

# **REGIONAL DOMICILIARY CARE SERVICE CONTRACT AND SERVICE SPECIFICATION**

1<sup>st</sup> October 2014 to 31<sup>st</sup> March 2015

Between

Belfast Health and Social Care Trust

And

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## DEFINITIONS

In this Contract and Service Specification the following definitions shall apply:

The Trust	Means the Health and Social Care Trust which is purchasing the Services under the Contract
The Provider	Means [] who by the Contract undertakes to deliver the Services
The Contract	Means the agreement concluded between the Trust and the Provider made up of the General Terms and Conditions, the Service Specification and the Special Terms and Conditions for Domiciliary Care and including all specifications, appendices and other documents incorporated or referred to therein.
The Contract Price	Means the price exclusive of value added tax that is payable to the Provider by the Trust under the Contract for the full and proper performance by the Provider of its obligations under the Contract.
The Services	Means the services and goods that the Provider is required to deliver under the Contract
Service User(s)	Means the identified individual(s) who require the Services which are to be provided under the Contract.
Persons Monitoring	Means the Trust Monitoring Officer
Personal Data	Has the same meaning as in section1 (1) of the Data Protection Act 1998 and subsequent amendments to this Act
Staff	Means employees, sub-contractor(s) and/or any person working on or behalf of the Provider in the delivery of the Services
Carer	Means a family member or person identified by the service user as their main carer
Care Plan	Means the document in which the Service User's assessed care needs are recorded and which details the care tasks to be undertaken by the Provider
Domiciliary Care	Means the Services purchased by the Trust following assessment of the Service User and identified in the Care Plan
Service Specification	Means the Service Specification document attached hereto.
The Parties	Means the Trust and the Provider and "Party" means either of the Parties

Trust Representative	Means the officer of the Trust identified in Contract Appendix 3
Key Worker	Means the officer of the Trust who has responsibility for arranging and monitoring the care package.
Transferring Employees	Means those persons listed in a Schedule to be agreed by the Parties prior to the end of the Contract Period who it is agreed were employed by the Provider (and/or any subcontractor) wholly and/or mainly in the Undertaking or the Services before the end of the Contract Period
Replacement Provider	Means any third party appointed by the Trust to provide the Services following the expiry, termination or partial termination of the Contract.
Retained Employee	Means any employee of the Provider not listed in the schedule of Transferring Employees to be agreed between the Parties and who is to be retained by the Provider after the Transfer Date.

Unless the context otherwise requires it, reference to any statute, order, regulation, other similar instrument or Departmental guidelines shall be construed as a reference to the statute, order, regulation or instrument as amended or re-enacted by any subsequent statute, order, regulation, instrument, or Departmental guidelines

The headings to these Terms and Conditions are for ease of reference only and shall not affect their interpretation



# **GENERAL TERMS AND CONDITIONS**

## **1. DESCRIPTION OF PARTIES**

1.1 The Contract is made between the Belfast Health and Social Care Trust (“the Trust”) having its address, for the purpose of the Contract at Trust Headquarters, Knockbracken Healthcare Park, Saintfield Road Belfast BT8 8BH and [Provider] [to include full name, company registration no. (if applicable) and registered office address]

## **2. PURPOSE OF THE CONTRACT**

2.1 The purpose of the Contract is to establish a contractual relationship between the Trust and the Provider for the provision of a range of domiciliary care services within a framework of quality criteria for Service Users within the Trust’s area.

## **3. ENTIRE AGREEMENT**

3.1 The contractual relationship between the Parties shall be governed by the Contract which constitutes the entire agreement between the Parties. The Services shall be supplied solely in accordance with the Contract. Any other documents or representations whether written or oral shall be excluded and shall not form part of the Contract (whether or not such other terms post-date the Contract).

3.2 No variation or later version of any term shall be binding unless it has been agreed in writing and signed by a duly authorised representative of the Trust.

3.3 In the interpretation of the terms set out in this Contract and Specification and the documents attached hereto, the following order of precedence shall apply:-

Service Specification

Special Terms and Conditions

General Terms and Conditions

## **4. CONTRACT PERIOD**

4.1 The Contract shall commence on 1<sup>st</sup> October 2014 and shall continue until 31<sup>st</sup> March 2015 with the option to extend the contract period for up to 12 months at the discretion of the Trust, unless terminated earlier in accordance with the terms of the Contract.

## **5. PERFORMANCE**

5.1 The Provider shall deliver the Services to the satisfaction of the Trust fully in accordance with the terms of the Contract, including, in particular, the requirements of the Service Specification.

## **6. TIMING**

6.1 Time shall be of the essence with regard to the obligations of the Provider under the Contract.

## **7. STAFF**

7.1 The Provider shall employ sufficient staff to ensure that the Services are provided at all times and in all respects fully in accordance with the terms of the Contract, including, in particular, the requirements of the Service Specification. The Provider must ensure that a sufficient reserve of staff is available to meet the Service Specification during holidays or absences.

7.2 The Provider shall employ for the purposes of the Contract only such persons as are skilled and experienced in the duties required of them and must ensure that every such person is sufficiently trained and competent to perform the Services. The Provider shall be fully compliant with RQIA standards and other relevant Health and Social Care standards and guidelines as updated.

7.3 The Trust reserves the right to request the Provider to suspend a specific member of Staff from delivering particular service(s) to one or more Service Users and will provide or confirm the reason for such request in writing to the Provider.

## **8. TERMINATION**

8.1 The Trust may at any time by notice in writing summarily terminate the Contract without compensation to the Provider in any of the following events:

8.1.1 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 a petition is presented for the Provider's bankruptcy, or a criminal bankruptcy order is made against the Provider or any partner in the firm, or shall have a receiving order, Administration order or interim order made against the Provider, or shall make any composition or scheme of arrangement with or for the benefit of the Provider's creditors, or shall make any conveyance or assignment for the benefit of the Provider's creditors, or shall purport to do so, or if an administrator is appointed to manage the Provider's affairs, or if in Scotland the Provider shall become insolvent or notour bankrupt, or any application shall be made for

sequestration of the Provider's estate, or a trust deed shall be granted by the Provider for the benefit of the Provider's creditors.

- 8.1.2 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 any meeting of its directors or members resolves to make an application for an administration order in relation to it, 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, or possession is taken of any of its property under the terms of a fixed or floating charge.
- 8.1.3 The Provider is unable to pay its debts within the meaning of article 103 of the Insolvency (Northern Ireland) Order 1989.
- 8.1.4 In respect of any premises which are essential to the delivery of the Services, any landlord is granted an order for the forfeiture of the lease
- 8.1.5 Any person holding a mortgage or other charge over any premises which are essential to the delivery of the Services is granted an order for possession of the premises or any similar order.
- 8.1.6 The Trust is of the opinion that the unsatisfactory provision by the Provider of the Services is such as to undermine irreversibly the Trust's confidence in the Provider's ability to provide the Services or is likely adversely to affect the image or reputation of the Trust.
- 8.1.7 If the Provider, being an individual, shall die or be adjudged incapable of managing his or her affairs within the meaning of article 107 of the Mental Health (Northern Ireland) Order.
- 8.2 The Provider shall notify the Trust immediately if any of the events listed in Clause 8.1 occur.
- 8.3 In addition to its rights under any other provision of the Contract the Trust may Terminate the Contract at any time by giving the Provider three months' written notice.
- 8.4 The Provider, at the discretion of the Trust, may terminate the Contract prior to the termination date by serving not less than six months' notice in writing, giving reasons. The Provider will participate fully in providing the Services for existing Service Users until the termination of the Contract. The agreement of the Trust to such a termination will not be unreasonably withheld.

- 8.5 The termination of the contract (in whole or in part) under clauses 8.1, 8.3 and 8.4 shall be without prejudice to:
1. (Where the contract is terminated in part only) the continuance and validity of the part or parts of the Contract not terminated by the notice under clauses 8.1, 8.3 and 8.4.
  2. The rights or obligations of either party, which have accrued prior to the date of termination.

8.6 Consequences of Termination

If the Trust terminates this Contract or terminates the provision of any part of this Contract under clause 10 or any other clause of this Contract, the Trust shall:

- 8.6.1 be entitled to employ and pay a Replacement Provider to provide and complete the provision of the Services or any part thereof; and
- 8.6.2 be entitled to recover from the Provider the reasonable costs incurred in making those other arrangements including any additional expenditure incurred by the Trust; and
- 8.6.3 be entitled to deduct from any sum or sums which would have been due from the Trust to the Provider under this Contract or the recovery of any such sum or sums as a debt.

**9. UNSATISFACTORY PERFORMANCE**

- 9.1 Should the Provider fail to provide the Services or any part thereof to a standard which is fully in compliance with the terms of the Contract and the requirements of the Service Specification, this will be regarded as unsatisfactory performance. The Trust will bring such unsatisfactory performance to the attention of the Provider in writing. Where the Trust considers it appropriate, it may issue a Performance Notice in the form set out in Appendix 4 (*Performance Notice*) to the Provider setting out the performance deficiency, a timescale for rectification and containing a reminder of its implications and outlining what is required in order to rectify the unsatisfactory performance.
- 9.2 If the Provider receives such notification under the terms of this Contract it must issue to the Trust, within the timescale specified by the Trust in its notification, a remedial action plan setting out how it proposes to rectify the subject matter highlighted by the Trust.
- 9.3 If the Provider's remedial action fails to remedy the unsatisfactory performance to the satisfaction of the Trust the Trust shall issue a further notification to the Provider.

- 9.4 If the Provider has committed any material breach of its obligations under this Contract and has not remedied that breach within the timescale/s required by the Trust then one or more of the following may occur;
- 9.4.1 up to 20% of the monthly sums payable under the contract in each month may be withheld until the remedies specified by the Trust have been fully implemented, and no interest shall be payable to the Provider on any sum withheld under this clause 9.4 unless it can be established that the money was withheld unjustifiably.
- 9.4.2 The Contract may be terminated in whole or in part in accordance with Clause 8 above.
- 9.5 The issuing of 3 (three) notifications, in accordance with this clause 9, within any rolling period of 12 consecutive months will of itself be considered a material breach of the Provider's obligations under this Contract.
- 9.6 Where the Trust has already made payment to the Provider with respect to Services which constituted unsatisfactory performance, the Trust may request that such payments be reimbursed to the Trust within 30 days from request and the Provider must comply with any such request.

## **10. DEFAULT BY PROVIDER**

- 10.1 Without prejudice to any other right or remedy, if the Provider commits a Default the Trust may at its discretion:
- 10.1.1 Require the Provider to remedy the Default within such reasonable time period as the Trust may specify by providing or providing again (as the case may be) without further charge to the Trust the Services to the relevant Service User (s) to the standard required by the Contract, including, in particular, the requirements of the Service Specification. If the Provider has not remedied the Default to the satisfaction of the Trust within the timeframe specified by the Trust, the Trust may terminate the contract; or
- 10.1.2 Without terminating the whole of the Contract terminate the Contract in respect of part of the Services only or temporarily cease to refer Service Users to the Provider by way of new business and thereafter itself provide or otherwise procure the provision of such part of the Services itself; or
- 10.1.3 Suspend the whole or part of the Contract (including in respect of existing Service Users) by making other arrangements whereby the Trust itself provides or employs and pays a Replacement Provider to provide and complete the provision of the Services or any part thereof until the Trust is

satisfied that the Provider is able to carry out the Services in accordance with the Contract; or

10.1.4 Terminate the Contract forthwith.

10.2 Where the Trust makes other arrangements in accordance with clause 10.1.3, it shall;

10.2.1 Be entitled to recover from the Provider the reasonable costs incurred in making those other arrangements including any additional expenditure reasonably incurred by the Trust; and

10.2.2 Be entitled to deduct from any sum or sums which would have been due from the Trust to the Provider under this Contract or the recovery of any such sum or sums as a debt.

10.3 All or any of the remedies in clauses 10.1 or 10.2 may be exercised by the Trust at its sole discretion in respect of any Default by the Provider.

10.4 For the purposes of this clause 10, Default shall mean a total failure on any occasion to provide Services to one or more Service Users as required by this Contract.

## **11. PRICE AND PAYMENT**

11.1 In consideration of the Services provided by the Provider under the Contract and subject to the terms of the Contract, the Trust agrees to pay the Provider in accordance with the schedule specified in Appendix 1.

11.2 Should the Trust at its sole discretion, having regard to the Service Specification, consider that payment has been made for services or work which has not been fully provided or undertaken by the provider then the provider must reimburse the sums assessed by the Trust within 21 days of request or the Trust may deduct from any monies due or which at any time thereafter may become due to the provider under the contract or under any other contract between the Trust and the Provider.

11.3 Payment shall be made by the Trust no later than 30 days after a valid Provider's invoice is received by the Trust.

## **12. INDEMNITY**

12.1 Without prejudice to its liability for breach of its obligations under the Contract the Provider shall be liable for and shall indemnify and hold harmless the Trust against any loss, damages, costs, expenses, claims or proceedings whatsoever arising under any statute or at common law in respect of:

12.1.1 Any loss of or damage to property, whether real or personal; and

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

12.1.3 Any loss, damage or injury arising out of the Provider failing to provide the Trust with any information, cooperation or documentation necessary or relevant for the Trust to undertake its responsibilities.

### **13. INSURANCE**

13.1 The Provider undertakes to obtain and maintain in force relevant and appropriate insurance(s) for the Services being provided under the Contract including Employers Liability Insurance (minimum £10 million for any one incident), Public Liability Insurance (minimum £5 million for any one incident) and Medical Malpractice Insurance or Professional Indemnity Insurance, as appropriate, to cover all risks during the term of the Contract and in particular the potential liability of the Provider under clause 12 above.

13.2 The Provider will ensure that any vehicles used by the Staff in the provision of the Services under the Contract comply with legal safety standards, (where appropriate) are suitable for any Service Users being conveyed in them and are appropriately and fully insured for any and all of the purposes for which they are used including for business purposes and transportation of Service Users.

13.3 The Provider shall provide to the Trust on request copies of the relevant insurance certificates relating to any of the insurance policies referred to in this clause and shall advise the Trust immediately of any material change in any insurance provision.

13.4 Prior to the commencement of this Contract the Provider will produce documentary evidence that the insurance policies referred to in this section are in place

### **14. EMPLOYMENT, EQUALITY AND DISCRIMINATION LEGISLATION**

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

### **15. SEVERABILITY**

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

## **16. WAIVER**

- 16.1 The failure of either Party to seek redress for breaches or to insist on strict performance of any provision of the Contract or the failure of either Party to exercise any right or remedy to which it is entitled under the Contract shall not constitute a waiver thereof and shall not cause a diminution of the obligations under the Contract.
- 16.2 No waiver of any provision of the Contract shall be effective unless it is agreed to by both parties in writing.
- 16.3 No waiver of any default shall constitute a waiver of any subsequent default.

## **17. VARIATION OF SERVICE SPECIFICATION**

- 17.1 Subject to clause 17.2, the Trust may at any time vary or add to the range of domiciliary care services set out in the Service Specification and no such variation or addition shall affect the continuation of the Contract.
- 17.2 The Trust shall give the Provider at least one month's written notice of any such variation or addition. The notice shall give details of the variation or addition and the date on which it is to take effect.

## **18. TRANSFER AND SUB-CONTRACTING**

- 18.1 The Provider shall only be entitled to assign or transfer the whole or part of the Contract with the previous consent in writing of the Trust, such consent not to be unreasonably withheld or delayed.
- 18.2 The Provider shall not sub-contract the delivery of any of the Services without the previous consent in writing of the Trust, such consent not to be unreasonably withheld or delayed. Where any of the Services are sub-contracted in accordance with this clause, the Provider shall nevertheless remain fully responsible and liable for the delivery of all the Services under the Contract.

## **19. TUPE - TRANSFER OF UNDERTAKINGS /SERVICE PROVISION CHANGE REGULATIONS**

- 19.1 The Parties hereby acknowledge that, where there is a transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and/or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006 (SPC), there will be a relevant transfer on the date set as the Transfer Date and the contracts of employment of those employees who are wholly or mainly assigned immediately before the Transfer Date to the Undertaking or the Services being transferred ('the Transferring Employees') will take effect as if originally made between the Trust or the Replacement Provider and the employees (save for those who object to transfer pursuant to Regulation 4(7) of TUPE/SPC).
- 19.2 The Provider shall indemnify and keep indemnified and hold the Trust and/or any Replacement Provider harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Trust and/or any Replacement Provider may suffer or incur as a result of or in connection with:

(a) any claim or demand by any Transferring Employee (whether in contract, tort, under statute, pursuant to European Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Provider in respect of any Transferring Employee on or before the Transfer Date.

(b) any failure by the Provider to comply with its obligations under Regulations 13 or 14 of TUPE/SPC or any award of compensation under Regulation 15 of TUPE/SPC save where such failure arises from the failure of the Trust and/or the Replacement Provider to comply with its duties under Regulation 13 of TUPE/SPC.

(c) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Transferring Employees arising from or connected with any failure by the Provider to comply with any legal obligation to such trade union, body or person.

19.3 The Provider shall be responsible for all emoluments and outgoings in respect of the Transferring Employees (including, without limitation, all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period up to and including the Transfer Date (including bonuses or commission which are payable after the Transfer Date but attributable in whole or in part to the period on or before the Transfer Date), and will indemnify/keep indemnified and hold the Trust and/or any Replacement Provider harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Trust and/or any Replacement Provider may incur in respect of the same.

19.4 The Trust and/or any Replacement Provider shall be responsible for all emoluments and outgoings in respect of the Transferring Employees (including, without limitation, all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period after the Transfer Date (including any bonuses, commission, premiums, subscriptions and any other prepayments which are payable before the Transfer Date but which are attributable in whole or in part to the period after the Transfer Date) and will indemnify/keep indemnified and hold the Provider harmless from and against all actions, suits, claims, damages, costs and expenses and other liabilities which the Provider may incur in respect of same.

19.5 Not later than six months prior to the end of the Contract Period, the Provider shall fully and accurately disclose to the Trust all information that the Organisation may reasonably request in relation to the Provider's Staff including the following:

(a) the total number of Staff assigned to the Undertaking or the Services other than on a temporary basis; and

(b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlements of the Staff referred to in clause 19.5a; and

(c) the terms and conditions of employment/engagement of the Staff referred to in clause 19.5a, their job titles and qualifications; and

(d) details of any current disciplinary or grievance proceedings ongoing or

circumstances likely to give rise to such proceedings and details of any claims current or threatened; and

(e) details of all collective agreements with a brief summary of the current state of negotiations with such bodies and with details of any current industrial disputes and claims for recognition by any trade union.

- 19.6 At intervals to be stipulated by the Trust (which shall not be more frequent than every thirty days) and immediately prior to the end of the Contract Period the Provider shall deliver to the Trust a complete update of all such information which shall be disclosable pursuant to Clause 19.5.
- 19.7 At the time of providing the information disclosed pursuant to Clauses 19.5 and 19.6, the Provider shall warrant the completeness and accuracy of all such information and the Trust may assign the benefit of this warranty to any Replacement Contractor.
- 19.8 The Trust may use the information received from the Contractor pursuant to clause 19.5 and 19.6 for the purposes of TUPE/SPC and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Contract Period. The Provider shall provide the Replacement Contractor with such assistance as it shall reasonably request.
- 19.9 The Provider shall indemnify and keep indemnified and hold the Trust (both for itself and any Replacement Provider) harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Trust or any Replacement Provider may suffer or incur as a result of or in connection with:
- (a) the provision of information pursuant to clauses 19.5 and 19.6; and
  - (b) any claim or demand by any Retained Employee (whether in contract, tort, under statute, pursuant to European Law or otherwise) in each case arising directly from any act, fault or omission of the Provider or any sub-contractor in respect of any Retained Employee on or before the end of the Contract Period
  - (c) any claim or demand by any Retained Employee (whether in contract, tort, under statute, pursuant to European Law or otherwise) in respect of the failure to include the Retained Employee in the list of Transferring Employees and/or the fact that the Retained Employee was not transferred to the Trust or any Replacement Provider; and
  - (d) any claim by any person who is transferred by the Provider to the Trust and/or a Replacement Provider whose name is not included in the list of Transferring Employees.
- 19.10 If the Provider becomes aware that the information it provided pursuant to clause 19.5 has become untrue, inaccurate or misleading, it shall notify the Trust and provide the Trust with up to date information.
- 19.11 The entirety of this Clause 19 applies during the Contract Period and indefinitely thereafter.
- 19.12 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):
- (a) 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 Staff (other than where such amendment or variation has previously been agreed between the Provider and the 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 Services);

(b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability)

(c) transfer away, remove, reduce or vary the involvement of any of the Staff from or in the provision of the Services (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));

(d) 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.

## **20. CONFIDENTIALITY**

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

20.2 Without prejudice to the generality of clause 20.1, 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:

- the Trust, its staff or its procedures
- the identity of or any Personal Data concerning any Service User or their carer or family/friends
- the identity of or any Personal Data concerning any patient discharged from any hospital
- the medical condition of or the treatment received by any patient or Service User of the Trust.

20.3 Where the Provider or any of its Staff receives a request for information about one or more Service Users or their circumstances from any source, e.g. the press, news media, or from family members other than the Carer, unless the release of such information is expressly authorised by a fully informed Service User with capacity to provide such authorisation, such a request for information must be referred to the Trust.

20.4 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 arising out of or in any way connected with the delivery of the Services under the Contract

## **21. COMMITMENT OF OPENNESS AND ACCESS TO INFORMATION**

21.1 The Provider must acknowledge and comply with the Trust's commitment to openness and public access to information.

21.2 The Freedom of Information Act 2000 applies to all Health and Social Care bodies including the Trust. The Trust must manage requests for information in accordance with its legal obligations. The Provider must co-operate with the Trust in the discharge of its legal obligations under the Freedom of Information Act and related guidance. Where reasonably practicable, the Trust shall inform the Provider and seek its views regarding any request for information relating to the Provider.

## **22. DATA PROTECTION**

22.1 The Provider shall protect Personal Data in accordance with current data protection legislation and the Information Commissioners Office (ICO) Codes of Practice and related guidance. The Provider must also comply with the Trust's information security policies and ensure that its Staff who have access to any Personal Data held by the Trust comply with such policies. 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.

22.2 For the avoidance of doubt, the Provider must use information regarding Service Users furnished to it by the Trust only for the purposes of the delivery of the Services under the Contract. Such information must never be used for any other purpose, including the marketing activities of the Provider.

22.3 The Provider shall indemnify the Trust, the Northern Ireland Health and Social Care Board and Department of 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 arising out of a breach of Clause 22.1.

## **23. RECORDS MANAGEMENT**

23.1 The Provider shall at its own expense maintain their records both paper and electronic 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>.

## **24. INDUCEMENTS TO PURCHASE**

24.1 The Provider shall not offer to Trust or its representatives as a variation of the Conditions of the Contract, or as an agreement collateral to it, any advantage other than a discount against the Contract Price.

24.2 The Trust shall be entitled to terminate the Contract and to recover from the Provider the amount of any loss resulting from such termination in the following circumstances:

24.2.1 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 for having done or forborne to do, any action in relation to the obtaining or execution of the Contract or any other Contract with the Trust, or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Trust.

24.2.2 If the like acts shall have been done by any person employed by it or acting on its behalf (whether with or without the knowledge of the Provider).

24.2.3 If in relation to the Contract or any other Contract with the Trust the Provider or any person employed by it or acting on its behalf shall have committed any offence under Prevention of Corruption legislation, or shall have given any fee or reward to any officer of the Trust which shall have been exacted or accepted by such officer under colour of his office or employment and is otherwise than such officer's proper remuneration.

## **25. BRIBERY PREVENTION MEASURES**

25.1 The Provider warrants and undertakes to the Trust that:

(a) 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");

(b) It will ensure that any person who performs or has performed services for or on its behalf ("Associated Person") in connection with this Contract complies with this Clause.

(c) It will not enter into any agreement with any Associated Person in connection with the Contract, unless such agreement contains undertakings on the same terms as contained in this Clause;

(d) It has and will maintain in place effective accounting procedures and internal controls necessary to record all expenditure in connection with the Contract;

(e) From time to time, at the reasonable request of the Trust, it will confirm in writing that it has complied with its undertakings under this Clause and will provide any information reasonably requested by the Trust in support of such compliance;

(f) It shall notify the Trust as soon as practicable of any breach of any of the undertakings contained within this Clause of which it becomes aware.

(g) Breach of any of the undertakings in this Clause shall be deemed to be a material breach of the Contract for the purpose of Clause 8.2 (Termination)

## **26. PUBLICITY**

- 26.1 The Provider shall not advertise or publicly announce that it is delivering the Services or undertaking work for the Trust without the prior written consent of the Trust, such consent not to be unreasonably withheld.

## **27. USE OF TRUST PURCHASE AGREEMENTS**

- 27.1 Upon receiving a written request the Trust may allow the Provider to access for the purposes of the delivery of the Services under the Contract Trust purchase agreements for relevant goods or services. Should the Trust allow such use, goods or services purchased by the Provider under these agreements must only be used in connection with the performance of the Contract. The Trust may withdraw consent for the use of any purchase agreement instantly and without notice and without giving any reason for such withdrawal. All information received by the Provider concerning Trust purchase agreements shall be held in confidence in accordance with clause 20 above in respect of confidentiality.

## **28. FORCE MAJEURE**

- 28.1 Neither of the Parties shall be in breach of the Contract, nor liable for any failure or delay in the performance of its obligations under the Contract arising solely from or attributable to acts, events, omissions or accidents beyond its reasonable control, including but not limited to any of the following:
- Acts of God, including but not limited to fire, flood, earthquake, wind storm or other natural disaster;
  - War, threat or preparation for war, armed conflict, imposition of sanctions, embargo, breaking of diplomatic relations or other similar actions;
  - Terrorist attack, civil war, civil commotion or riot;
  - Nuclear, chemical, radiological or biological contamination or sonic boom;
  - Fire or Explosion
- 28.2 Subject always to the Provider's duty to have in place an appropriate Business Continuity Plan in accordance with clause 29, where any Party is subject to any of the events set out in clause 28.1 above that Party shall not be in breach of the Contract provided that it immediately notifies the other Party, using out-of-hours service where appropriate (contact numbers included in appendix), 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 the Contract.
- 28.3 If the event prevails for a continuous period of more than 4 months either Party may terminate this agreement by giving 30 days written notice to the other Party. On the expiry of this notice period, the Contract will automatically terminate.

Such termination shall be without prejudice to the rights of the Parties in respect of any breach of the Contract which occurred prior to such termination.

## **29. BUSINESS CONTINUITY**

29.1 The Provider must have in place an appropriate Business Continuity Plan to ensure that, irrespective of problems which might arise, the Services will continue to be provided in accordance with the Contract. This plan must be available for inspection by Trust staff as required. The Provider must fully implement its Business Continuity Plan immediately when required.

## **30. DISPUTE RESOLUTION**

30.1 In the event of any dispute arising between the Parties in connection with the Contract this may be raised in writing in the first instance with the Trust Representative or the Provider and both Parties will endeavour to meet within 21 days with a view to resolving the dispute.

30.2 If the dispute remains unresolved after the meeting referred to in clause 29.1 a written request stating the specific issues under dispute may be raised with Senior Management of both Parties, who will endeavour to hold a further meeting within 21 days of receipt with a view to resolving the dispute.

30.3 Should the dispute remain unresolved after the further meeting referred to in clause 29.2 the dispute may be considered for mediation, subject to agreement of this as an appropriate step by both Parties. Should mediation be agreed as appropriate, where disputes or differences between the Parties relating to a financial or accounting issue, the Chairman for the time being of the Ulster Branch of the Institute of Chartered Accountants in Ireland shall nominate an Expert. If the dispute or difference between the Parties relates to a legal issue, the President of the Law Society N.I. should nominate an Expert. The costs of the Expert shall be borne equally between the Parties.

30.4 The commencement of mediation pursuant to clause 29.3 above shall not prevent the Parties commencing or continuing Court proceedings.

## **31. ENVIRONMENTAL CONSIDERATIONS**

31.1 The Provider shall comply in all material respects with all applicable environmental laws and regulations in force from time to time.

31.2 The Provider shall act in accordance with good working practices in relation to sustainability, recycling and disposal of waste.

31.3 The Provider shall within a reasonable time meet all reasonable requests by the Trust for information evidencing compliance by the Provider with the provisions of this Clause.

## **32. COMPTROLLER AND AUDITOR GENERAL AUDIT RIGHTS**

32.1 The Provider shall retain and keep secure until seven years after the final payment of all sums due under the Contract, or such longer period as may be

agreed between the Parties, full and accurate records of the Services delivered and all clinical and financial records.

32.2 The Provider shall grant to the Trust or its authorised agents, including the Trust's internal or external auditors and the NIAO, such access to those records as they may reasonably require to verify compliance with the Contract.

### **33. PREVENTION AND DETECTION OF CRIME**

33.1 The Provider shall at all times assist and co-operate with the Trust (at the Provider's own expense) to enable the Trust to comply with its statutory obligations relating to the prevention or detection of crime. The Provider shall provide all information requested by the Trust for these purposes and acknowledges that such information may be made available to other Government Agencies as required for the purposes of preventing or detecting crime.

### **34. MANDATORY EXCLUSION OF ECONOMIC OPERATORS**

34.1 The Public Contracts Regulations and the Utilities Contracts Regulations 2006 require contracting authorities including the Trust to exclude economic operators (suppliers, contractors and service providers) from Public Contracts where the authority has actual knowledge that the economic operator has been convicted of offences as listed in Regulation 23(1). The Provider must inform the Trust immediately if it has been charged or convicted of such offences or allegations relating to such offences have been raised against the Provider. The Trust will then consider whether the information disclosed requires the immediate suspension or termination of the Contract.

### **35. EQUALITY AND HUMAN RIGHTS**

35.1 The Provider must ensure that the principles of section 75 of the Northern Ireland Act (the equality duties) and of the Human Rights Act are at all times fully taken into account and complied with in the delivery of the Services under the Contract.

### **36. WHISTLEBLOWING**

36.1 The Provider should ensure that it has an adequate Whistleblowing Policy in place and that any issues raised are adequately investigated and, where necessary, appropriate action taken.

### **37. GOVERNING LAW AND JURISDICTION**

37.1 The Parties submit to the exclusive jurisdiction of the Northern Ireland Courts and agree that the Contract is to be governed and construed according to Northern Ireland law.

### **38. THIRD PARTY RIGHTS**

#### **The Contracts (Rights of Third Parties) Act 1999**

38.1 A person who is not a Party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without

the prior written agreement of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

# **SERVICE SPECIFICATION FOR DOMICILIARY CARE**

# SERVICE SPECIFICATION FOR DOMICILIARY CARE

## 1. DOMICILIARY CARE SERVICES

1.1 Domiciliary Care tasks may include, but are not limited to, the following: -

1.1.1 Personal care of Service User:

- Getting up and/or assisting Service User in to bed;
- Moving/handling with or without a mechanical hoist;
- Washing and bathing, including attending to hygiene as a result of incontinence;
- Assisting with Stoma Care;
- Ensuring safe disposal of soiled materials including pads;
- Dressing and undressing;
- Assisting with callipers, prostheses and like aids;
- Assisting Service User in emptying and changing catheter bags;
- Assisting Service User with toileting.

1.1.2 Assisting with Service User's health needs:

- Assisting Service Users in managing their medication, only as indicated and prescribed by a Medical Practitioner, and as agreed by the Trust Representative. This may involve prompting, assisting and/or administering medication and the detail of which will be set out on the Service User's Care Plan;
- Application of creams/ointments following attention to personal hygiene only as indicated and prescribed by Medical Practitioner;
- Ensuring that prescribed medications are accessible to the Service User, including the collection of prescriptions and medication as agreed by Trust Representative and the Service User or their Carer;
- Assisting within the competence and training of the individual Staff member with other health care tasks, as directed by an appropriate health and social care professional;
- Assisting the Service User to comply with rehabilitation or teaching programmes prescribed by professionals.

Domiciliary Care Workers should only administer medicines from the original containers dispensed and labelled by a Pharmacist or dispensing General Practitioner. Domiciliary Care Workers should not place medicines into an unsealed compliance aid for Service Users to administer medicines at a later time nor may they administer medicines from an unsealed compliance aid which has been filled by a Service User or their Carer or any other Health Care Professional. Domiciliary Care Workers who administer medicines must be specifically trained in the administration of medicines and competent to do so.

#### 1.1.3 Awareness of Service User's health needs:

- Commensurate with their level of training, Staff will be expected to recognise changes in the health conditions and circumstances of the Service User;
- Taking all reasonable action to summon help for the Service User when required;
- Co-operation with District Nurse/Health Visitor/Occupational Therapist/ Social Worker/or other Health or Social Care Professional involved in the care of the individual Service User.
- Reporting back to the Trust Key Worker any deterioration or improvement in the care needs of the Service User at the earliest opportunity.

#### 1.1.4 Food and Nutrition:

- Preparing food to appropriate food hygiene standards as required;
- Assistance with or supervision of feeding and /or drinking.

#### 1.1.5 Financial Transactions:

- Where duly authorised by a Service User with capacity or, where the Service User does not have capacity, by a legally authorised representative of the Service User and as documented in the Care Plan, collecting of benefits, paying bills, and banking money. Invoices/receipts relating to all financial transactions must be retained in the Service User's file.

#### 1.1.6 Domestic Services delivered as part of a package:

- Assisting with preparation of shopping lists;
- Accompanying the Service User to shops;
- Bed making, including cleaning up after incontinence;
- Emptying and cleaning commode;
- General internal domestic cleaning;
- Assisting with personal correspondence, excluding financial and legal matters;
- Washing up;
- Laundry, including appropriate laundry arrangements for soiled bed linen;
- Fire lighting and associated management of solid fuel heating system;
- Assisting Service User to control the heating system;
- Dealing with household refuse;

- Assisting with the care of pets and guide dogs where appropriate to support the Service User's health and well being;
- Shopping.

#### 1.1.7 Social Activities

- Assist and enable social interaction and/or constructive leisure to facilitate carer respite as set out in the Care Plan.

#### 1.1.8 Emergencies:

- Assisting with household emergencies, for example, fires or burst pipes;
- Responding to telemonitoring alerts as per Care Plan.

#### 1.1.9 Safety Issues:

- Encouraging good food hygiene;
- Making the Service User aware of health and safety issues, for example, safety of household equipment and furnishings.

**This list is not exhaustive and may be amended and added to at any time by the Trust depending on the needs of the service – see clause 17 of the General Terms and Conditions.**

# **SPECIAL TERMS AND CONDITIONS**

# **SPECIAL TERMS AND CONDITIONS OF CONTRACT FOR DOMICILIARY CARE SERVICES**

## **1. LEGISLATION AND COMPLIANCE**

1.1 The Provider must at all times during the Contract Period be fully registered with the Regulation and Quality Improvement Authority (RQIA) as a domiciliary care agency.

1.2 The Provider must comply fully with the relevant requirements for the vetting of Staff as detailed within the Safeguarding Vulnerable Groups legislation and must comply fully with the Regional Adult Protection Policy and Procedural Guidance "Safeguarding Vulnerable Adults" 2006.

1.3 The Provider must comply with the above legislation and the Trust reserves the right to seek assurances from Provider on same.

1.4 The Provider must comply fully with:

- The Domiciliary Care Agencies Regulations (Northern Ireland) 2007;
- Domiciliary Care Agencies Minimum Standards issued by the Department of Health Social Services and Public Safety (DHSSPS), August 2011;
- Northern Ireland Social Care Council (NISCC) Code of Conduct for Employers;
- RQIA Guidance on Mandatory Training for the Providers of Care in Regulated Services;
- RQIA Guidelines for the Control and Administration of Medicines;
- Any extant RQIA guidance on the safeguarding or residents monies and other valuables;
- Any other legislation or guidance relevant to the delivery of the Services under the Contract.

1.5 The Provider will provide the Trust on request with copies of its policies and procedures to ensure compliance with the legislation and guidance referred to above and will retain training records and make them accessible to the Trust.

1.4 The Trust will comply with its obligations under "Domiciliary Care Agencies – Minimum Standards" issued by the Department of Health Social Services and Public Safety (DHSSPS), August 2011.

## **2. REFERRAL ARRANGEMENTS**

2.1 The Trust Representative will be responsible for assessing the Service User's needs in line with the Domiciliary Care Agencies – Minimum Standards issued by the

Department of Health Social Services and Public Safety (DHSSPS), August 2011. The assessed needs will be detailed in the Service User's Care Plan.

2.2 The Provider will need to know the following, where relevant:

**a) Personal Information:**

- (i) Personal details of the Service User's name, address, postcode, telephone number and age of the Service User
- (ii) Name and contact methods for use in an emergency (Trust Out-of-Hours Services, GP, relatives, friends and all known key holders)
- (iii) Names of others in the Service User's household
- (iv) Name and contact details for the Service User's Carer
- (v) Details of any relevant legal orders known to the Trust relating to any individuals connected to the Service User.

**b) Care Needs Information:**

- (i) All appropriate assessment information necessary to inform the care that is to be delivered. This should highlight any identified risks.
- (ii) Medical / Nursing information that is considered relevant to the provision of domiciliary care will be shared when deemed necessary by the Trust's Care Manager/Key Worker.
- (iii) Amount of domiciliary care time commissioned, and the times at which it is to be provided
- (iv) Tasks to be carried out.

**c)** The Service User assessment will be shared with the Provider at an appropriate level.

**d)** The information above will be provided in the form of a Care Plan (including the risk assessment, where appropriate) and the time table supplied by the Trust representative to the Service User / Carer, Provider and GP as appropriate.

### **3. SERVICE REQUIREMENTS**

3.1 The Provider must ensure that Staff have appropriate understanding of and have received training in respect of Service Users who have specific needs.

3.2 The Provider is only permitted to depart from the service detailed in the Care Plan in exceptional circumstances and where strictly necessary such as responding to changing needs of the Service User and following consultation with the Trust Representative as soon as practicable.

- 3.3 Where it is reasonable to do so, consideration should be given to the Service User's and Carer's preferences on the service delivery. Should the Service User request Staff to carry out additional task(s) which may impact on services being provided, this must be brought to the attention of the Trust Representative. The Trust Representative must always be informed if such task(s) are requested on an on-going basis.
- 3.4 At all times the Provider must endeavour to ensure continuity of individual workers to the Service User. Continuity is essential for the delivery of domiciliary care, therefore personal care tasks should be carried out by Staff who are known to, and experienced or trained in, caring for the Service User. Where, in exceptional circumstances this proves not to be possible, the Provider will supply a substitute with the requisite skills and appropriate training in providing personal care.
- 3.5 The Provider will be given where possible at least 24 hours' notice of cancellation of service. Where 24 hours notice is not provided, the Trust will be responsible for staff payment costs incurred by the Provider within 12 hours of the time of notification of cancellation.
- 3.6 Where the Services cannot be delivered to the volume as identified in the Service User's Care Plan, the Provider must:
1. Notify the Trust Representative immediately;
  2. Provide written details clarifying the circumstances;
  3. Agree a proposed date of withdrawal with the Trust.
- 3.7 Where Services are purchased by the Trust for a Service User for a limited period of time, for example, in the case of a short term need, such Services must cease automatically at the end of that time period unless the time period is extended by the Trust.
- 3.8 Staff must use the Service User's title and surname when addressing the Service User, unless the Service User expresses a preference to be addressed by a forename. The exception to this is where the Service User is a child under the age of 18.
- 3.9 Staff must have displayed on their person a means of identification showing a photograph of the staff member, their name and signature, the name of the Provider's organisation and a telephone number that can be used to verify this information. Identification must be shown when requested by a Service User, Carer or representative, or Trust Representative.
- 3.10 Staff must not take any unauthorised person, including children, to the Service User's home when the Services are being carried out
- 3.11 Staff must not take any pets in their charge into the Service User's home while the Services are being provided without the prior agreement of the Trust.

- 3.12 The Provider must ensure that all Staff are provided with sufficient suitable protective clothing appropriate for use in the Service User's home, for example, protective latex free gloves.
- 3.13 Staff must not smoke in the presence of Service Users or in their homes.
- 3.14 The Provider is not responsible for the provision of domestic equipment and cleaning materials used in the Service User's home.
- 3.15 Where necessary to ensure the health, safety and welfare of a Service User, the Provider will contact the Out-of Hours GP Service, the Out-of Hours Social Work Service or other emergency services. The Trust will be informed of this on the next working day.
- 3.16 The Provider will inform the Trust, as soon as possible but no later than the next working day, if the Service User refuses to allow Staff to provide any Services within the care plan/package.
- 3.17 Staff must not use a mobile telephone during delivery of the Services unless it is to be used in an emergency relating to the Service User.
- 3.18 Staff must not take any photographic or video image of a Service User without the express permission of the Service User.

#### **4. ACCESS ARRANGEMENTS**

- 4.1 In exceptional circumstances with the agreement of the Service User/Carer and the Trust, the Provider may hold house keys, enabling Staff to gain access to Service Users. This must be documented in the Service User's Care Plan. In such circumstances the Provider will be responsible for the safe keeping of these keys at all times whilst they are entrusted to the Provider and for the return of the keys to the family when the service is no longer required. For the avoidance of doubt, the indemnity at clause 12 of the General Terms and Conditions will be applicable in any case where the Provider is in breach of its obligations under this Clause. The Provider will make its insurance company aware of any arrangements for holding a Service User's keys as appropriate.
- 4.2 Where Staff do not get a response on a scheduled visit to a Service User they must thoroughly check and try to establish the reason. Staff must never leave a scheduled appointment without seeking to ascertain the Service User's safety. If the Service User's whereabouts cannot be ascertained, the Provider must inform the Trust as soon as possible during office hours;

4.3 During Out-of-hours, the Provider must ensure that the police are informed or further action taken in line with the Trust's policy.

## **5. MONITORING**

5.1 A member of the Provider's staff employed in a supervisory capacity must make contact with the Service User on a monthly basis to review the delivery of domiciliary services as part of their quality assurance system.

5.2 In addition to the Provider's monitoring/review system the Trust will monitor the Services provided through:

- Feedback from Service Users and their Carer(s).
- Regular reviews of Service User's needs and the Services provided.
- Feedback from others concerned with the care for the Service User, e.g. Trust personnel,
- Medical Practitioners or other service providers.
- Arranged visits by the Trust Representative(s) to a number of Service User homes when the Services are scheduled.
- Unannounced spot checks by the Trust Representative(s) to a number of Service User homes when the Services are scheduled.
- Reports requested from the Provider.
- Copies of documentation from the Provider in respect of its monitoring of the service being provided to the Service User.
- Meetings on an annual basis or more frequently as required or as agreed.
- Any other means of monitoring that the Trust considers appropriate or may be introduced e.g. use of home technology.

5.3 In addition to and without prejudice to its statutory obligations to notify RQIA, the Provider must immediately notify the Trust Representative should the Provider become aware of financial difficulties or any other circumstances which could call into question the Provider's ability to continue to provide the Services under the Contract

## **6. COMPLAINTS**

6.1 The Provider must have a complaints procedure which complies with the Guidance on Complaints Handling in Regulated Establishments and Agencies issued by the DHSS&PS (Circular HSC (SQSD) 23/2009). A copy of this procedure must be made available to the Trust on request. The Provider must investigate and respond to complaints in the first instance in accordance with its complaints procedure. . The Provider shall keep a record of all complaints and any action taken as a result. This record must be available for inspection by Trust staff.

- 6.2 Complaints of a serious nature, including those associated with alleged abuse, contraventions of employment legislation, accidents resulting in personal injury to staff or Service Users, or theft must be notified to the Trust, in writing to the Trust Governance Office, within one working day of the complaint being received.
- 6.3 The Provider must ensure that its complaints procedure includes appropriate sign-posting to available advocacy services e.g. Advice Centres or the Patient and Client Council and includes information on options if the complainant is dissatisfied with the Provider's investigation, i.e. approach the Trust and/or Ombudsman.
- 6.4 Where complaints have been received by the Trust or the Trust deems it necessary, the Trust reserves the right to take any and all actions required to investigate the complaint. This may include:
- access to all relevant Service User records
  - access to all relevant records relating to Staff
  - access to all relevant records or recording proformas, books, financial records etc in pursuit of any audit trail
- 6.5 A report of all investigated complaints undertaken by the Trust relating to the Provider will be furnished to the Provider upon request.

## **7.0 ADVERSE INCIDENTS AND SERIOUS ADVERSE INCIDENTS**

- 7.1 From the 1st May 2010 Health and Social Care Organisations (including Trusts) must routinely report Serious Adverse Incidents (SAIs) to the Health and Social Care Board (HSCB) in line with circular HSC (SQSD) 08/2010 and RHSCB Operational Guidance. This Guidance was updated in October 2013. Consequently the Provider is required to bring to the attention of the Trust any Serious Adverse Incident arising during the course of the delivery of the Services under the Contract (see section 1 appendix 2). The Provider is also required to report to the nominated Trust Corporate Governance Office any incident which requires to be notified to the Regulation Quality and Improvement Authority (RQIA) (see section 2 appendix 2), or the police
- 7.2 The Trust Quality and Support Team Office must be informed within one working day and in writing, not later than 48 hours after the occurrence of a reportable incident. In the event that a case conference incident review is convened by the Trust as a result of an incident, the Provider must send an appropriate representative to the case conference incident review, produce information as required and provide cooperation as required under the SAI Regional Protocols.
- 7.3 The definition and criteria of Serious Adverse Incidents and the procedure for informing the Regulation Quality and Improvement Authority of adverse incidents and Serious Adverse Incidents are set out in Appendix 2. Appendix 2 also contains an 'Independent

Adverse Incident Reporting Cover Sheet'. This sheet must be completed and sent to the Trust Quality and Support Team attached to a completed RQIA Form (1a).

## **8. RISK ASSESSMENT AND CONTINGENCY ARRANGEMENTS**

8.1 The Provider must have a Risk Assessment policy in place that includes:

- The requirement to identify and assess risks and hazards in the delivery of care and record all appropriate risk assessments.
- Identification of who might be harmed and how.
- A method for evaluating the risks arising from the hazards and detailed methods of prevention and management of identified risks.
- A record of the Provider's findings and a review mechanism for policies, precautions and actions taken.

The Provider will furnish to the Trust on request a copy of its Risk Assessment Policy and of relevant risk assessments completed in accordance with that Policy.

### 8.2 Contingency Arrangements

The Provider must have arrangements in place to ensure that there is a Trust validated Emergency plan in place for response in a major incident.

## **9. MONITORING OF RECORDS**

9.1 All records including both paper and electronic records kept regarding Service Users will be open to inspection by the Service User, the Service User's Carer, RQIA, the Care Manager and any representative authorised by the Trust for this purpose, including the Trust's Internal Auditor and Counter Fraud and Probity Services. Copies of any records will be provided by the Provider at its own expense if requested.

## **10. CLOSURE OF THE PROVIDER'S BUSINESS**

10.1 In the event of the Provider ceasing business, the guidelines as issued by RQIA should be adhered to. The Provider shall inform the Trust and RQIA at least six months in advance, or at the earliest possible stage, in the event of the possibility of sudden closure of the business. The Provider must support the Trust in any subsequent plans to facilitate the transfer of the care of the Service Users to other providers

10.2 The Provider will comply with the relevant legislation in relation to the retention of records relating to Service Users. However, should the Provider's business close, all retained records within the retention period relating to Service Users must be forwarded to the Trust for safekeeping.

## **11. CHANGE OF OWNERSHIP**

11.1 If there is to be a change of ownership, the Provider will inform the Trust immediately. The existing and new owners of the business must work collaboratively to ensure continuity of care for Service Users until such time as the new owner is registered with the Regulation and Quality Improvement Authority. The new owner will be bound by the Contract and shall sign to that effect upon the date of transfer of the business.

<b>SIGNED ON BEHALF OF:</b> ..... THE PROVIDER	<b>SIGNED ON BEHALF OF:</b> ..... BELFAST HEALTH AND SOCIAL CARE TRUST
<b>PRINT NAME</b>	<b>PRINT NAME</b> .....
<b>DESIGNATION</b>	<b>DESIGNATION</b> .....
<b>DATE</b>	<b>DATE</b> .....

# APPENDICES

## CONTRACT APPENDIX 1

### FINANCIAL ARRANGEMENTS

#### The Belfast Health and Social Care Trust

Indicative Volume of Activity for the year 1<sup>st</sup> October 2014 – 31<sup>st</sup> March 2015

Listed below is an indicative number of hours of domiciliary care which the Trust will commission on a weekly basis from the Provider. These requirements will vary according to the needs of Service Users. There is no guarantee that any particular level of hours will be purchased from the Provider by the Trust.

#### 1.0 PRICE AND ACTIVITY

1.1 The Provider will be paid in accordance with the number of hours of care delivered.

1.2 The Trust will purchase up to XX Hours of care per week from the Provider.

1.3 Subject to the Terms of the Contract, **the Trust will pay the Provider at the rate of £xx.xx for each hour of care delivered.** The breakdown of those hours between Programmes of Care will be as follows:

Programme of Care	Weekly Baseline Hours N&W	Weekly Baseline Hours S&E	Total
<b>TOTAL HOURS PROVIDED PER WEEK</b>			

## CONTRACT APPENDIX 1 CONTINUED

### 2.0 INVOICING AND PAYMENT

2.1 The Provider shall invoice the Trust 4 weekly in arrears by each Programme of Care for the hours of care delivered.

Information on the invoice shall include:

- name of Organisation
- Programme of Care and scheme to which the invoice refers
- period to which invoice relates
- name of Service User's Care Manager
- name and address of Service User
- date of commencement of Service Delivery
- number of hours of care delivered per relevant period per Service User
- date of cessation or suspension of Service Delivery (if appropriate)
- cost per hour of care
- total cost for period
- total value of invoice for each Programme of Care (all Service Users)
- four week period to which invoice refers (all invoices must cover a 4 week month).

Providers should email all invoices to [domiciliary@belfasttrust.hscni.net](mailto:domiciliary@belfasttrust.hscni.net)

**Before an e-mail is forwarded a password shall be agreed between Finance Personnel and the Provider.**

The postal address for Patient and Client Accounting, Payments Team, Belfast Health and Social Care Trust, 3<sup>rd</sup> Floor, Glendinning House, 6 Murray Street, Belfast, BT1 6DP.

Payment of the invoice is subject to the Provider adhering to the provisions of all Clauses set out within the context of this contract.

- 2.2 The Contract price for the Services shall be net. The only sums payable by the Trust for the provisions of the Service shall be the sums as specified plus Value Added Tax, where appropriate, as may properly be chargeable by the Provider. All other costs will be paid by the Provider.
- 2.3 An invoice shall be rendered on the Provider's own invoice form to the Trust at 4 week intervals clearly marked with the Trust's order number.
- 2.4 If for any reason the Contract comes to an end otherwise than at the end the 4 week period the Trust must pay the Provider for the number of hours of care delivered during the part period.

## CONTRACT APPENDIX 2

### Definitions and Criteria

#### Section 1 – Serious Adverse Incidents

##### Definition of an Adverse Incident

'Any event or circumstances that could have or did lead to harm, loss or damage to people, property, environment or reputation' 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 should be reviewed through a significant event audit)
  - A staff member in the course of their work
  - A member of the public whilst visiting a 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 of the public.
- Unexpected or significant threat to provide service and/or maintain business continuity.
- Serious self-harm or serious assault (*including attempted suicide, homicide and sexual assaults*) by a service user, a member of staff or a member of the public within any healthcare facility providing a commissioned service.
- 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 (*including 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 (*including 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 or concern relating to:
  - Any of the criteria above,
  - Theft, fraud, information breaches or data losses,
  - A member of HSC staff or independent practitioner.

Occurring within a healthcare facility or in the community (where the service user is known to mental health services including CAMHS or LD within the last two years).

- Serious incidents of public interest or concern involving theft, fraud, information breaches or data losses.

IT SHOULD BE NOTED THAT ALL ADVERSE INCIDENTS MUST BE REPORTED TO THE TRUST. ANY ADVERSE INCIDENT WHICH MEETS ONE OR MORE OF THE ABOVE CRITERIA IN THE DEFINITIONS ABOVE MUST BE REPORTED AS SERIOUS ADVERSE INCIDENTS TO THE TRUST (TO THE RQIA WHERE RELEVANT AND/OR THE PSNI) AS A SERIOUS ADVERSE INCIDENT. THE TRUST WILL IN TURN NOTIFY THE HSCB

**Contact Corporate Governance Services on 028 95048098**

**DOMICILIARY CARE ADVERSE INCIDENT REPORT COVER SHEET**

Following a reportable adverse incident involving a Service User of **Belfast Health & Social Care Trust**, this cover sheet must be completed and sent to Trust Quality and Support Team attached to a completed RQIA Form (1a).

For the purpose of Trust incident monitoring, you must list all Contacts. That is those persons Affected, Perpetrating, Witnessing and Reporting.

<b>Name</b>	<b>Unique Identifier No (If Service User)</b>	<b>DOB (If Service User)</b>	<b>Care Manager</b>	<b>Status of Contact (i.e. Affected, Perpetrator, Witness, Reporting)</b>

**INDEPENDENT SECTOR  
ADVERSE INCIDENT REPORT FORM**

To be completed following any adverse incident involving a Service User of **Belfast Health & Social Care Trust**.

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

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

To be completed by Provider Senior Staff / Service Manager

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

## CONTRACT APPENDIX 3

### TRUST CONTACT NAMES AND NUMBERS

#### BELFAST HEALTH AND SOCIAL CARE TRUST

##### Contract Staff

Name	Address	Telephone Number
Ms Kathleen McDonnell Contracts Manager	Admin Building 2nd Floor Knockbracken Healthcare Park Saintfield Road Belfast BT8 8BH	028 90960063

##### Out of Hours Contacts

Name	Address	Telephone Number
Emergency Duty Team	Brae Valley House 2 Breda Terrace Belfast BT8 8BY	02890 565444

##### Incident Reporting

Name	Address	Telephone Number
ELDERLY Sonya Doherty Assistant Service Manager Commissioned Services	Admin Building 2nd Floor Knockbracken Healthcare Park Saintfield Road Belfast BT8 8BH	02895 043799
MENTAL HEALTH Ms Fiona Rowan, Operations Manager Recovery and Resettlement	Mental Health Co-ordination Centre Knockbracken Health Care Park Saintfield Road Belfast BT8 8BH	02890 565650

Name	Address	Telephone Number
LEARNING DISABILITY Mrs Susan Corscadden Operations Manager	Everton Complex 2 Ardoyne Road Belfast BT14 7AN	02895 047182
PHYSICAL DISABILITY Ms Bernie Kelly Physical & Sensory Disability Services Manager	5th Floor Shankill Resource Centre 151-157 Shankill Road Belfast BT13 1FD	02895 049028

## CONTRACT APPENDIX 4

### PERFORMANCE NOTICE

For Issue from Belfast Health & Social Care Trust to «Provider»

ON THE HEADED PAPER OF THE BELFAST HEALTH & SOCIAL CARE TRUST

[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 Belfast Health & Social Care Trust to «Provider» (the “Provider”) under Section 9 (Unsatisfactory Performance) of the Contract for the provision of Domiciliary Care between «Provider» and the Belfast Health & Social Care Trust

This Performance Notice is being issued because:

[*detail:*

- *the exact reasons for the notice in accordance with Clause 9*
- *refer to any previous correspondence*
- *refer to any contractual Performance Indicator(s) breached*
- *reference the 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 Belfast Health & Social Care Trust considers that the above demonstrates a material failure by «Provider» to meet the requirements of the Contract.

«Provider» is reminded that under Clause 9.1 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 9.3 (penalties for non compliance).