider shall appoint an Agreement Manager empowered to act as his authorised representative for all purposes connected with this Agreement and shall notify the Designated Officer in writing of the name address and telephone number of the Agreement Manager and of any future change to these details.
- 2.3 The Provider shall not require the Service User or their representative to sign or comply with any alternative Conditions or contracts or to sign any supplementary funding arrangement for the Services or similar services.
- 2.4 The Council shall not accept any liability whatsoever for any Services provided in the manner referred to in the above Condition 2.3.

- 2.5 The Provider shall notify the Council within 28 days of receiving notice of any investigations being undertaken by the CQC relating to the Establishment from which the Services are provided.
- 2.6 The Provider shall notify the Council within 28 days if the Establishment is located outside of Buckinghamshire and any contract arrangement with the local authority has been suspended or withdrawn or if they are removed from the Approved/Accredited list of their local authority.

3. CRIMINAL RECORDS BUREAU CHECKS

- 3.1 Where by reason of the nature of the provision of Goods and Services employees of the Provider may be exempt from the provision of Section 4(2) of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975, the Provider shall ensure that all employees engaged in provision of the Services provide information in accordance with the said Act and Order about convictions which for other purposes are 'spent' under the provisions of the said Act, and the Provider will be required to arrange at his/her own expense the checking of the information through the Criminal Records Bureau, PO Box 110, Liverpool L3 6ZZ (0870 90 90 811) and the Provider shall disclose as appropriate all convictions of his/her employees under the Contract who may contravene the regulations concerning working at sites with 'vulnerable children and adults' and the Council may require such employees to be removed from the provision of the Services.
- 3.2 The Provider must ensure that his/her employees agree for their Criminal Records Bureau return to be seen on request by a Designated Officer of the Council when monitoring the Provider's Criminal Records Disclosure process.
- 3.3 The employment of personnel by the Provider to provide Care on behalf of the Council is conditional upon satisfactory Criminal Record Bureau disclosure at enhanced level and that it is the responsibility of the Provider to ensure that this is carried out. Failure to do so will lead to a breach of the Contract.
- 3.4 With effect from 12 October 2009, the Provider will have the responsibility to ensure all individuals, including volunteers, are registered with The Independent Safeguarding Authority (ISA) and any associated costs are met by the Provider rather than the Council.

4. ANTI-DISCRIMINATION AND THE PROMOTION OF EQUAL OPPORTUNITIES FOR EMPLOYEES AND SERVICE USES

4.1 The Provider shall comply with a request by the Council that any officer, employee, agent or sub-contractor of the Provider who is performing the Services should cease to do so. The Council shall give reasons to the Provider for its request. The Council shall not be obliged to compensate the Provider for any losses or additional costs which the Provider suffers as a result of complying with the Council's request save where the Council as acted unreasonably in making the request.

4.2 The Provider shall not perform any Act which constitutes unlawful discrimination, directly or indirectly, within the meaning and scope of any law, enactment, order, or Regulation relating to discrimination, against any person on grounds of race, ethnicity, gender including transgender, age, faith and belief, disability, sexual orientation, culture or otherwise. The Provider is expected to carry out all its function with demonstrable respect for equalities and human rights and promotion of equal opportunities and fairness for all.

All services provided under this Agreement comply with all relevant law including (without limitation) all Acts, statutes, Directives, Regulations, orders, codes of practice and best practice guidance (as amended from time to time) related to human rights, equality and anti-discrimination both in regards to employment and in the service delivery.

4.3 Where in connection with this Agreement the Provider, its employees, agents or subcontractors are required to carry out work on the Council's premises or alongside the Council's employees on any other premises, the Provider shall comply with the Council's own Employment Policy and Codes of Practice relating to anti-discrimination and equal opportunities.

4.4 The Council shall provide to the Provider a copy of the Employment Policy and Codes of Practice and provide training, if so requested by the Provider.

4.5 Where the Provider commits a Breach of Condition 4.2, Condition 17 (Termination) shall apply.

4.6 The Provider shall notify the Council forthwith in writing as soon as it becomes aware of any investigation of or proceedings brought against the Provider under Condition 4.2.

4.7 Where any investigation is undertaken by a person or body empowered to conduct such investigation and/or proceedings are instituted in connection with any matter relating to the Provider's performance of this Agreement being in contravention of Condition 4.2, the Provider shall, free of charge:

4.7.1 provide any information requested in the timescale allotted;

4.7.2 attend any meetings as required and permit its employees to attend;

- 4.7.3 promptly allow access to and investigation of any documents or data deemed to be relevant;
 - 4.7.4 allow itself and any of its employees to appear as witness in any ensuing proceedings; and
 - 4.7.5 cooperate fully and promptly in every way required by the person or body conducting such investigation during the course of that investigation.
- 4.8 Where any investigation is conducted or proceedings are brought under Condition 4.2 which arise directly or indirectly out of any act or omission of the Provider, its employees, agents or subcontractors, and where there is a finding against the Provider in such investigation or proceedings, the Provider shall indemnify the Council with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Council may have been ordered or required to pay to a third party.
- 4.9 In the event that the Provider enters into any subcontract in connection with this Agreement, it shall impose obligations on its subcontractors in terms substantially similar to those imposed on it pursuant to this Condition 4 and Condition 12 (Assignment and Sub-Contracting).

5. DATA PROTECTION ACT

- 5.1 For the purposes of this clause the terms “Data Controller”, “Data Processor”, “Data Subject”, “Personal Data”, “Process” and “Processing” have the meanings prescribed under the Data Protection Act (DPA).
- 5.2 The Provider complies (and ensures that all its employees comply) with any notification requirements under the DPA and both Parties observe their obligations under the DPA which arise in connection with the Agreement.
- 5.3 Notwithstanding the general obligation in clause 5.2, where the Provider is processing Personal Data as a Data Processor for the Council, the Provider shall:
- 5.3.1 process the Personal Data only in accordance with instructions from the Council (which may be specific instructions or instructions of a general nature);
 - 5.3.2 comply with all applicable statutory provisions;
 - 5.3.3 process the Personal Data only to the extent, and in such manner as is, necessary for the provision of the Provider’s obligations under the Agreement or as required by any statutory provision or any regulatory body;

- 5.3.4 implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures are appropriate to the harm which may result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data, having regard to the nature of the Personal Data which is to be protected;
- 5.3.5 take reasonable steps to ensure the reliability of its employees and agents who may have access to the Personal Data;
- 5.3.6 obtain prior written consent from a strategic director or head of service of the Council in order to transfer the Personal Data to any Subcontractor for the provision of the Services;
- 5.3.7 not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior consent of the Council;
- 5.3.8 ensure that all employees and agents required to access the Personal data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause;
- 5.3.9 ensure that none of the employees and agents publish, disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by the Council;
- 5.3.10 not to disclose Personal Data to any third parties in any circumstances other than with the written consent of the Council or in compliance with a legal obligation imposed on the Council;
- 5.3.11 notify the Council (within 7 days) if it receives:
- a request from a Data Subject to have access to that person's Personal Data; or
 - a complaint or request relating to the Council's obligations under the DPA; and
- 5.3.12 notify the Council of any breach or potential breach of the DPA including the loss of personal information relating to this Agreement.
- 5.4 The provisions of this clause shall apply both during and after the Agreement Period

6. AGREEMENT PERIOD

- 6.1 This Agreement shall continue in force for the period any Service User receives Services in accordance with this Agreement or for a period of 6 months after the termination of any Services under this Agreement or until this Agreement is terminated in accordance with Condition 17 (Termination).

7. PURCHASE ORDER

- 7.1 All and any Services undertaken by the Provider under this Agreement shall be subject to and documented by a Purchase Order (PO) issued by the Designated Officer.
- 7.2 The completed fee schedule signed by the Provider and the PO signed by the Council shall form the basis of a contract between the Parties subject to the terms and Conditions, specifications and standards contained in this Agreement and subject to the prices detailed in the PO as may be amended from time to time in accordance with this Agreement.
- 7.3 In the case of an emergency admission the Provider may accept a Service User before a PO has been completed and accepted by the Provider. In such cases the placement shall be deemed to have been made in accordance with the terms, Conditions, specifications and standards contained in this Agreement or any variation thereof agreed in writing between the Parties and a PO shall be completed as confirmation by the Parties as soon as it is reasonably practicable.
- 7.4 Cancellation of POs two weeks or more before the agreed date of placement shall be at no cost to the Council.
- 7.5 Where the cancellation of a PO occurs less than two weeks before the date of placement then the Council shall pay for the loss of income to the Provider provided that the Provider can reasonably demonstrate such loss and the maximum payment will be no more than the Provider's agreed charge for a two week placement.

8. VARIATIONS TO SERVICES

- 8.1 Variations to the Services may be agreed with the Provider PROVIDED that any financial adjustment to the fee is agreed and confirmed in writing by the Designated Officer.
- 8.2 Any variation must be agreed and signed by the Parties before implementation.

9. QUALITY AND CONFORMANCE TO STANDARD

- 9.1 The Services shall conform, as a minimum as to quality and description to the particulars specified by CQC, or any subsequent standards, which may be in force at a particular point in time, and the PO.
- 9.2 Where in the opinion of the Council, the Service fails to comply to the minimum quality and description specified by CQC, or any subsequent standards, which may be in force at a particular time, and the PO, the Council will be entitled to reasonably withhold any new business.
- 9.3 The Provider shall ensure that the Services provided shall comply in all respects with all legal and statutory requirements that may be relevant to the Services provided at any point in time.
- 9.4 The Provider shall at all times during the Agreement Period allow the Designated Officer and/or such persons as may reasonably be nominated by the Designated Officer reasonable access to all Establishments to discuss monitor and review the provision of the Services including viewing records and documents directly relating to the care of a Service User ensuring appropriate confidentiality.
- 9.5 The Provider shall in the performance of their obligations under this Agreement ensure that any relevant Business Continuity Plans are in place and followed accordingly. The Designated Officer and/or such persons as may reasonably be nominated by the Designated Officer, have reasonable access to view any documents.

Complaints in respect of Provision of Services

- 9.6 The Provider shall in accordance with CQC establish a procedure for dealing with any complaints about the provision of the Services.
- 9.7 The Provider shall at the earliest opportunity inform the Designated Officer of any potentially or actually serious complaints. If this procedure is not adhered to then it will be considered that a Breach has taken place.

10. DEFAULT

- 10.1 If either Party commits a Breach then the Party will be entitled to serve on the Party who committed the Breach a Default Notice. This will be without prejudice to any other right or remedy which may be available to the Parties, either under this Agreement or at law.

- 10.2 If the Default Notice relates to a Breach which can be put right then on receiving such a Default Notice, the Party who committed the Breach will take the action specified in the Default Notice, within the timescale set out, at their own cost.
- 10.3 If there is any disagreement between the Parties as to whether a Breach has occurred and/or about the action required to be taken and/or the timescale within which the action is to be taken, then either of the Parties can refer the matter for resolution, in accordance with Condition 17 (Termination) or Condition 18 (Dispute).

11. POWER TO PURCHASE IN DEFAULT

- 11.1 If the Provider fails to provide all or part of the Services in accordance with the terms and Conditions, specifications and standards contained in this Agreement the Designated Officer may give not less than four weeks' notice to the Provider within which to remedy the failure unless in the reasonable opinion of the Designated Officer the failure to provide Services presents a real and immediate risk to the welfare of the Service User in which case the Designated Officer may require action in a shorter time.
- 11.2 If at the end of this time the Provider has not remedied the failure the Council may then make alternative arrangements for the provision of the Service.

12. ASSIGNMENT AND SUB-CONTRACTING

- 12.1 The Provider shall not:
- 12.1.1 assign all or part of this Agreement or the benefit or advantage of this Agreement without the written consent of the Council and such consent shall not be unreasonably withheld; or
 - 12.1.2 sub-contract all or part of the provision of the Services to any person or body without the prior written consent of the Council. This consent shall be at the sole discretion of the Council and if given shall not relieve the Provider from any liability or obligation under this Agreement.
- 12.2 The Provider shall be responsible for the Acts, defaults or neglect of any sub-contractor, its employees or agents in all respects as if they were the Acts, defaults or neglect of the Provider.

13. FINANCIAL MATTERS

Records

- 13.1 The Provider shall maintain regularly updated and accurate records of the Services provided and of all persons provided with the Services.

Invoicing

- 13.2 The Provider shall submit individual four weekly invoices for each Service User.
- 13.3 The Provider shall submit individual invoices for each Service User to recover any sums due from the Council the Service User and any third party in accordance with the apportionment of the costs detailed in the Care Services Order.
- 13.4 Invoices submitted to the Council for payment must show: an individual invoice number, the Service User's full name and address (home address or address of the establishment where Services have been delivered i.e. Care Home address, the Service User's Swift ID number, the invoicing period i.e. care 'from' and 'to' dates, hours of care delivered (domiciliary care only) a contact number (enabling queries to be addressed), the full Gross Cost of the Service less any contribution collected from the Service User and/or third party and the net amount due to be paid by the Council.
- 13.5 Following receipt of a correctly submitted invoice the Council shall certify the amount due and shall pay the same to the Provider.
- 13.6 The Council shall use its best endeavours to pay the Provider within 30 days from the date correctly submitted invoice becomes due for Services provided under this Agreement.
- 13.7 Where properly submitted invoices that remain unpaid have not been disputed/challenged by the Council within a period of 8 weeks from receipt, the Council must pay the Provider interest on the amount of any such late payment. The interest will be calculated on a daily basis, from the date when payment should have been made to the date when payment is actually made. The interest rate which will apply will be the base rate of HSBC, plus 2% per annum.
- 13.8 Invoices should be addressed to

**Adult Social Care Finance – Exchequer Team
6th Floor
County Hall
Aylesbury
Buckinghamshire
HP20 1YG**

Payments

- 13.9 Whenever under the Agreement any sum of money shall be recoverable from the Provider by the Council the same may be deducted from any sum then due or which at any time thereafter may become due to the Provider under this Agreement or any other Agreement with the Council.
- 13.10 In addition to any sum paid to the Provider following submission of an account the Council shall pay to the Provider such Value Added Tax as may be properly chargeable by the Provider in connection with the supply of the Services and the Provider shall in each case issue a tax invoice (including the Provider's VAT number) to the Council in respect thereof.
- 13.11 It is a requirement that Providers must be able to accept payment via BACS. The Provider is required to provide their current bank details on letter headed paper.

Late Payment

- 13.12 The Council shall no later than the final date for payment specified, pay the Provider the amount specified in each correctly submitted invoice.
- 13.13 If the Council fails to pay a correctly submitted invoice within 30 working days of receipt, the Council shall pay to the Provider in addition to the amount not properly paid, simple interest thereon for the period until such payment is made. Payment of such interest will be calculated on a daily basis and based on the HSBC plc rate plus 2% per annum and back-dated to when the payment should have been made. Payment of such interest will only be applicable to undisputed invoices.
- 13.14 In addition to clause 13.13 where no invoice has been received and where the Provider is paid by the Council proactively via a scheduler payment, the Council shall pay to the Provider in addition to the amount not properly paid, simple interest thereon for the period until such payment is made. Such interest shall accrue from 30 days after the last date of the relevant care period. Payment of such interest will be calculated on a daily basis and based on the HSBC plc rate plus 2% per annum and back-dated to the last date of the relevant care period.

Pricing

- 13.15 The Council shall write to the Provider prior to the commencement of each financial year and give details of any adjustment to fees for the provision of the Services to existing Service Users if applicable. Any such adjustment shall be effective from 1 April of each year and agreed new rates and prices shall remain firm at least up to and including 31 March of the following year.
- 13.16 At no time shall any variation in cost exceed the alteration in the Retail Price Index for the previous twelve month period determined at the date the notice pursuant to sub-condition 13.15 above was given.

- 13.17 The Provider may review the rates and prices tendered for new Service Users as detailed in the Price Schedule to this Agreement so that any new rates and prices are effective from 1 April of each year and such annually reviewed rates and prices shall remain firm up to and including 31 March of the following year.

14. INDEMNITY

- 14.1 Unless arising as a result of a direct Act, default or negligence of the Council or its employees or agents (not being the Provider or employed by the Provider), the Provider shall indemnify and keep indemnified the Council against all actions, claims, demands, proceedings, damages, costs, charges, expenses or liabilities whatsoever in respect of or in any way arising out of the provision of the Services in relation to:
- 14.1.1 the injury to or death of any person;
 - 14.1.2 the loss of or damage to any property including loss or damage caused by the Service User and property belonging to the Service User or the Council unless it arises out of the direct act, default or negligence of the Council, its employees or agents (not being the Provider or employed by the Provider); and
 - 14.1.3 the authorised and unauthorised acts and/or omissions of its employees and agents whilst within the Establishment, within or outside of the course of employment or whilst undertaking duties outside of the Establishment.
- 14.2 Without thereby limiting its responsibilities under this Condition the Provider shall insure with insurers against its liabilities under Condition 14.1 above to the following levels:
- 14.2.1 employers liability insurance in a minimum amount for each and every claim, act or occurrence or series of claims, acts or occurrences which complies with statutory requirements to a value of £10,000,000.00; and
 - 14.2.2 public liability insurance in a minimum amount of £10,000,000.00 for each and every claim, act or occurrence or series of claims, acts or occurrences.
- 14.3 The Care Provider shall produce to the Council upon request a copy of the policy affecting such insurance together with documentary evidence that such insurance is properly maintained and in force at all times.

- 14.4 The Council shall indemnify the Provider against all actions, claims, demands, proceedings, damages, costs, charges, expenses or liabilities whatsoever in respect of or in any way arising out of the failure of the Council its employees or agents to disclose to the Provider any information about the Condition of a Service User which is in its possession at the time of placement or at any time thereafter.

15. TERMINATION OF AGREEMENT

Termination

15.1 If the Provider shall have:

offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or having done or forborne to do any action in relation to the obtaining of this Agreement or PO or any other agreement with the Council or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement or any other agreement with the Council or if similar act shall have been done by any person employed by the Provider or acting on the Provider's behalf (whether with or without the knowledge of the Provider) or if in relation to this Agreement or any other agreement with the Council the Provider or any person employed by the Provider or acting on the Provider's behalf shall have committed any offence under the Prevention of Corruption Act 1889 to 1916 or shall have given any fee or reward to any member or officer of the Council which shall have been exacted or accepted by such member or officer by virtue of their office or employment and is otherwise than such member or officer's proper remuneration the Council shall be entitled to terminate this Agreement and without prejudice to the remaining provisions of this Condition 17 to recover from the Provider the amount of any loss resulting from such termination.

15.2 If the Provider:

15.2.1 becomes bankrupt or makes a composition with its creditors or has a proposal in respect of its company for voluntary arrangements for composition of debts or scheme or arrangement approved in accordance with the Insolvency Act 1986;

15.2.2 has an application under the Insolvency Act 1986 to the Court for the appointment of an Administrative Receiver;

15.2.3 has a winding up order made or (except for the purposes of amalgamation or reconstruction) a resolution for voluntary winding up passed;

15.2.4 has a provisional liquidator, receiver or manager of its business or undertaking duly appointed;

15.2.5 has an administrative receiver as defined in the Insolvency Act 1986 appointed;

15.2.6 has possession taken by or on behalf of the whole of any debentures secured by a floating charge or any property comprised in or subject to a floating charge;

15.2.7 is in circumstances which entitle the Court or creditor to appoint or have appointed a receiver a manager or administrative receiver or which will entitle the Court to make a winding up order;

15.2.8 is no longer registered by the CQC for the provision of the Services or if the Provider fails to honour the requirements and codes of practice detailed in the Care Specification or the Care Specification itself;

then in such circumstances the Council may terminate the Provider's employment under this Agreement with immediate effect.

15.3 If either Party commits a Fundamental Breach or Persistent Breach of its obligations under this Agreement the other Party may terminate this Agreement by notice in writing and on the receipt of such notice by the Council or on the issue of such notice by the Council then the Council shall make immediate arrangements for the removal of any Service Users from the Establishment.

15.4 Either Party may terminate this Agreement at any time by giving not less than 6 months written notice (or lesser period by arrangement between the Parties) from one Party to the other.

16. RESOLUTION OF DISPUTES

16.1 If there is a dispute between any of the Parties concerning the interpretation, operation or implementation of this Agreement then any one of the Parties may notify the other/s in writing that it wishes the dispute to be referred to a meeting of the Designated Officer(s) and Agreement Manager(s) of the Parties involved to resolve, negotiating on the basis of good faith.

16.2 If after 28 Working Days (or such longer/shorter period as the Parties may agree) of the date of the notice referred to in Condition 18.1 the dispute has not been resolved then any one of the Parties may notify the other/s that it wishes the dispute to be referred to a meeting of relevant senior officers of the Parties involved to resolve, negotiating on the basis of good faith.

- 16.3 If after 28 Working Days (or such longer/shorter period as the Parties may agree) of the date of the notice referred to in Condition 18.2 the dispute has not been resolved then any one of the Parties may notify the other/s that it wishes to attempt to settle the dispute by arbitration. Following written notice from one Party to the other/s of its intention do so an arbitrator shall be agreed upon and appointed.
- 16.4 If agreement upon an arbitrator is not reached one shall be appointed after application to the President of the Chartered Institute of Arbitrators and in any case in accordance with the provisions of the Arbitration Act 1996 or any other relevant legislation in force at the time.
- 16.5 The costs of any arbitration shall be borne as directed by the arbitrator.
- 16.6 The terms, Conditions, specifications and standards of the Agreement shall continue to be carried out by the Provider at the rates and prices prevailing at the time of submission to arbitration.
- 16.7 Any failure by either Party to insist upon the performance of any obligations under this Agreement or to exercise any right or power shall not be construed as a waiver by such Party and this Agreement shall continue and remain in full force and effect notwithstanding any such failure.
- 16.8 The decision of the arbitrator shall be deemed as final and any resulting agreement reached as a result of arbitration shall be binding on all Parties to this Agreement.
- 16.9 The use of the dispute resolution procedures set out in this Condition 18 shall not delay or take precedence over the provision for termination set out in Condition 17 (Termination).

17. LOCAL GOVERNMENT OMBUDSMAN

- 17.1 The Provider acknowledges that he could be the subject of investigation by the Local Government Ombudsman and that his cooperation will be required in connection with any such investigation.

18. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 18.1 Neither Party intends to confer any right or benefit upon a third party and for the avoidance of doubt, the provisions of the Contracts (Rights of Third Parties) Act 1999 are expressly excluded from this Agreement.
- 18.2 A third party shall not have the right to enforce any Condition of this Agreement.

19. CONFIDENTIALITY

- 19.1 Subject to Condition 22.2, any data or information provided by the Council for the purposes of, or in relation to, this Agreement which is so designated by the Council shall be kept confidential by the Provider, and any data or information provided by the Provider for the purposes of, or in relation to, this Agreement which is so designated by the Provider shall be kept confidential by the Council; but the foregoing shall not apply to any data or information which is public knowledge at the time when it is so provided by either Party, and shall cease to apply if at any future time it becomes public knowledge through no fault of the other Party.
- 19.2 Unless attached as a Schedule to this Agreement ("Confidential Information") no information contained in or relating to this Agreement is confidential. The Council may disclose all information required under Freedom of Information Legislation except Confidential Information. If the Council is compelled by such legislation to disclose Confidential Information then the Council shall disclose that information. The Council has no liability of any nature (including financial) to the company for the results of any disclosure of information including Confidential Information.

20. PROTECTION FROM ABUSE

- 20.1 The Provider shall in the performance of their obligations under this Agreement ensure that:
- 20.1.1 all Service Users who are receiving a service are protected from abuse:
 - 20.1.2 the Provider and all persons involved in any way in providing a service on behalf of the Provider understand and operate in accordance with the Council's Safeguarding Vulnerable Adults Interagency Policy and Procedures for Buckinghamshire; (In cases of placements outside Buckinghamshire this will be in accordance with the appropriate host local authority's Safeguarding Vulnerable Adults Policy, Guidelines and Procedures);
 - 20.1.3 all services provided under this Agreement comply with all relevant Law including (without limitation) all statutes directives regulations orders code of practice and best practice guidance (as amended from time to time) related to the prevention of and protection from abuse issued by (but without limitation) any government department and the CQC;

20.1.4 all persons involved in providing a service on behalf of the Provider cooperate fully with all investigations by the Council or any person authorised by the Council to conduct such investigations of any alleged, suspected or actual abuse. (In cases of placements outside Buckinghamshire this will be with the investigation by the appropriate host local authority or anyone authorised to conduct the investigation on their behalf);

20.1.5 Buckinghamshire County Council is informed immediately of any adult protection investigation, concern or adult protection strategy arising from or related to the delivery of services under this Agreement;

20.1.6 all their staff, agents, volunteers and sub-contractors are recruited in accordance with the guidance of Buckinghamshire County Council's Safer Recruitment criteria, (or the equivalent criteria of the host local authority); is checked against the Protection of Vulnerable Adults Scheme List and that no one is engaged in the provision of the service who has not received appropriate clearance;

20.1.7 there are robust arrangements for the auditing, monitoring and reporting of activity related to protection from abuse.

21. MENTAL CAPACITY ACT 2005 AS AMENDED BY THE MENTAL HEALTH ACT 2007 (DEPRIVATION OF LIBERTY SAFEGUARDS)
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21.1 The Provider shall in the performance of their obligations under this Agreement comply with the requirements of the Mental Capacity Act 2005 as amended by the Mental Health Act 2007 (Deprivation of Liberty Safeguards), where relevant.

21.2 All services provided under this Agreement comply with all relevant Law including (without limitation) all statutes, Directives, Regulations, orders, codes of practice and best practice guidance (as amended from time to time) related to the Mental Capacity Act 2005 as amended by the Mental Health Act 2007 (Deprivation of Liberty Safeguards.)

22. AUDIT

22.1 The Provider shall keep and maintain until 6 years after the end of the Agreement Period, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it, all expenditure reimbursed by the Council, and all payments made by the Council. The Provider shall on request afford the Council or the Council's representatives such access to those records as may be requested by the Council in connection with the Agreement.

23. ENGLISH LAW

- 23.1 This Agreement shall be governed by and construed in accordance with English Law and each party agrees to submit to the exclusive jurisdiction of the English Courts.
- 23.2 Where in the opinion of the Council, the Safeguarding Vulnerable Adults Interagency Policy and Procedures for Buckinghamshire; (In cases of placements outside Buckinghamshire this will be in accordance with the appropriate host local authority's Safeguarding Vulnerable Adults Policy, Guidelines and Procedures); are invoked, the Council will be entitled to reasonably withhold any new business.

24. ENTIRE AGREEMENT

- 24.1 The Agreement constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Agreement supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any fraud or fraudulent misrepresentation.