



Between

THE HIGHLAND COUNCIL

And

(INSERT NAME OF ORGANISATION)

for

(Insert Name of Care Home)

(INSERT CONTRACT REFERENCE NUMBER)

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This is a Contract between

THE HIGHLAND COUNCIL, a Local Authority constituted in terms of the Local Government etc (Scotland) Act 1994 having their principal office at Glenurquhart Road, Inverness (hereinafter referred to as "the Council") and their statutory successors and assignees whomsoever, and

(INSERT PROVIDER NAME, STATUS, REGISTERED ADDRESS AND Co. NUMBER IF APPLICABLE) (hereinafter referred to as "the Provider").

This Contract is prepared and entered into by the Council and the Provider for the purpose of securing the Service in the Provider's Care Home that the Council, as local authority has a duty to secure under section 12 of the Social Work (Scotland) Act 1968.

It is agreed between the Council and the Provider as follows:-

Section A

A.1 DEFINITIONS, INTERPRETATIONS AND RELATED MATTERS

A.1.1 Any reference to any Act of Parliament shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force and to include any by-laws, statutory instruments, rules, regulations, orders, notices, codes of practice, directions, consents or permissions (together with any conditions attaching to the foregoing) made thereunder.

A.1.2 In the Contract, words importing the singular number only shall be deemed to include the plural number and vice versa unless the context otherwise requires and words importing the

masculine gender shall be deemed to include the feminine gender and vice versa unless the context otherwise requires.

- A.1.3 Reference to persons in the Contract shall include all entities with legal personality including natural persons, partnerships and companies save where the context otherwise requires.
- A.1.4 Any reference to a Clause, Section or Appendix shall be construed respectively as a reference to a clause, section or appendix of this Contract.
- A.1.5 A failure by either the Council or the Provider to exercise or enforce any rights conferred on them by this Contract shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement of such rights at any subsequent time or times except in respect of the provisions of **Clause C.2.4** of the Contract.
- A.1.6 Wherever provision is made in this Contract for the giving or issue of any notice, consent, approval, certificates, determination, demand or waiver by any person unless otherwise specified, such notice, consent, approval, certificate, determination, demand or waiver shall be in writing and related parts of speech such as, without limitation, notify and notification shall be construed accordingly.
- A.1.7 In this Contract, unless the context otherwise requires, the following terms shall have the meaning given to them below:-

“Additional Care” means any personal care, support or nursing services identified in the Resident’s Care Assessment that would entail the use of more staff hours than the Provider would normally need to use if that Resident was assessed as requiring only Standard Care.

“Additional Care Charge” means the negotiated cost for Additional Care that is referred to in the Individual Placement Agreement.

“Additional Service Charge” means the agreed cost of the Additional Services, being the difference between the Council’s Approved Rate and the Provider’s Price.

“Additional Services” means facilities, goods and services that are significantly and demonstrably higher than those expected by the Care Standards or other Clauses of this Contract and which are detailed in **Appendix 1**.

“Care” means Standard Care and any Additional Care that the Council has assessed the Resident as requiring.

“Care Assessment” means the community care assessment of the needs of the Resident as arranged and approved by the Council.

“Care Commission” means the Scottish Commission for the Regulation of Care, established under the Regulation of Care (Scotland) Act 2001, having its Head Office at Compass House, 11 Riverside Drive, Dundee.

“Care Home” means the establishment which provides accommodation together with nursing, personal care or personal support for persons by reason of their vulnerability or need, in accordance with section 2(3) of the Regulation of Care (Scotland) Act 2001. This definition shall also include the whole buildings and associated lands used as a Care Home by the

Provider to which Residents may be admitted and may include any alternative accommodation approved of by the Council in the event of an emergency for the purposes of temporarily accommodating the whole or any part of the group of management, Staff and Residents.

“Care Manager” means such person(s) as may be appointed by the Council from time to time to assess, oversee and review the Care provided to the Resident by the Provider.

“Care Plan” means the document that sets out the level of Care identified by the Council as required by and requested for the Resident based on the Care Assessment.

“Care Standards” mean the National Care Standards, published by the Scottish Ministers under the Regulation of Care (Scotland) Act 2001 that describe what the Resident can expect to receive from the Provider.

“Complaints Procedure” has the meaning set out in Regulation 25 of the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002 (SSI 2002/114).

“Contract” or National Care Home Contract means this agreement and any Individual Placement Agreements entered into under this agreement.

“Council's Approved Rate” means the sum of the Council's Contribution and the Resident's Contribution, being the price per week which the Provider is entitled to receive for providing Standard Care, such price being as stated in Column A of **Appendix 1**.

“Council's Contribution” means the financial contribution per week which the Council will make to the Provider for providing Standard Care which together with the Resident's Contribution amounts to the Council's Approved Rate.

“Disclosure Scotland” means the Disclosure Bureau operated by the Scottish Criminal Records Office having its Head Office at 1 Pacific Quay, Glasgow, G5 1EA.

“Enhanced Disclosure” means an enhanced criminal record certificate issued under Part V of the Police Act 1997.

“Extras” means any goods or services not included in the Service that the Resident is not obliged to accept but which the Provider may supply to the Resident if the Resident so agrees for a payment by the Resident that is not included in either the Council's Approved Rate or the Provider's Price or the Additional Care Charge.

“Financial Year” means the period from 9th April 2007 – 8th April 2008, both dates inclusive.

“Free Personal and/or Nursing Care Payments” means payments made by the Council in respect of a Resident assessed as eligible for free personal care and/or free nursing care, as defined by the Community Care and Health (Scotland) Act 2002.

“Individual Placement Agreement” means the letter or other document issued by the Council to the Provider in a style subject to **Clause B.4.8** as near as practicable to **Appendix 2, 3 or 4** as appropriate, confirming the Placement under the Contract.

“Mediation Notice” means a written request that a dispute between the Parties be referred to mediation in the first instance.

“Mental Welfare Commission” means the Mental Welfare Commission for Scotland, as defined in the Mental Health (Care and Treatment) (Scotland) Act 2003 and having a place of business at Argyle House, 3 Lady Lawson Street, Edinburgh, EH3 9SH.

“Minute of Variation” means a written agreement between the Parties to amend this Contract.

“Nominated Officer” means the individuals named in **Appendix 5** appointed by the Council and the Provider to receive notifications in relation to this Contract.

“Nursing and Midwifery Council” means the body corporate established under the Nursing & Midwifery Order 2001.

“Ombudsman” means the individual appointed by Her Majesty on the nomination of the Scottish Parliament in terms of the Scottish Public Service Ombudsman Act 2002.

“Parties” means the Council and the Provider and “Party” shall be construed accordingly.

“Permanent Placement” means a Placement that is intended to be of a permanent or indefinite duration.

“Personal Plan” means the plan developed in accordance with **Clause B.4.5** which details the Resident’s needs and preferences and sets out how they shall be met, in a way that the Resident finds acceptable.

“Placement” means the place arranged by the Council in terms of an Individual Placement Agreement for the Resident in the Care Home.

“Provider’s Price” means the Provider’s total price per week stated in Column B of **Appendix 1** for the provision of Standard Care and any Additional Services.

“Registration” means registration with the Care Commission.

“Representative” means in the case of a Resident who has the mental capacity to nominate one, any person nominated by the Resident to be first contacted or advised by the Provider and/or the Council regarding the Resident’s circumstances. In the case of a Resident who has incapacity as defined by the Adults with Incapacity (Scotland) Act 2000 “Representative” means the person if any, nominated by the Resident as power of Attorney prior to the onset of incapacity, or by a court order in terms of the said Act, to be first contacted or advised by the Provider and the Council regarding the Resident’s circumstances or any significant change thereto, who shall, in the event of the Resident failing to nominate any such person, be any person whom the Provider and the Council agree has a relevant interest with regard to the Resident, whom failing, the Council.

“Residency Agreement” means the document issued by the Provider to the Resident which defines the Service and sets out the terms and conditions applicable to the Resident’s Placement.

“Resident” means a person for whom a Placement has been agreed in terms of the Contract.

“Resident's Contribution” means the financial contribution per week, if any, which the Resident, after assessment by the Council in terms of the National Assistance (Assessment of Resources) Regulations 1992 or any other relevant rule of law, is required to make in respect of their receipt of Standard Care.

“Respite Placement” means a Short Term Placement arranged in accordance with the Council's policies and procedures for the purposes of relieving the Resident or their usual carer(s) or their care responsibilities.

“Risk Assessment” means the procedure by which the Provider assesses the risk to employees, the Resident and other Residents during a Placement.

“Service” means the Standard Care and any Additional Care and Additional Services provided by the Provider.

“Short Term Placement” means a Placement for the agreed period of time specified in the Individual Placement Agreement.

“Staff” means any person engaged by the Provider in terms of a contract of employment between that person and the Provider for the purposes of the Care Home which shall exclude any sub-contractor or Volunteer involved in or with the Care Home, and shall include agency staff.

“Standard Care” means the accommodation, provisions, personal care, support and/or nursing services specified within the service specification.

“Trial Period” means the agreed initial period of a Permanent Placement or the initial period of a Short Term Placement that is intended to last for longer than 6 weeks, which agreed initial period in both cases shall be no less than 4 weeks and no more than 6 weeks.

“Volunteer” means any person willing to assist in the care and support provided to the Resident with the agreement of the Provider by means other than a contract of employment or of service and who does not receive any payment for the same by way of wages or otherwise except repayment of necessary outlays such as travelling expenses.

“Working Day” means the Council's opening hours to the general public in force from time to time, i.e. Monday to Friday except Bank Holidays and any Public or Local Holidays.

A.2 DURATION OF CONTRACT

A.2.1 The Contract shall commence on 1st April 2007 and will continue until 31st March 2008 unless terminated earlier in accordance with its terms or unless extended for up to two years by the mutual agreement of the Parties hereto.

A.2.2 The Provider recognises that it is possible for this contract to remain in force until terminated in accordance with any of its terms without being utilised by the Council and therefore to be of no financial benefit to the Provider.

A.3 SERVICE TO BE PROVIDED

- A.3.1 The Provider shall provide to the Resident the Standard Care and any Additional Care in accordance with the Care Standards and any requirements made by the Care Commission and any obligations on the Provider under this Contract.
- A.3.2 Subject to Clauses **C.3.3** to **C.3.8** the Provider may provide Additional Services to the Resident.
- A.3.3 Subject to Clauses **A.4.4**, **A.6.2**, **B.8.4** and **C.3.8** the Provider may provide to the Resident any Extras as may be agreed between the Provider and the Resident.

A.4 PAYMENT

- A.4.1 Subject to Clauses **C.1.1** to **C.2.4**, in exchange for providing Standard Care the Council shall pay the Council's Contribution and the Resident shall be liable for the Resident's Contribution.
- A.4.2 In exchange for providing Additional Care the Council shall pay the Additional Care Charge agreed in terms of Clause **C.3.1**.
- A.4.3 Subject to Clauses **C.3.3** to **C.3.8** in exchange for providing Additional Services the Provider shall be entitled to charge a reasonable Additional Services Charge.
- A.4.4 With the exception of reasonable charges for Extras which are made by prior agreement with the Resident and are listed in the Residency Agreement in terms of Clause A.6.2, and without prejudice to any contractual obligation the Provider may have to collect the Resident's Contribution, the Provider shall not impose charges on the Resident or other third party for anything other than Additional Services in accordance with Clause **C.3.3** and **C.3.4**.
- A.4.5 Where the duration of the Resident's Individual Placement Agreement covers part of a week, charges for the Service shall be calculated on a pro-rata daily basis in accordance with the terms of this Contract.
- A.4.6 The method of payment in respect of each Placement will be in accordance with Clause **C.5**.

A.5 ASSESSMENT, CARE MANAGEMENT AND REVIEW

Pre-Admission Assessment

- A.5.1 Before any Service to a Resident may commence the Resident must, with the exception of emergency placements have had a Care Assessment carried out and have been assessed by the Council as requiring Standard Care and if applicable Additional Care. Where the Resident has been placed in an emergency situation, the Council shall complete a Care Assessment as soon as is reasonably practicable after the Resident is admitted to the Care Home and give this to the Provider.
- A.5.2 i) The Council is responsible for assessing a Resident's needs in order to determine if they meet the Council's eligibility criteria. Prior to a planned Placement, the Council shall supply a copy of the Care Assessment to the Provider.

- ii) A Resident shall be assessed as requiring nursing care when their nursing needs are such that they can no longer be met by community nursing services but require a nurse to be constantly or frequently available and also additional Care staff, over and above what would be provided in residential care. In return for the provision of nursing care to a Resident who is assessed as needing this, the Council will pay the nursing rate specified in **Appendix 1**.

Ongoing Reviews

A.5.3 The Council shall allocate a Care Manager to review and monitor the Service to a Resident and shall advise the Provider of any changes thereto.

A.5.4 i) In the case of a planned Placement, the Care Manager shall undertake an initial review of the Resident's needs, normally within 4-6 weeks of admission. The Council will then conduct further reviews of the Care Plan 6 months following admission and annually thereafter.

- ii) In the case of an emergency Placement, a review will be arranged by the Council within 3 working days of admission.

A.5.5 The Provider shall ensure that the reviews of the Resident's Personal Plan take place as required by regulation 5 of the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002 and the Care Standards and whenever possible at the same time as the Council's reviews.

A.5.6 The Resident, their Representative, the Council, or the Provider may request a review of the Resident's Care needs at any other time having given reasonable notice to the other parties.

A.5.7 If in the Provider's opinion the Resident's Care needs have changed to the extent that the Provider can no longer deliver the Care to meet the Resident's assessed needs or if the Provider reasonably anticipates that this might be the case, the Provider shall notify the Care Manager and a formal review shall be undertaken within 4 weeks of the Council receiving such notification, except in emergency situations when this shall be undertaken as a matter of urgency.

A.5.8 Where the Council agrees that the Resident's Care needs have changed to the extent referred to at Clause **A.5.7**, the Council shall confirm this in writing to the Provider. If the Council does not so agree, then the Parties shall resort to the dispute resolution procedure described in Clause **A.20**. If the cost of meeting an agreed change in an Resident's Care needs would exceed the Council's Approved Rate, clause **C.3.1** shall be applicable.

Convening of Reviews

A.5.9 The Council shall be responsible for arranging and recording in writing the reviews referred to at Clauses **A.5.4** and **A.5.7** and any other reviews that require the presence of the Care Manager. The Council may, at its own discretion, delegate the responsibility for arranging and chairing any review to another party, subject to the other party's agreement. The Council shall ensure that the delegated party shall record such reviews in writing and forward the written record of the review to the Care Manager and the Provider.

A.5.10 The Provider shall advise the Council of the named member of Staff responsible for an overview of the Service provided to the Resident.

A.6 RESIDENCY AGREEMENTS

A.6.1 The Provider shall issue a Residency Agreement to the Resident prior to Placement, except in the case of an emergency Placement in which case the Residency Agreement shall be issued as soon as is reasonably practicable after the Placement commences.

A.6.2 The Residency Agreement shall set out the terms and conditions of the Service, including

- (i) the aims and objectives of the Service
- (ii) the Resident's right to live in the Care Home
- (iii) the Standard Care, any Additional Care and any Additional Services the Resident will receive
- (iv) any Additional Service Charge
- (v) Extras that the Resident may receive if they so wish and the cost of these
- (vi) payment arrangements, including the Resident's Contribution
- (vii) the Resident's right to retain their personal allowance
- (viii) arrangements for changing or ending the Service
- (ix) Review arrangements
- (x) the Trial Period
- (xi) the Provider's Complaints Procedure
- (xii) the level of insurance cover for a Resident's personal effects insurance included within the Provider's policy and the responsibility of the Resident or their Representative to make additional arrangements as necessary.

A.6.3 A style Residency Agreement is appended at **Appendix 7**.

A.6.4 It is a material condition of this Contract that the Resident shall not be required or requested by the Provider to sign any agreement that conflicts with the provisions of the Contract.

A.7 TEMPORARY ABSENCE FROM THE SERVICE

A.7.1 In the event of any unplanned absence of the Resident, the Provider shall immediately inform the Care Manager and the Resident's Representative, where appropriate. In the event of planned absences, the Care Manager must be informed of all arrangements and be satisfied that the planning is sufficiently detailed to meet the Resident's Care needs outwith the Care

Home.

- i) Should a period of hospitalisation or absence for any other notified reason, exceed 6 weeks, the Council and the Provider may review the Resident's circumstances and determine whether to terminate the Resident's Placement in the Care Home or make other suitable arrangements.
- ii) If a Resident is absent from the Care Home for a reason other than hospitalisation, for a period of 3 weeks without intimation of their return, either Party may terminate the Placement forthwith unless this period is extended by mutual consent.

A.7.2 The payment provisions for any temporary period of absence of the Resident are detailed at Clause **C.6**.

A.8 QUALITY OF SERVICE AND CONTRACT MONITORING

A.8.1 The Provider shall demonstrate the existence and implementation of internal quality assurance systems to ensure effective working practices appropriate to any standards required by the Council and the needs and wishes of the Resident.

A.8.2 Information in relation to internal quality assurance systems shall be considered by the Council and the Provider when making decisions about the future contracting position of the Council and its future planning and development with the Provider.

A.8.3 Should any procedures or other matters relating to quality assurance contained within this Contract become subject to a national performance framework then such changes shall take precedence over those contained in the Contract.

A.8.4 The Council recognises that the primary regulator for care services is the Care Commission and, where lawful, shall avoid the duplication of provision of information by the Provider. Notwithstanding this, the Provider recognises that the Council has a duty of care to the Residents and shall where lawful comply with Council requests for information to enable it to meet this duty of care.

A.8.5 Care Managers have the primary responsibility for monitoring the appropriateness of Care delivery by the Provider to the Resident, in accordance with their Personal Plan.

A.8.6 The Council shall identify a Nominated Officer at **Appendix 5** to monitor the terms of this Contract.

A.8.7 The Council shall monitor the Contract performance. This shall include, but may not be restricted to the use of the following documentation, which shall be supplied by the Provider as required by the Council or, with the Provider's agreement, supplied by the Care Commission:

- i) Copies of all statutory notices received;
- ii) Care Commission pre-inspection return and where requested, any supporting documentation;
- iii) The Provider's self evaluation against the Care Standards;

- iv) Care Commission inspection reports and any associated action plans;
- v) Variation to Care Commission Registration;
- vi) Care Commission staffing notices;
- vii) Internal quality assurance procedures and reports;
- viii) External quality assurance certificates, where applicable;
- ix) The complaints and suggestions procedure operated by the Provider and the outcome/investigation of any complaints made. Where the Council has a statutory duty to investigate a particular complaint, the Provider must notify the Council as soon as the Provider receives the complaint; and
- x) Copies of all insurance policies and renewal certificates relating to the insurance cover required under this Contract, together with any other information reasonably requested by the Council relating to such insurance policies; and evidence that the premiums payable under all such insurance policies have been paid and that the insurance is in full force and effect.

A.8.8 The Council shall be invited by the Provider to attend Care Commission feedback sessions.

A.8.9 An officer of the Council may visit the Care Home to monitor the terms of the Contract by prior appointment, except where there is reasonable cause for concern, when such visits may take place without notice.

A.8.10 A copy of any report prepared in relation to the visit shall be issued to the Provider. This report shall highlight any areas where, in the opinion of the Council, contract requirements are not being met and identify corrective actions to be taken accordingly. Where the Provider disagrees with the corrective actions to be taken, the process as set out at Clause A.20 (resolution of disputes) shall be followed.

A.8.11 Unless prohibited by statute, the Provider will allow officers authorised by the Council access to all records held by the Provider that are relevant to the provision of the Service to the Resident. This shall include any Care Plans, complaints and management records, personnel records and Resident's financial records. Records shall be retained as required by statute, or as specified in guidance issued by the Care Commission from time to time.

A.9 STAFFING AND VOLUNTEERS

A.9.1 The Provider shall employ and ensure that at all times sufficient qualified and suitably trained and experienced Staff are available to deliver the Service. The level of staffing shall at all times be no less than that agreed by the Care Commission in a staffing schedule attached as a condition of registration (if applicable) or to the statutory requirement contained in Scottish Statutory Instrument 2002/114.

A.9.2 Subject to Clause **A.9.3** the Provider may use suitably trained and experienced agency staff only where the Provider is unexpectedly short-staffed and consequently unable otherwise to

provide the Service, but the Provider shall not use agency staff unless the Provider has, in such circumstances used best endeavours to use their own Staff on an over-time or sessional basis.

- A.9.3 Before using the services of agency staff the Provider must obtain from the Agency that is being asked to supply the staff a signed written statement which confirms that all staff supplied shall have been through the appropriate Disclosure checks with Disclosure Scotland and that they shall be suitable for providing the Service. The appropriateness of the Disclosure shall be construed in accordance with Clause **A.9.9**. A copy of the said statement shall be supplied to the Council on request.
- A.9.4 Where nurses are employed, the Provider shall ensure that they are supported to maintain their registration as nurses and to meet the requirements of continuing professional development as set out by the Nursing and Midwifery Council Code of Professional Conduct. The Provider shall ensure that there are adequate recording and monitoring systems to ensure that the core competencies of nurses are maintained and that the registration requirements of the Nursing and Midwifery Council are met.
- A.9.5 The Provider is not expected, except where specialist services are provided, to employ Staff with additional specialist nursing skills, although where Staff happen to have such skills, they may, with the agreement of the NHS specialist and the Provider, continue to use them. Specialist nursing services will continue to be provided via the NHS.
- A.9.6 Where the Provider reduces either the Staff-to-Resident ratio or the qualified Staff-to-Resident ratio with the agreement of the Care Commission, because of a change in the dependency levels of Residents, the Council reserves the right, in consultation with the Provider to review the Council's Approved Rate, the Additional Service Charge, Additional Care Charge and the level of Care for each Resident.
- A.9.7 For the avoidance of doubt the Provider and their Staff shall not be deemed to be nor be entitled to act or hold themselves out as agents or employees of the Council.
- A.9.8 In terms of the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)(Scotland) Order 2003, the Provider shall require all prospective Staff and all prospective Volunteers to complete a statement concerning their previous convictions for offences of any description.
- A.9.9 Before Staff and Volunteers, are allowed to deliver the Service, the Provider shall obtain an appropriate level of Disclosure directly from Disclosure Scotland. The appropriate level of Disclosure shall be determined by reference to Part V of the Police Act 1997, Regulations made under that Act and any Guidance issued by Disclosure Scotland. For the avoidance of doubt the Provider shall obtain an Enhanced Disclosure in respect of Administrators and Staff providing Care to Residents and the Provider shall obtain a new Disclosure every three years for all such Staff and for Volunteers.
- A.9.10 The Provider shall use the contents of the said statements and Disclosures to make recruitment decisions and unless the Disclosure contains no convictions, reprimands, warnings, cautions, other relevant information or other government information, the Provider shall conduct a risk assessment and use that assessment to protect the interests of Residents, including, without prejudice to the foregoing generality, prohibiting the subject of the Disclosure from providing the Service directly to Residents.

- A.9.11 To ensure compliance with Clause **A.9.9**, the Provider shall record the following information (as detailed in Section 28 of the Disclosure Scotland: Explanatory Guide on Code of Practice produced and amended from time to time by the Scottish Ministers) and shall disclose this information to the Council on request:-
- (i) the type of Disclosure;
 - (ii) the issue date of the Disclosure;
 - (iii) the unique Disclosure Number;
 - (iv) the name of the subject of the Disclosure;
 - (v) the position held or applied for; and
 - (vi) the recruitment decision taken.
- A.9.12 To ensure compliance with Clause **A.9.10**, the Provider shall record the fact that a risk assessment has been undertaken and shall on request from the Council disclose that record to it.
- A.9.13 The Council reserves the right to require a member of Staff or Volunteer to be withdrawn from providing Care to a Resident in the event of the Provider failing to comply with the foregoing Clauses or the member of Staff or Volunteer as the case may be refusing to agree to a Disclosure or the disclosure at any stage of information which, in the reasonable opinion of the Council, renders that member of Staff or Volunteer unsuitable for the work involved.
- A.9.14 The Provider shall have in place and implement all the policies and procedures required to satisfy the Care Commission's requirements in relation to the employment and management of Staff and Volunteers.
- A.9.15 The Provider shall comply with any requirements under the Regulation of Care (Scotland) Act 2001 for Staff to register with the Scottish Social Services Council and comply with its Employers' Code of Practice.
- A.9.16 Notwithstanding Clause **A.9.2** the Provider shall use best endeavours to minimise the use of agency Staff and shall wherever possible use only directly employed Staff of the Provider for direct Care to a Resident.
- A.9.17 The Provider shall not allow Staff and Volunteers to accept gratuities or gifts of significant value from the Resident or relatives, unless these are agreed by the Council.
- A.9.18 The Provider must ensure that Staff and Volunteers are covered by the Provider's insurance policies as specified in Clause A.11.6.
- A.9.19 Volunteers must be supernumerary to the Provider's staffing requirement and shall not be used as a substitute for Staff. The Council reserves the right (such right being exercised at its own absolute discretion) to require that any Volunteer does not participate in any or all aspects of the Care provided to the Resident.

A.10 CONFIDENTIALITY

- A.10.1 Subject to any contrary rule of law the Provider shall ensure that a Resident has access on request to any records or information held by the Provider pertaining to them.
- A.10.2 Other than as permitted in terms of Clause **A.10.3** below and as specifically required for the purposes of performing its obligations under this Contract the Provider shall itself regard and shall ensure that its Staff, sub-contractors and Volunteers shall regard as strictly confidential and as such shall not disclose to any unauthorised person any information obtained in relation to the Council or any Resident.
- A.10.3 Subject always to any contrary legislation or rule of law; or any pending civil or criminal investigation or inquiry, the Provider shall be entitled to disclose information relating to a Resident to the relatives of that Resident or other suitably interested person in respect of the Resident, where such information has already been made available to the Resident and the Resident's consent to such disclosure has been obtained.
- A.10.4 It shall be the Provider's responsibility to ensure that its Staff and Volunteers observe the principles of confidentiality referred to in Clauses **A.10.2** and **A.10.3** above and give an undertaking not to disclose any information which they may receive in accordance with the provisions of the Contract.
- A.10.5 Subject to any requirement to disclose information in terms of its statutory duties or force of law or order from a court of competent jurisdiction, the Council shall also maintain the obligations of confidentiality in relation to Resident and the Provider contained in Clauses **A.10.2** and **A.10.3** above.
- A.10.6 The obligations of confidentiality contained in this Clause **A.10** shall survive the termination of this Contract.
- A.10.7 All information submitted to the Council may need to be disclosed and/or published by the Council. Without prejudice to the foregoing generality, the Council may disclose information in compliance with the Freedom of Information (Scotland) Act 2002, (the decisions of the Council in the interpretation thereof shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms), any other law, or, as a consequence of judicial order, or order by any court, tribunal or body with the authority to order disclosure (including the Scottish Information Commissioner).

A.11 INDEMNITY, LIABILITY AND INSURANCE

- A.11.1 Except as may otherwise be expressly stipulated in this Contract, the Council shall not be liable to the Provider or to any Resident or to any third party for any loss, cost, expense, penalty or damage incurred or suffered including but not limited to any personal injury or death or damage to property arising directly out of or in consequence of or in connection with the delivery or provision of the Service to any Resident or the operation of this Contract.
- A.11.2 The Provider shall indemnify the Council against all proceedings, costs, expenses, liabilities, injury, loss or damage arising from or incurred by reason of any claim, demand or action made or raised against the Council by or on behalf of a Resident, employee of the Provider or

the Council, or any third party which arises out of the breach or negligent performance or failure in performance by the Provider, its agents, sub-contractors, Volunteers and Staff, of the terms of this Contract. The Council shall act reasonably in relation to any costs, expenses or damages paid by it and shall take all reasonable steps to minimise its payments/costs/losses.

A.11.3 The Provider shall have no liability for and shall not be liable to indemnify the Council in relation to any matter which occurs as a result of the breach, negligent performance or failure in performance of the terms of this Contract on the part of the Council, its agents or employees.

A.11.4 The Provider shall be liable to the Council (including its staff, volunteers, officers, members and agents) for:

- i) Any loss suffered by the Council as a result of any claim (including the costs of defending such claims) made by the Provider's Staff or agents or any other person against the Council for damage to or loss of property; death, illness or injury to any person which may arise out of the negligence of the Provider in the course of the provision of the Service, except insofar as and to the extent that such liability, loss, claim or damages shall be due to any act or neglect of the Council or of any officer, servant, councillor, employee, sub-contractor, agent or other representative of the Council during the course of their employment; and
- ii) Any loss suffered by the Council (including the costs of defending any claims) as a result of a failure on the part of the Provider to preserve from loss or damage the personal property of the Resident or any other persons arising out of the negligence of the Provider except insofar as and to the extent that such loss or damage shall be due to any act or neglect of the Council or of any officer, servant, councillor, employee, sub-contractor, agent or other representative of the Council during the course of their employment.

A.11.5 Notwithstanding any other Clause of this Contract, neither the Council nor the Provider shall be liable to the other Party for any indirect or consequential losses suffered by that other Party as a result of the Council's or, as the case may be, the Provider's breach of contract, negligence or breach of statutory duty (including the negligence or breach of statutory duty of the Council's or, as the case may be, the Provider's employees), and which indirect or consequential losses include, but are not limited to, loss of profits, business interruption, financing costs (including interest), bank charges (including interest) and any costs incurred in the mitigation or the attempted mitigation of any or all such indirect or consequential losses.

A.11.6 The Provider shall take out and maintain public liability, employers liability and medical malpractice/professional indemnity insurance cover for the Care Home, at levels not less than the statutory minimum of five million pounds, ten million pounds and one million pounds respectively,

A.11.7 The Council shall be liable to the Provider (including its staff, volunteers, officers, members and agents) for:

- i) Any losses suffered by the Provider as a result of any claim (including the costs of defending such claims) made by the Council's staff or agents or any other person against the Provider for damage to or loss of property; death or injury to any person which may arise out of the negligence of the Council in the course of the purchase of

the Service, except insofar as and to the extent that such liability, loss, claim or damages shall be due to any act or neglect of the Provider or of any officer, servants, Staff, Volunteer, sub-contractor, agent or other representative of the Provider during the course of their employment;

- ii) Any loss or damage caused to the Provider's property caused by the acts, omissions, negligent or wilful acts of its officers, servants, councillors, employees, sub-contractors, agents or other representative of the Council during the course of their employment, but not in any other way whatsoever.

A.11.8 Where the Provider and/or any of its Staff use their own motor vehicles for the purposes of the Service, the Provider shall ensure that comprehensive vehicle and passenger insurance is maintained. The Provider shall supply the Council on request with copies of all or any of the relevant policies with confirmation that all due premium payments have been made.

A.12 STATUTORY OBLIGATIONS AND GUIDANCE

A.12.1 The Council and the Provider shall exercise their powers, obligations or discretions in terms of the Contract in a reasonable manner and in accordance with their statutory and regulatory obligations.

A.12.2 Throughout the duration of this Contract the Provider shall observe and comply with all statutory enactments, regulations and by-laws applicable to the Care Home, including without prejudice to the foregoing generality all health and safety standards and regulations and they shall comply with all Care Commission, registration conditions, requirements and Care Standards and this Contract.

A.12.3 Should any procedures or other matters regulated by this Contract become subject to statutory provision which results in any change to the manner in which such procedures or other matters require to be dealt with then such changes shall take precedence over that contained in the Contract.

A.13 DATA PROTECTION

A.13.1 Where the Provider provides any personal data to the Council in connection with its duties hereunder, the Council will use that personal data for purposes of ensuring the Provider's compliance with the terms of this Contract. The Council may share that personal data with other regulators (including the Council's and Provider's external auditors, Customs and Excise and law enforcement agencies, the Scottish Commission for the Regulation of Care, and the Mental Welfare Commission). The personal data may be checked with other Council Service departments for accuracy, to prevent or detect fraud or maximise the Council's revenues. It may be shared with other public bodies for the same purposes. The Provider undertakes to ensure that all persons whose personal data are (or are to be) disclosed to the Council are duly notified of this fact.

A.13.2 Where the Provider processes (or will process) personal data it hereby confirms that it has (or will acquire) a valid notification with the Information Commissioner as defined by section 6 of the Data Protection Act 1998 covering its processing of personal data, including in that notification the disclosure of personal data to the Council. This requirement shall not apply if

the Provider is, by virtue of the Data Protection (Notification and Notification Fees) Regulations 2000, exempt from the requirement to notify.

A.13.3 The Provider acknowledges that in order for it to perform its duties hereunder, it may be necessary for the Council to disclose to the Provider personal data, including sensitive personal data, relating to Residents, such information being referred to as Resident Information. The Council is the data controller in respect of the Resident Information.

A.13.4 The Provider hereby warrants:-

- (i) that the processing of the Resident Information will be subject to technical and organisational security measures of a sort, which if the Provider were the data controller in respect of the Resident Information, would satisfy the Seventh Data Protection Principle;
- (ii) that it will take reasonable steps to ensure compliance with the measures described in Clause A.13.4.(i) above;
- (iii) that it will process the Resident Information only in accordance with instructions from the Council and the terms of this Contract; and
- (iv) that it will comply with all obligations imposed by the Seventh Data Protection Principle as though the Provider were the data controller in respect of the Resident Information.

A.13.5 In this Contract the expressions “personal data”, “data controller”, “data processor”, “processing” and “process” shall have the meanings assigned to them by the Data Protection Act 1998, and the “Seventh Data Protection Principle” shall mean the Seventh Principle set out in Part 1 of Schedule 1 to that Act.

A.13.6 Resident Information shall be used by the Provider purely to enable the Provider to provide the Service to Residents in accordance with this Contract and as requested by the Council, and for no other purpose. It must not be processed or disclosed for any other purpose whatsoever save to the extent that the Provider is required to do so by law or with the express consent of the Resident or other individual to whom the personal data in question relates. In the case of a Resident who lacks the mental capacity necessary to consent to the processing in question, this shall instead mean with the express consent of a person entitled in law, to make decisions relating to the personal welfare of the Resident but only to the extent that such processing will be of benefit to the Resident, (and the benefit cannot otherwise be realised), and the processing is in accordance with the wishes of the Resident so far as these can be ascertained. The Provider shall ensure that the recipients of any personal data disclosed under this Clause are made aware of the duty of confidentiality which attaches to it.

A.13.7 The Provider shall not be required to pass information to the Council in relation to a Resident, member of Staff, Volunteer or any other person if the same would cause the Provider to breach the terms of the Data Protection Act 1998. The Provider must supply detailed reasons in terms of the said Act in support of such an assertion within a reasonable timescale specified by the Council. Where the cause of the potential breach of the said Act is lack of consent to disclosure of the information, the Provider undertakes to use its best endeavours to obtain the consent required to prevent the potential breach from occurring.

A.14 FREEDOM OF INFORMATION

- A.14.1 The Provider acknowledges the Council's obligations under the Freedom of Information (Scotland) Act 2002 ("the Act") and acknowledges in particular that the Council may be required to provide information relating to this Contract or the Provider to any person on request in order to comply with the Act.
- A.14.2 Where the Council seeks to consult the Provider in connection with a request for information made under the Act the Provider will facilitate the Council's compliance with the Act by consulting timeously with the Council.
- A.14.3 In the event that the Provider is or becomes a designated Scottish public authority by Order of the Scottish Ministers under section 5 of the 2002 Act the Provider shall comply with the said Act.

A.15 HUMAN RIGHTS

- A.15.1 The Provider shall in its implementation of this Contract comply with the requirements of the Human Rights Act 1998 ("the 1998 Act") and all secondary legislation made under the 1998 Act as though the Provider were a public authority for the purposes of the 1998 Act.
- A.15.2 The Provider shall take all reasonable steps to ensure the observance of the condition contained in Clause A.15.1 above by all Staff, agents and Volunteers of the Provider and all sub-contractors employed by the Provider.

A.16 NON DISCRIMINATION

- A.16.1 The Provider hereby confirms that to the best of their knowledge and belief they have complied with the following Acts and Statutory Instruments and hereby agree to continue to comply with them:-
- (i) the Disability Discrimination Acts 1995 and 2005,
 - (ii) the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000;
 - (iii) the Sex Discrimination Acts of 1975 and 1986;
 - (iv) the Employment Equality (Religion or Belief) Regulations 2003;
 - (v) the Employment Equality (Sexual Orientation) Regulation 2003; and
 - (vi) the Employment Equality (Age) Regulations 2006.
- A.16.2 The Provider agrees to provide the Service in a non-discriminatory manner and shall promote equality and work towards the Service reflecting best practice as identified in the codes of practice issued by the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission (or their successor bodies).

A.16.3 The Provider recognises that the Council has a responsibility to monitor the extent to which the provision of the Service extends to socially excluded groups. In recognition of this, the Provider agrees to work towards providing information to the Council on the employment of and Service provision to equalities groups, e.g. gender (including transgender people), women, minority ethnic communities including gypsies/travellers and refugees; older people, people of different religions, disabled people (including people with learning difficulties or mental health problems) and people who are lesbian, gay or bi-sexual.

A.17 RACIAL DISCRIMINATION AND THE PROMOTION OF RACIAL EQUALITY

A.17.1 The Provider shall not:

- (a) Discriminate directly or indirectly, or by way of victimisation or harassment, against any person on grounds of colour, race, nationality, or ethnic or national origins contrary to Part II (Discrimination in the Field of Employment) of the Race Relations Act 1976, as amended (the Act); or
- (b) Discriminate directly or indirectly by way of victimisation or harassment against any person on grounds of colour, race, nationality, or ethnic or national origins contrary to Part III of the Act (Discrimination in Other Fields); or
- (c) Contravene Part IV of the Act (Other Unlawful Acts).

A.17.2 The Provider shall, for purposes of ensuring compliance with sub-clauses **A.17.1(a)** and **A.17.1(c)** above, in relation to their Staff employed in the performance of the Contract observe as far as possible the provisions of the Commission for Racial Equality's Code of Practice in Employment including, but not limited to, those provisions recommending the adoption, implementation, and monitoring of an equal opportunities policy.

A.17.3 The Provider shall, in performing the Contract, comply with the provisions of Section 71(1) of the Act as if the Provider were a body within the meaning of Schedule 1A to the Act (or any European equivalent which shall be deemed to include without limitation an obligation to have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups).

A.18 SUB-CONTRACTING

A.18.1 The Provider may not subcontract its interests and/or obligations under this Contract to any other person without the prior consent in writing of the Council which consent shall not be unreasonably withheld.

A.18.2 Where there is agreement to sub-contract any part of the Service, the Provider shall be responsible for the acts and/or omissions of their sub-contractors as though they were their own.

A.19 ASSIGNATION

- A.19.1 The Provider may not assign its interests and/or obligations under this Contract to any other person without the prior consent in writing of the Council which consent shall not be unreasonably withheld.
- A.19.2 The Provider shall give thirteen weeks written notice to the Council and the Resident prior to disposing of its interest in the Care Home. Failure to give such notice shall be deemed to be a material breach of Contract and the Council shall be entitled to withhold payment to the Provider of all outstanding invoices from the date the notice is due.
- A.19.3 Where the Provider intends to transfer its interest in the Care Home to another care provider with the intention of Service continuation the Council may consent to an assignation of this Contract upon being satisfied of the intended purchaser's or tenant's suitability and subject to a certificate of registration being granted to the intended purchaser or tenant by the Care Commission. The Provider shall provide the Council with the name and address of the proposed proprietor or tenant and the proposed date of transfer no later than 13 weeks prior to that date.
- A.19.4 Until the Provider and the new proprietor or tenant of the Care Home conclude an assignation of the Contract, the Council may make no further Placements and may review the Placement of any existing Resident with a view to terminating the same.

A.20 RESOLUTION OF DISPUTES

- A.20.1 In the event of any dispute between the Parties, either Party shall serve a notice on the other outlining the terms of the dispute and proposing a time and place for a meeting between the Parties' representatives where the representatives shall attempt to resolve the dispute. The other Party shall respond to such a notice within 5 days of receipt. If the matter is not resolved within 14 days of notification of the dispute the matter may be referred within 7 days of the expiry of the said 14 day period by either Party to the appropriate Nominated Officers of each Party for resolution of the matter in dispute within 21 days of the said referral.
- A.20.2 Should the dispute remain unresolved after the process as detailed in Clause A.20.1 above then either Party shall be entitled to serve a Mediation Notice on the other Party. If either Party refuses at any time to participate in the mediation procedure and in any event the dispute is not resolved within 30 working days of service of the Mediation Notice then either Party may refer the dispute to arbitration.
- A.20.3 If the Parties are unable to agree upon a single independent arbiter within 14 days of the date of the decision to refer the matter to arbitration then either Party may refer the matter in dispute to an arbiter appointed by the Sheriff Principal of the Sheriffdom in which the Contract is performed whose decision on the matter and any issue relating to the expenses of such arbitration shall be final and binding on the Parties.
- A.20.4 For the purpose of resolving disputes in terms of Clauses A.20.1 to A.20.3 above the Council and the Provider shall formulate operational guidelines as to the levels of officer hierarchy within the respective organisations to which disputes should be referred.
- A.20.5 Clauses **A.20.1** to **A.20.3** are without prejudice to any rights the Parties may have under Clause **A.21**.

A.21 BREACH AND TERMINATION OF CONTRACT

BREACH PROVISIONS

- A.21.1 Where either Party considers the other to be in non-material breach of the Contract, the Party not in breach will be required to notify the details of the breach to the other Party who shall use their reasonable endeavours to rectify the breach within 14 days of notification of the breach.
- A.21.2 If the Party in breach is unable to rectify the breach to the reasonable satisfaction of the other Party within the said 14 day period the matter shall be referred to the relevant Nominated Officers of each Party, who shall use best endeavours to reach a resolution of the matter within 14 days of the said referral.
- A.21.3 If the Nominated Officers fail to resolve the matter within the said 14 days, a meeting of all Parties shall be convened involving senior staff with line management responsibility for Nominated Officers in order to reach a solution or decide on an agreed action plan and time-scales for rectification of the breach.
- A.21.4 Where a solution or action plan and time-scales cannot be agreed between the Parties or, if agreed, is not effected to the reasonable satisfaction of the Party not in breach within the agreed time-scales then the mediation procedure at Clause **A.20.2** shall be invoked.
- A.21.5 Without prejudice to the rights and remedies for material breach of the Contract otherwise available to them under the Contract (in particular Clauses **A.21.10** and **A.21.11**) or at common law or under statute and without prejudice to the Council's statutory obligations and powers with regard to the safety and well-being of any Resident or group of Residents, the Council and the Provider shall each have the right, such right being exercised at their absolute discretion to serve written notice on the Nominated Officer of the other Party to terminate this Contract if the other Party has committed a material breach of this Contract which is not capable of remedy, or if capable of remedy, has not been remedied to the reasonable satisfaction of the Party serving the notice within the period specified in any notice served under Clause **A.21.6**.
- A.21.6 Where a Party has committed a material breach of Contract that is capable of remedy, the Party who is not in breach may serve a written notice on the Party in breach giving that Party a fixed period in which to remedy the breach. The period given shall be determined at the sole discretion of the Party serving the notice but always subject to a minimum period of two weeks and a maximum of 13 weeks.
- A.21.7 In the circumstances described at Clause **A.21.9** (vii), (x) and (xi), the notice to terminate referred to at Clause **A.21.6** shall be effective immediately. In all other circumstances the notice shall be effective 13 weeks after its issue date.
- A.21.8 The following are material breaches of contract by the Council:
- i) failing to make payment in accordance with Clause **A.4** above;
 - ii) offering any improper inducements or exerting unreasonable pressure upon potential or existing Residents or their Representatives, or others with an interest;

- iii) materially failing to undertake its care management duties in accordance with the terms of this Contract; and
- iv) the Council committing a breach of any of its obligations under this Contract which materially and adversely affects the performance of the Contract or provision of the Service or the Council committing a series of breaches of any of its obligations under the Contract the cumulative effect of which is to seriously and adversely affect the performance of the Contract or provision of the Service.

A.21.9 The following are material breaches of Contract by the Provider

- i) serious non-compliance with the provisions of the Health and Safety at Work etc. Act 1974;
- ii) operation of the Care Home without insurance cover as required under Clause **A.11.6** above;
- iii) non-compliance with the requirements of race relations legislation, equal opportunities legislation and disability discrimination legislation;
- iv) deliberate misuse of drugs and/or medicines when delivering any aspect of the Service to the Resident;
- v) abuse or neglect of any Resident;
- vi) taking or attempting to take dishonest or illegal financial advantage of the Resident;
- vii) the Provider ceasing to carry on the whole of its business; or disposing of all of its assets (other than in terms of this Contract); or becoming the subject of a voluntary arrangement under Section 1 of the Insolvency Act 1986; or being unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or having a receiver, liquidator (other than for the purposes of reconstruction or amalgamation), administrator or administrative receiver appointed over all or any material part of its undertakings, assets or income; or having a winding up order made in respect of it; or entering into administration; or a resolution for its winding-up being passed by creditors or members; or having a judicial factor appointed; or being apparently insolvent or sequestrated; or signing a trust deed for creditors; or entering into a composition with creditors; or entering into a debt arrangement scheme; or being the subject of any process or event similar or analogous to the events specified above in any jurisdiction outside Scotland;
- viii) offering any improper inducements or exerting unreasonable pressure upon any person to encourage them or persons whom they represent to go into the Care Home;
- ix) being convicted of an offence under the provisions of the Regulation of Care (Scotland) Act 2001;
- x) committing any offence under the Prevention of Corruption Acts 1889 - 1916;
- xi) giving any undisclosed or illicit fee or reward to any elected member or officer of the

Council in order to secure an unfair gain or advantage;

- xii) failing to supply information required by the Council as set out in Clause **A.8.7**;
- xiii) the issue by the Care Commission of an improvement notice;
- xiv) imposing charges on the Resident that are not permitted by the Contract; and
- xv) the Provider committing a breach of any of its obligations under this Contract which materially and adversely affects the performance of the Contract or provision of the Service or the Provider committing a series of breaches of any of its obligations under this Contract the cumulative effect of which is to materially and adversely affect the performance of the Contract or provision of the Service.

A.21.10 Without prejudice to other rights and remedies the Council may have for material breach of the Contract available to them under the Contract or at common law or under statute, if the Provider is found to be imposing charges on the Resident that are not permitted by the Contract the Council reserves the right to adjust the Council's Approved Rate to the nationally approved 2005/06 rate uplifted by the approved annual rate of inflation for the duration of the Contract.

A.21.11 Without prejudice to other rights and remedies the Council may have for material breach of the Contract available to them under the Contract or at common law or under statute, if the Provider is in persistent or material breach of its Registration requirements or Registration conditions as evidenced by the Care Commission, including failing either to produce or to adhere to an action plan required by the Care Commission, the Council reserves the right to adjust the Council's Approved Rate to the nationally approved 2005/06 rate uplifted by the approved annual rate of inflation for the duration of the Contract.

A.21.12 Without prejudice to other rights and remedies the Council may have for material breach of the Contract available to them under the Contract or at common law or under statute, if the Care Commission gives notice to the Provider of a proposal to cancel the Registration or if the Care Commission has made Summary Application to the Sheriff for an Order cancelling the Registration then the Council may, but shall not be bound, to terminate this Contract or any Resident's Placement in the Care Home without notice, irrespective as to whether or not the Provider has made representations to the Care Commission about the cancellation or the period for making such representations has elapsed or the Summary Application to the Sheriff is being opposed.

A.21.13 The Council shall advise the Care Commission of any material or persistent breach of Contract by the Provider.

A.21.14 Nothing in this Clause **A.21** shall limit the nature and extent of acts considered by a court of law or otherwise to be material breaches of this Contract. No granting of time or period of notice under this Clause **A.21** shall be deemed to be a waiver of any right the Party granting time or giving notice may have against the other Party in respect of the other Party's material breach of this Contract.

NON –BREACH PROVISIONS

- A.21.15 The Provider shall give the Council 13 weeks written notice of its intention to:
- i) close the Care Home;
 - ii) sell the Care Home;
 - iii) substantially reconfigure the Service;
 - iv) significantly change the facilities or amenities of the Care Home; or
 - v) move the Service to a different location.
- A.21.16 In the event that notice is served under Clause **A.21.15**, the Council may but shall not be bound to terminate the Contract at the end of the 13 week notice period.
- A.21.17 Where the Care Home or any part thereof is leased by the Provider and the lease is terminated this Contract shall be terminated upon the same date as the lease, except if the Parties otherwise agree. The Provider shall be obliged to give the Council at least 13 weeks written notice of the proposed date of termination of the lease unless the Provider provides evidence to the Council that it was not possible using all reasonable endeavours to give such notice.
- A.21.18 In the event of closure of the Care Home, the Council and Provider shall co-operate to implement the Provider's closure plan as required under the Regulation of Care (Scotland) Act 2001.
- A.21.19 This Contract shall be terminated by the loss or destruction of the Care Home or by the enforced vacation arising from statutory action by the Departments of Environmental Health or Building Control of the relevant Council unless otherwise agreed in writing by the Council. In the event the Council does not so agree, the Contract shall be terminated under this Clause on the date of the said loss or destruction or vacation of the Care Home.
- A.21.20 Either the Council or the Provider may terminate this Contract by giving 13 weeks written notice to the other party, or such other period as may be agreed in writing.

GENERAL PROVISIONS

- A.21.21 During any period of notice referred to in Clause **A.21**, the Provider and the Council shall co-operate with each other to ensure that the Resident's Care requirements continue to be met; and they shall fully co-operate and consult with the Resident and their Representative in making suitable alternative Care arrangements for the Resident.
- A.21.22 Neither Party shall be entitled to withhold performance of their obligations under the Contract during any period of notice required under Clause **A.21**.
- A.21.23 The termination of this Contract howsoever arising is without prejudice to the rights, duties and liabilities of either Party accrued prior to termination (subject as otherwise expressly provided in this Contract). Those rights shall include the right of the Council or the Provider as the case may be to claim damages against the other Party arising out of that Party's material breach of the Contract. The Clauses of this Contract which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

A.22 NOTICES

- A.22.1 Any notice in writing required to be given by the Council to the Provider in terms of the Contract, whether delivered by hand or Recorded Delivery (in which case receipt shall be deemed to have occurred 2 working days after posting) or other information, instructions or communication given to the Provider at the address specified herein, shall be deemed to have been received by the Provider.
- A.22.2 Any notice in writing required to be given by the Provider to the Council in terms of the Contract whether delivered by hand or by Recorded Delivery, (in which case receipt shall be deemed to have occurred 2 working days after posting) or other information, instruction or communication given to the Care Manager or any other person nominated from time to time by the Council, being the duly authorised representative for all purposes connected with the Contract, shall be deemed to have been received by the Council.
- A.22.3 Any material changes to the management and control of the Service shall be communicated to the Council within 4 weeks of the change occurring.
- A.22.4 Any change to the Parties' Nominated Officer shall be communicated to the other Party as soon as possible.

A.23 FORCE MAJEURE

- A.23.1 If either Party to this Contract is prevented or delayed in the performance of any of its obligations under this Contract by force majeure (as defined in Clause **A.23.4**), and if such Party gives written notice to the other Party specifying the matters constituting force majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue then the Party in question shall be excused from the performance or the practical performance as the case may be, of such obligations in terms of this Contract which are so affected as from the date on which it became unable to perform them and subject to Clause **A.23.2** for so long as the cause of prevention or delay shall continue.
- A.23.2 If the period during which either Party is delayed in or prevented from the performance of its obligations hereunder by reason of force majeure exceeds 8 weeks either Party may serve on the other 4 weeks notice of termination of the Contract and Clause **A.21.20** shall apply to the said period of notice.
- A.23.3 Both Parties agree to use their best efforts to ensure that during any period when force majeure circumstances exist, the Care needs of the Resident are accommodated to the fullest extent practicable.
- A.23.4 For the purposes of the Contract "force majeure" shall be any cause affecting the performance of this Contract arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of either Party to perform.

A.24 PREVENTION OF COLLUSION AND CORRUPT OR ILLEGAL PRACTICES

A.24.1 The Council shall be entitled to terminate the Contract with immediate effect and to recover from the Provider the amount of any loss resulting from such termination if, either:

- i) the Provider or its representative or associate or affiliated companies or subsidiary or related companies (whether with or without the knowledge of the Provider) shall have practised collusion in tendering for the Contract or shall have employed any corrupt or illegal practices either in the obtaining or the carrying out of the Contract; or
- ii) the Provider has given or agreed to give, to any member, employee or representative of the Council, any gift or consideration of any kind as an inducement or reward for doing any act in relation to the obtaining or carrying out of the Contract or the Care of the Resident.

A.25 VARIATIONS AND COURT'S POWER TO MODIFY THE CONTRACT

A.25.1 The terms of the Contract shall not be amended or varied in any way other than by a formally executed Minute of Variation entered into by the Parties.

A.25.2 If any court of competent jurisdiction holds any provision of this Contract invalid, illegal or unenforceable for any reason the remaining provisions shall continue in full force and effect (notwithstanding such invalidity, illegality or unenforceability) and the court shall have the power to modify the Contract if this is required to ensure that the parties can so enforce the remaining provisions.

A.26 WAIVER OF REMEDIES

A.26.1 No forbearance, delay or indulgence by either party enforcing the provisions of this Contract shall prejudice or restrict the rights of that party, nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy conferred upon or reserved right for either party in this Contract is exclusive of any other right, power or remedy available for that party and each such right, power or remedy shall be cumulative.

A.27 ENTIRE CONTRACT

A.27.1 The Contract shall constitute the entire Contract between the Council and the Provider with respect to the provision of the Service and supersedes all prior oral or written agreements, understandings or undertakings between the Council and the Provider relative to the Service.

A.28 LAW OF SCOTLAND

A.28.1 The construction, validity, performance and all other matters arising out of and in connection with the Contract shall be governed by the Law of Scotland.

Section B - Service Specification

B.1 PREFACE

- B.1.2 The Provider is required to follow the requirements set out in this Section B and to comply with all statutory requirements in the delivery of the Service which will be consistent with the Care Standards. The standards of Service stated in this part of the Contract reflect the Council's minimum expectations regarding the standard of Service which must be provided to meet a Resident's needs in conjunction with those identified in the Resident's Care Plan.
- B.1.3 The Provider shall be required to demonstrate to the Council the quality of the Service provided and their compliance with the requirements of this Section B.

B.2 AIMS AND OBJECTIVES OF THE SERVICE

- B.2.1 The Provider shall follow the requirements set out in this section, comply with the relevant legal requirements under the Regulation of Care (Scotland) Act 2001, associated regulations and the Care Standards, and to promote the principles behind the Care Standards, which include dignity, privacy, choice, safety, realising potential and equality and diversity.
- B.2.2 The Provider shall meet all assessed needs of the Resident in relation to accommodation, meals, activities, support, Care, including, where applicable, nursing care.
- B.2.3 The Service shall be flexible and designed to meet the needs of the Resident as specified within the Care Plan and detailed within the Personal Plan.

B.3 PRINCIPLES OF THE SERVICE

- B.3.1 In addition to the principles set out in the Care Standards, the following principles shall apply:
- i) The Resident and their Representative shall be consulted on all significant proposals, which affect the life or comfort of the Resident, and their views shall be taken into account.
 - ii) The Resident shall be offered a range of opportunities to give their views, make comments, and offer ideas, both individually and in groups, about the Service provided.
 - iii) The Provider shall adhere to local protocols that have been agreed between the Council and Care Home Providers or amongst the Council, Care Home Providers and other parties such as the NHS or Care Commission, unless the protocols conflict with the terms of this Contract.

B.4 PLACEMENT PROCEDURES

- B.4.1 The Council shall follow appropriate regulations and take account of guidance on choice of accommodation as issued by the Scottish Executive from time to time.
- B.4.2 Any individual seeking financial support from the Council towards the cost of the Service must be referred by the Council to the Provider in accordance with the Placement procedures set out in this Clause **B.4**. No payment will be made by the Council where these procedures have not been followed.
- B.4.3 After the pre-admission assessment referred to at Clauses **A.5.1** and **A.5.2**, the Council shall issue an Individual Placement Agreement confirming the Placement and the relevant financial terms. The Individual Placement Agreement shall confirm that the terms and conditions of this Contract apply to the Placement.
- B.4.4 Where a prospective Resident is eligible for free personal and/or nursing care, and wishes to be placed in the Care Home, and the Provider agrees to accept such a Placement, the Council will issue an Individual Placement Letter in the style of **Appendix 3**.
- B.4.5 The Provider shall produce with the Resident and the Resident's Representative, a Personal Plan in time for the initial review as specified in Clause **A.5.4(i)**. A copy of the Personal Plan shall be given to the Resident and provided to the Council on request within 3 working days of its production and the Provider shall take into account any recommendations made by the Council in relation to the Personal Plan. Personal Plans shall be kept up to date and sent to Care Managers prior to all reviews and where there have been any significant changes in the Resident's needs.
- B.4.6 A Trial Period may be extended by agreement of both Parties. The Care Manager shall advise the Resident of the extent of the Trial Period or any agreed extension of it.
- B.4.7 Where a Placement is made in an emergency the Council and the Provider shall agree within 3 working days whether this shall be treated as a Short Term Placement or a Permanent Placement.
- B.4.8 Notwithstanding the terms of Clause **B.4.3** and any other Clauses in this Contract which require the Council to issue an Individual Placement Agreement to the Provider in a form as near as practicable to **Appendices 2, 3 or 4**, the Council shall be deemed to have complied with their obligations under those Clauses if it issues a letter or other document of whatever description which contains the following information:
- (i) the names of the Council's and the Provider's Nominated Officers, and the name of the Resident
 - (ii) the name and address of the Care Home;
 - (iii) if applicable, the fact that Additional Services are to be provided to the Resident by the Provider;
 - (iv) the cost (whether weekly or monthly) of the Care and Additional Services; and

- (v) the respective liabilities of the Council, the Resident and, if applicable, any third party, for the costs of the Care and, if applicable, the Additional Services.

B.5 TERMINATION OF THE PLACEMENT

B.5.1 DEATH

B.5.1.1 If the Resident dies, the Placement shall terminate 3 complete days after the date of death (the date of the Resident's death being day zero) unless the death occurs within three complete days of the end of a Short Term Placement, in which case the Placement shall end on the date agreed in the Individual Placement Agreement.

B.5.2 SHORT TERM PLACEMENTS

B.5.2.1 Short Term Placements shall terminate automatically at the end of the period specified in the Individual Placement Agreement unless the Parties agree to vary the duration or either Party exercises their right to terminate the Placement under Clause **B.5.2.3**.

B.5.2.2 Where the Resident fails to start a Short Term Placement the Council shall ensure payment of the Council's Approved Rate for the shorter of:

- i) a period of 7 days less the number of days notice, given by the Council or the Resident to the Provider of the fact that the Placement is no longer required;
- ii) the period between the date that the Placement was requested by the Council and the date that the Placement was due to commence.

B.5.2.3 Once a Short Term Placement has commenced either Party may terminate it by giving not less than 7 days written notice and the Council shall ensure payment of the shorter of:

- i) a period of 7 days
- ii) the number of days remaining of the Placement

less, in both cases, the number of days notice, given by the Council or the Resident to the Provider of the fact that the Placement is no longer required;

B.5.2.4 The following provisions do not apply to Respite placements

- (i) **B.5.3.1 to B.5.3.3**
- (ii) **C.6**.

B.5.3 TRIAL PERIOD

B.5.3.1 Where the Resident fails to start a Permanent Placement the Council shall ensure payment of the Council's Approved Rate for a period of 7 days, less the number of days notice up to a maximum of 7, given by the Council or the Resident to the Provider of the fact that a Placement is no longer required.

B.5.3.2 Where the Resident leaves the Care Home during the Trial Period the Council shall confirm this to the Provider in writing and where the Council is reasonably satisfied that the departure was not attributable to a lack of Care, neglect or other fault on the part of the Provider or persons acting on their behalf, the Council shall ensure payment of the Council's Approved Rate for a period of 7 days after the date of the Resident's departure, less the number of days notice up to a maximum of 7, given by the Council or the Resident to the Provider of the fact that the Resident intended to depart.

B.5.3.3 During the Trial Period the Provider, after due consultation with the Council shall be entitled to give a minimum of 7 days written notice of their wish to terminate the Resident's Placement.

B.5.4 PERMANENT PLACEMENTS

B.5.4.1 The Provider shall, after a review has taken place involving the Care Manager, the Resident and/or their Representative and/or other appropriate professionals, be entitled to terminate a Resident's Placement in the Care Home upon giving to the Council 4 weeks notice in writing, or less where the Parties agree where:

- i) The Resident persistently behaves in a manner which causes a serious risk to the welfare or is detrimental to the peaceful enjoyment of other Residents or poses a serious risk to the safety of Staff or visitors to the Care Home;
- ii) The Resident is in persistent or material breach of their Residency Agreement; or
- iii) The mental and/or physical condition of the Resident deteriorates to the extent that the Provider can no longer provide the Service required for the Resident.

B.5.4.2 The Council shall, after a review has taken place involving the Care Manager, Resident and/or their Representative and/or other appropriate professionals, be entitled to terminate a Resident's Placement in the Care Home upon giving to the Provider 2 weeks notice in writing, or less where the Parties agree where:

- i) The Resident persistently behaves in a manner which causes a serious risk to the welfare or is detrimental to the peaceful enjoyment of other Residents or poses a serious risk to the safety of Staff or visitors to the Care Home; or
- ii) The mental and/or physical condition of the Resident deteriorates to the extent that the Provider can no longer provide the Service required for the Resident.

B.5.4.3 The Council may terminate a Placement by giving not less than 2 weeks notice where the Resident or their Representative have secured an alternative Placement.

B.5.4.4 The Resident may terminate a Placement for any reason by giving not less than 2 weeks notice to either Party, who must notify the other Party of this as soon as practicable (but in any event not later than 1 working day after the receipt of such notice). In such circumstances the Council shall ensure payment of the Council's Approved Rate for a period of 14 days, less the number of days notice up to a maximum of 14, given by the Council or the Resident to the Provider of the fact that a Placement is no longer required.

B.5.5 GENERAL PROVISIONS

- B.5.5.1 The Provider and the Council shall co-operate to ensure that the Resident's needs are met during any period of notice to terminate a Placement.
- B.5.5.2 The foregoing provisions of Clause **B.5** are subject to the express qualification that the Council shall in no event be liable to make payment for any period of notice where the Placement vacated by a Resident is occupied by another person.
- B.5.5.3 When either Party gives notice to terminate a Placement, they shall advise the other Party of the reasons for their decision to do so. If it is not reasonably practicable to provide the reasons for terminating the Placement with the notice to terminate, those reasons shall be provided as soon as practicable thereafter.
- B.5.5.4 If at the time of termination, the Resident's finances are managed by the Provider under Part 4 of the Adults with Incapacity (Scotland) Act 2000, then on termination of the Resident's Placement, the Provider shall provide the statements and reports required under the Adults with Incapacity Code of Practice for Managers of Authorised Establishments under Part 4 of the Adults with Incapacity (Scotland) Act 2000.

B.6 DEATH OF THE RESIDENT

- B.6.1 In the event of the death of a Resident, the Provider shall inform the Resident's Representative and the Council immediately and provide written confirmation within 3 days thereafter. Where the Council asks the Provider for details relating to the death of a Resident the Provider shall comply with this request within 3 days of the death where practicable, failing which as soon as reasonably practicable thereafter.
- B.6.2 The Provider shall make all reasonable efforts (with the involvement of the Resident's Representative) during the 3 day period following the date of death to remove the Resident's personal effects from the Resident's room within the Care Home and arrange for the same to be put in a place of safekeeping. In the absence of a Resident's Representative, the Council shall provide assistance to the Provider to remove the Resident's personal effects from the Care Home. Notwithstanding the actual number of days the said personal effects remain in the Care Home the Council shall not be liable for any payment in excess of the said 3 days.
- B.6.3 If the Resident has no Representative who can arrange the Resident's funeral, the Provider shall make the necessary practical arrangements, in consultation where appropriate with the organisation/person responsible for payment of the costs, unless local arrangements are in place for this purpose. For the avoidance of doubt the Provider is not obliged to meet the financial costs of funerals.

B.7 FACILITIES

- B.7.1 The Provider shall issue a detailed receipt for any valuables, cash or documents held on behalf of a Resident, to that Resident or their Representative, whom failing, their Care Manager, and retain the same in a secure lockfast place.

- B.7.2 Where it is necessary for a Resident to be moved from their room in the Care Home, the Provider shall seek and obtain the consent of the Resident or their Representative and the Council in advance, save in the event of an emergency in which case the Provider shall notify the Council, as soon as possible, that such a move has taken place. Following the emergency, which necessitated the removal, the Resident shall be returned to their former room if they so request and if appropriate.
- B.7.3 The Provider shall be entitled to provide such Extras as it is normal and reasonable in the operation of a Care Home to so provide. Examples of Extras are specified in **Appendix 7**. For the avoidance of doubt, under no circumstances shall the Council be liable to pay for such Extras provided to a Resident.

B.8 CLOTHING AND LAUNDRY

- B.8.1 Each Resident shall provide their own clothing. The Provider shall assist the Resident or their Representative to determine what is an adequate supply of clothing to meet the Resident's needs and shall alert the Care Manager to any difficulties.
- B.8.2 The Provider shall provide sufficient bed linen, bedding, hand and bath towels to meet the Resident's needs. Laundry items supplied by the Provider shall be changed regularly and not less than once per week, except in the case of soiled items which shall be changed immediately they come to the attention of any person providing the Service to the Resident.
- B.8.3 The Provider shall carry out all personal laundry, except dry cleaning, for the Resident and ensure that personal laundry is identified and returned to the Resident to ensure that the Resident has sufficient clean and appropriate day and nightwear of their own to meet their immediate needs.
- B.8.4 In the event of loss or damage of a Resident's personal clothing due to the fault of the Provider, the Provider shall be obliged to recompense the Resident for the cost of replacing such clothing. For the avoidance of doubt this excludes fair wear and tear. Resident's clothing shall be for their sole use and may be discreetly labelled if necessary.
- B.8.5 Flannels, sponges, toiletries and similar items shall be supplied for the sole personal use of each Resident and named discreetly, if necessary, and must not be shared amongst Residents.

B.9 MEALS AND SNACKS

- B.9.1 Meals shall be varied and nutritious and take into consideration the Resident's food preferences, special dietary or cultural needs and professional advice on best practice in respect of nutrition.
- B.9.2 The Resident shall have access to facilities to make beverages in their own room or another designated area except where compliance would be likely to cause danger to or be adverse to the interests and wellbeing of any Resident or other person in the Care Home.

- B.9.3 The Provider shall ensure that the Resident has access to a sufficient provision of light refreshments at all times.
- B.9.4 Wherever practical, times for both meals and light refreshments shall be at the Resident's choice and shall reflect the Resident's reasonable nutritional requirements.
- B.9.5 Staff must be properly trained to assist the Resident wherever and whenever necessary in eating or drinking. This should be done in a way that preserves the Resident's dignity.

B.10 PERSONAL AND HEALTH CARE

- B.10.1 The Care Assessment and Care Plan shall be the key instruments in determining the level of Care a Resident requires on admission to the Care Home. Thereafter, the Resident's review and Personal Plans shall determine how that Care is to be provided for the Resident.
- B.10.2 The Provider shall protect the Resident using observation and assistance rather than restraint and confinement except where the Care Plan and Personal Plan identify that restraint and confinement are necessary. The nature and extent of this shall be agreed as part of the review process detailed in Clause A.5. If the use of restraint and confinement are necessary in order to safeguard any Resident or other person then this must be recorded immediately in the records pertaining to the Resident on whom the restraint or confinement was used. Where the use of restraint and confinement are not in that Resident's Care Plan and Personal Plan but for unforeseen reasons they have to be used, the Provider shall notify the Council and that Resident's Representative in writing as soon as practicable thereafter and the Resident's Care Plan shall be reviewed.
- B.10.3 The Provider shall support and encourage the Resident with regard to their personal hygiene skills including assisting with the Resident to manage his/her continence.
- B.10.4 The Provider shall be alert to a Resident's state of health, and shall seek to ensure that best practice levels of health appointments and check-ups are arranged for the Resident. Where there are difficulties in achieving this, the Provider shall alert the Care Manager and the Resident's GP to these concerns.

B.11 COMPLAINTS AND SUGGESTIONS

- B.11.1 The Provider and the Council shall inform the Resident and their Representative of how to make a complaint or suggestion and the agencies to whom such complaint or suggestion can be made, in particular the Care Commission, the Ombudsman and the Mental Welfare Commission. The Residency Agreement shall detail the Provider's Complaints Procedure and the Provider shall assist the Resident with the completion of the documents if required. Such assistance may, if appropriate, include arranging independent advocacy or support from an independent agency.
- B.11.2 The Resident shall also have access to the statutory complaints procedure operated by the Council. The Provider shall co-operate with any investigation resulting from a complaint within the terms of section 5B of the Social Work (Scotland) Act 1968. The Provider

shall provide access to its records, to the Nominated Officer or other duly authorised officers of the Council in the investigation of such a complaint. The Provider shall implement any corrective actions required within the timescales identified by the Council. Where the Provider disagrees with the corrective actions to be taken, the process as set out at Clause **A.20** (resolution of disputes) shall be followed.

B.11.3 The Provider shall maintain a Complaints Register which shall be available at all reasonable times to the Council, and a summary of which in a format agreed by the parties will be sent to the Council no less than annually and more often if required under the Council's contract management procedures.

B.12 TRANSPORT

B.12.1 The Provider shall ensure that it has adequate transport arrangements to fulfil its obligations under this Contract.

B.12.2 The Provider shall ensure that any of its vehicles used in connection with the Service are suitable, appropriate and fit for purpose and are insured in accordance with Clause **A.11.8**.

B.12.3 Where Staff's own vehicles are used in connection with the Service, the Provider shall ensure that such vehicles are suitable, appropriate and fit for the purpose and are insured in accordance with Clause **A.11.8**.

B.12.4 Where a Resident qualifies for transport from the NHS to attend for a clinical appointment/ treatment the Provider will, where practicable, ensure this is arranged. For the avoidance of doubt, the cost of providing transport for the Resident to and from scheduled medical appointments, as well as emergency admissions to hospital are not covered in the Provider's Price.

B.13 NOTIFICATION

B.13.1 The Provider shall immediately inform the Care Manager and the Resident's Representative of any of the following:

- i) any significant incident, including allegations or evidence of abuse relating to the Resident or the Care of the Resident;
- ii) maladministration of the Resident's funds or property, or serious loss or damage to the Resident's property;
- iii) significant changes in the Resident's needs or circumstances;
- iv) any permanent change in the named member of Staff responsible for an overview of the Care of the Resident;
- v) formal complaints in respect of any aspect of the Resident's Care, subject to the consent of the Resident and/or their Representative;

- vi) unplanned absence of the Resident from the Care Home;
 - vii) the Resident's admission to or return from hospital as an in-patient;
 - viii) death of the Resident.
- B.13.2 Where verbal notification is given by the Provider of any of the circumstances required to in Clause **B.13.1** the Provider also submit a written report on those circumstances to the Council within 3 working days of the circumstances occurring.
- B.13.3 In the event of a significant incident or accident occurring to a Resident with a mental disorder as defined in the Mental Health (Care & Treatment)(Scotland) Act 2003, the Provider shall also immediately inform the Mental Welfare Commission.

B.14 PROTECTION OF VULNERABLE ADULTS

- B.14.1 The Parties agree to adhere to local procedures in relation to the protection of vulnerable adults and to work in accordance with any interagency guidelines that are in place from time to time. The Provider shall immediately notify the Council of allegations or evidence of abuse in accordance with Clause **B.13.1**.
- B.14.2 The Provider shall ensure that information on its policies and procedures for the protection of vulnerable adults is made available to the Council, Staff, Volunteers, the Resident and their Representative and that all Staff and Volunteers are trained in these policies and procedures.
- B.14.3 Without prejudice to the generality of **B.14.2**, the Provider shall have a policy and procedure for reporting details of any allegation of financial, physical, sexual or any other form of abuse of a Resident. The Provider shall immediately inform the Care Manager of any such reports. Disclosure of such reports shall not be regarded as a breach of Clause A.10 (Confidentiality).
- B.14.4 The Provider shall have in place, implement and regularly review policies and procedures designed to prevent abuse and for responding to actual or suspected abuse, neglect or exploitation.
- B.14.5 The Provider shall produce written guidelines which shall be followed by all Staff and Volunteers in identifying, investigating and reporting (both internally and to other external agencies who have legal duties to protect vulnerable adults) abuse or suspected abuse of vulnerable adults in the care of the Provider, which guidelines shall include guidance on:
- i) identifying vulnerable adults who are at risk of abuse, neglect, harm or exploitation; or who are being or are suspected of being abused, neglected harmed or exploited; or who have been or are suspected of having been abused, neglected, harmed or exploited;
 - ii) recognising risk from different sources in different situations and recognising abusive behaviour by other Residents, colleagues, and family members;

- iii) the duty of Staff to report suspected abuse, neglect, harm or exploitation;
 - iv) the duty of the manager of the Care Home to investigate such reports and communicate information to external agencies who have legal duties to protect vulnerable adults, including informing the Council of the abuse or suspected abuse;
 - v) inter-agency information sharing and clarity on confidentiality and disclosure of information in such circumstances;
 - vi) the procedures for reporting abuse or suspected abuse both internally and to other external agencies who have legal duties to protect vulnerable adults;
 - vii) protection for whistle blowers;
 - viii) working within best practice as specified by this Contract;
 - ix) child protection, where appropriate.
- B.14.6 Staff and Volunteers shall be obliged to adhere to the above mentioned guidelines, which shall emphasise that all those who express concern shall be treated seriously and shall receive a positive response from management at all levels.
- B.14.7 These guidelines shall take account of any inter-agency policies operational in the Council's area that relate to the protection of vulnerable adults.
- B.14.8 The Provider shall ensure that prompt action is taken in response to individual complaints from or concerns of Staff, Volunteers, the Resident and/or their Representative. Any such action shall follow the timescales identified within the Complaints Procedure.
- B.14.9 The Provider shall have in place and implement procedures to prevent Staff gaining any personal benefit when working with vulnerable people.
- B.14.10 The Provider shall ensure that where there has been abuse, an action plan including risk assessment in relation to victim care/support and dealing with perpetrators is incorporated into the Personal Plan. The Provider shall use appropriate independent services including advocacy, counselling or Victim Support. The action plan shall be constantly monitored.

Section C - Finance

C.1 FINANCIAL ASSESSMENT OF RESIDENT

C.1.1 Before a Resident's Placement begins or as soon as possible after that the Council shall carry out a financial assessment in terms of the National Assistance (Assessment of Resources) Regulations 1992 or any other relevant rule of law for the purposes of determining the level of:

- i) the Resident's Contribution per week, if any; and
- ii) the Council's Contribution per week.

The Council's Contribution and the Resident's Contribution shall together amount to the Council's Approved Rate.

C.1.2 Where the Council has not been able to complete a financial assessment of the Resident's financial resources, the Council shall inform the Provider and Resident of an interim Resident's Contribution to be charged from the date of admission to the Care Home until the date that the financial assessment is completed.

C.1.3 Where the Council does not issue an Individual Placement Agreement to the Provider in accordance with Clause **B.4.3** the Council shall be responsible for the collection of any arrears of the Resident's Contribution until an Individual Placement Agreement is issued by the Council.

C.1.4 Where the Provider collects the Resident's Contribution, the Council shall endeavour to advise the Provider in writing of the amount of the Resident's Contribution within 4 weeks from either the date of commencement of the Placement or the date of any change in the Resident's financial circumstances.

C.1.5 For Respite Placements the Resident's Contribution as specified in the Individual Placement Agreement shall be fixed for the duration of the Placement.

C.1.6 Where the Resident and/or their Representative wish to contract for Additional Services, the Council shall assess their ability to do so in accordance with Scottish Executive guidance on Topping Up of Care Home Fees (currently Community Care Circular CCD6/2002).

C.2 COLLECTION OF RESIDENT'S CONTRIBUTION

C.2.1 The Provider shall be responsible and shall fully co-operate with collecting the Resident's Contribution except where the Resident, after discussion with the Care Manager, exercises their right to pay the Council directly. The relevant collection arrangements will be detailed in the Individual Placement Agreement.

C.2.2 The Provider shall timeously invoice the Resident or with the Resident's consent their Representative for the Resident's Contribution which shall be payable up to 4 weeks in

advance unless the Resident states that they are unable to comply, in which case the Provider shall agree to allow payment in arrears. Where the Resident's Contribution is not paid timeously by the Resident, the Provider shall make every effort (verbally and in writing) to secure payment of the Resident's Contribution. Any benefits element of the Resident's Contribution shall not be collected before any payment is made by the Department for Work and Pensions.

- C.2.3 The Provider shall advise the Council (via the Resident's Care Manager) within 8 weeks from the date of default if the Resident has not paid the Resident's Contribution for 4 continuous weeks or is 4 weeks in arrears, including where the Resident is not in receipt of the appropriate level of benefits. The Provider shall also be responsible for informing in writing both the Department for Work and Pensions and the Council immediately where the Provider has reason to believe that the Resident's benefits, administered by the Department of Work and Pensions appointee, are being used inappropriately. Where verbal notification is given then the Provider shall confirm in writing within 3 days.
- C.2.4 Where the procedure at Clause **C.2.3** above has been followed, the Council shall pay the arrears of Resident's Contribution to the Provider. A failure by the Provider to give such notice, or failure to take action in accordance with Clauses **C.2.2** and **C.2.3** above, may in the Council's discretion be deemed to be a waiver of the Provider's right to recover from the Council, any sums in excess of 4 weeks arrears of the Resident's Contribution, as at the date the Council is advised the Resident has fallen into arrears. Where payment of the Resident's Contribution is persistently in arrears the Council and the Provider shall agree to the transfer of this collection to the Council.

C.3 ADDITIONAL CHARGES

- C.3.1 The Council shall pay an Additional Care Charge in exceptional circumstances where the Resident has been assessed as requiring Additional Care and the Council has not sourced an alternative provider to deliver the Additional Care. The duration, associated payment and review arrangements relating to the Additional Care Charge shall be recorded on the Individual Placement Agreement.
- C.3.2 Where the Parties cannot agree an Additional Care Charge in the circumstances set out in Clause **C.3.1** for an existing Resident then either Party may invoke termination Clauses **B.5.4** or **B.5.5**.
- C.3.3 The Council shall agree to the Provider making a reasonable Additional Service Charge if the Council is satisfied that the facilities, goods and services to which the Charge relate are significantly and demonstrably higher than those expected by the Care Standards or other Clauses of this Contract.
- C.3.4 Where an Additional Service Charge has been agreed then unless Clause **3.6** applies, it shall be met by any or all of the following:
- (i) the Resident
 - (ii) another third party.

- C.3.5 Unless Clause **C.3.6** applies the Provider shall be responsible for collecting the Additional Service Charge from the third party who has or the third parties who have agreed to pay it. The relevant financial arrangements shall be detailed in the Individual Placement Agreement.
- C.3.6 Where the Council has placed a Resident in a Care Home of its choice and not because the Resident or his Representative have requested it, the Council shall be responsible for paying the Additional Service Charge. The Council shall advise the Provider in writing if such circumstances arise.
- C.3.7 The Provider shall advise the Council (via the Resident's Care Manager) if the Additional Service Charge has not been paid by the Resident or another third party for 4 continuous weeks, or is 4 weeks in arrears and shall arrange for a review of that Resident's Placement to take place as soon as is practicable. The Care Manager, the Resident, their Representative and, if applicable, the person(s) responsible for payment of the Additional Service Charge shall be invited to the review as soon as is practicable. The purpose of the review shall be to determine whether the Additional Services can continue to be funded by a third party and if not, for the Council to arrange an alternative Placement. The Provider shall assist the Council in the implementation of these arrangements.
- C.3.8 For the avoidance of doubt, charges for Extras do not form part of the Additional Service Charge.

C.4 PRICE CHANGES

- C.4.1 The Provider shall not be entitled to increase the Provider's Price in the Financial Year.

C.5 METHOD OF PAYMENT

- C.5.1 The Council shall pay all sums due by the Council to the Provider under this Contract four-weekly in advance (thirteen payments per annum). Payment will be made on a regular four-weekly basis.
- C.5.2 In respect of standard care charges for each resident placed by the Council under this Contract, the Council shall pay the Provider via the Council's electronic payment system.
- C.5.3 The Council shall issue the Provider with a payment schedule indicating payment periods and cut off dates. Payment will be made to the Provider by cheque or BACS.
- C.5.4 The Council will issue to the appropriate Care Manager, an occupancy schedule indicating all residents placed by that Care Manager. The Care Manager will verify this list on a four-weekly basis.
- C.5.5 Should any of the following circumstances occur in a period of advance payment, the Provider must notify the Care Manager within 14 days and include full details of such circumstances. The circumstances are:
- (i) the Resident's Placement has terminated during the Trial Period;

- (ii) the Resident's Placement has terminated during a Short Term Placement;
- (iii) the Resident has been hospitalised;
- (iv) the Resident has been otherwise absent from the Care Home;
- (v) the Resident has failed to take up a Placement;
- (vi) the Resident has terminated their Placement after the Trial Period;
- (vii) the Resident has died.

C.5.6 The payment due in the circumstances described in Clause **C.5.5** shall be calculated in accordance with the following Clauses:

B.5.3.2 where the Resident's Placement has terminated during the Trial Period;

B.5.2.2 where the Resident's Placement has terminated during a Short Term Placement;

C.6.1 or **C.6.2** where the Resident has been hospitalised;

C.6.3 where the Resident has been otherwise absent from the Care Home;

B.5.3.(i) where the Resident has failed to take up a Placement, except where the Placement is Short Term or Respite, in which cases Clause **B.5.2.2** shall apply.

B.5.7 where the Resident has terminated their Placement after the Trial Period; and

C.7.1 where the Resident has died.

In all other circumstances the payment due shall be calculated pro rata, based on the nights the Resident actually occupied a bed in the Care Home.

C.5.7 In respect of Additional Care Charges duly approved by the Council, the Provider shall submit to the Council detailed invoices containing such information in respect of the Resident as the Council shall require including and without prejudice to this generality that information specified in clause **C.5.8** below. Invoices shall be submitted every four weeks and the Provider shall ensure that the date of the invoice is the start of every four-week period. The invoice period must commence on a Monday.

C.5.8 The Provider shall endeavour to submit properly detailed invoices, arising in relation to any invoice period during the Financial Year, by 31st May 2008, the Council having given a written reminder to the Provider. The Council shall not be required to make any payments in relation to any invoices that fail to meet this requirement.

C.5.9 Invoices submitted by the Provider must state in respect of each Resident for whom the Council is liable to make payment, the following information:

- The name of the resident.
- A brief description of service provided (ie: one to one support costs).

- The 4 weekly period for which the charge is being made (a schedule of 4 weekly payment periods will be available to all providers).
- The weekly rate being charged.
- The total value of the service covered by the invoice.
- Date invoice issued.
- Invoice number.
- Appropriate care manager/care professional.

Invoices should clearly state the suppliers Name, Address, Telephone Number and if different, the address to which the payment advice should be sent.

- C.5.10 If the Provider submits an invoice for all the Residents that is inaccurate or has omitted any information required under **C.5.9**, the Council shall make payment in respect of the Residents for whom information has been correctly submitted. The Council shall advise the Provider in writing to re-submit the required information on a detailed invoice.
- C.5.11 The Council shall pay all sums due by the Council to the Provider under this contract in respect of Additional Charges. These additional care charges approved after April 2007 will be paid as per the individual placement agreement between provider and council for each individual service user. These will be paid in line with standard payment periods as outlined in schedule **C.5.3**.
- C.5.12 Subject to Clause **C.5.6**, should payment not be made within 28 days from (a) the cut-off date notified to the Provider in the payment schedule, as at Clause **C.5.3**, or (b) the date of receipt of the relevant invoice by the Council as at Clause **C.5.7** the Council shall, on demand by the Provider, pay interest at 4% per annum above the Bank of Scotland Base Rate from the later of (a) the cut-off date when the sum became due by the Council to the Provider or the date of receipt of the relevant invoice by the Council or (b) the last date of execution of this Contract by the Parties until such payment is made, such interest to be calculated on the daily balance outstanding including VAT but not including any interest. Any demand for interest must be in writing, giving full details as to why it is considered the Council is liable for such interest and must be separate and not annexed to or incorporated within any other invoice, demand or communication submitted to the Council.
- C.5.13 Interest due for late payment shall only accrue for payments made by the Council after the Provider has signed the Contract.
- C.5.14 The Provider's Price is exclusive of Value Added Tax (VAT). If the supply is standard rated for VAT purposes, then the Council shall pay VAT on that part of the Provider's Price for which the Council has a liability under this Contract.
- C.5.15 In the event of overpayment the Council will deduct the necessary amount from the next available payment to the Provider.

C.6 PAYMENT FOR TEMPORARY ABSENCE

- C.6.1 Subject to **C.6.2** below, in the event that the Resident is hospitalised, then the Council shall continue to pay the Council's Contribution and the Resident shall continue to be

liable for the Resident's Contribution for the period of the hospitalisation or 6 weeks, whichever is shorter.

- C.6.2 The Council shall cease to be liable for Free Personal and/or Nursing Care Payments after the 14th continuous day of the Resident's absence from the Care Home for any reason, including the Resident's hospitalisation.
- C.6.3 In the event that the Resident is otherwise absent from the Care Home then the Council shall continue to pay the Council's Contribution and the Resident shall continue to be liable for the Resident's Contribution for a period of 3 weeks.
- C.6.4 The Provider and the Council may agree an extension of the periods referred to in Clauses **C.6.1** and **C.6.3** above. This extension will not be effective without the written authorisation of the Council. In any extended period the Council shall pay 80% of the Council's Contribution until the Resident returns to the Care Home or their Placement in the Care Home is terminated. For the avoidance of doubt, the Council shall continue to pay 80% of the Council's Contribution throughout any period of notice required prior to termination.
- C.6.5 The Resident shall pay the Resident's Contribution throughout any period of hospitalisation or other absence unless or until their Placement in the Care Home is terminated. Should there be any reduction in the Resident's entitlement to monies from the Department for Work and Pensions or any statutory or voluntary body due to the Resident's hospitalisation or other absence, then the same such reduction shall be made to the Resident's Contribution and the Resident shall pay this reduced amount until the Resident returns to the Care Home or their Placement in the Care Home is terminated.
- C.6.6 The Council and the Resident shall in no event be liable to pay their respective contributions (in whole or in part) for any period where the place formerly occupied by a Resident who is hospitalised or otherwise absent is occupied by another Resident.

C.7 PAYMENT ON DEATH OF RESIDENT

- C.7.1 Except where **C.7.2** applies, in the event of the Resident's death the Council's Contribution shall be paid for 3 complete days after the date of death (the date of the Resident's death being day zero) or up to such a date as may be agreed between the Council and the Provider. The Resident's Contribution shall be due for 3 complete days after the date of death (the date of the Resident's death being day zero), but for the avoidance of doubt the Council shall not be liable for this.
- C.7.2 Where the Resident's death occurs within three days of the end of a Short Term Placement, the Council's Contribution shall be paid until the date the Placement was due to end in terms of the Individual Placement Agreement.

C.8 FREE PERSONAL AND NURSING CARE PAYMENTS

- C.8.1 If any legislative provision concerning Free Personal and Nursing Care Payments comes into force during the term of the Contract and that provision conflicts with any provision of the Contract then the conflicting legislative provision shall take precedence over the

contractual provision.

C.9 SUPPORTING FINANCIAL DOCUMENTATION

C.9.1 From time to time the Provider shall be expected to demonstrate the ongoing financial viability of the Service and also in situations where the Service is deficient to demonstrate that any expenditure the Provider claims to be incurring on, for example Staff and food are being reasonably incurred. To demonstrate this, the Provider shall provide either:

- i) For Companies, the audited accounts of the company, certified by their accountants, if so requested. These accounts must comprise a profit and loss account and a balance sheet. In the case of limited companies their most recent audited accounts must be submitted but for those companies which qualify under Sections 247 to 249 of the Companies Act 1985 to the exemptions conferred by Part II of Schedule 8 to that Act, this will be a copy of their most recent abbreviated accounts submitted to the Registrar of Companies;
- ii) For partnerships, sole traders and unincorporated associations the required information must be submitted in the format shown in **Appendix 6** and be certified by the Provider's Accountant. As an alternative it will be acceptable for the Provider to submit a copy of their most recent audited accounts;
- iii) In the case of a Provider recently commencing business and consequently unable to submit financial information as above the Council reserves the right to seek appropriate financial and/or credit references and a business plan.

C.9.2 The Provider agrees to supply the Council with any financial information requested by the Care Commission under the Regulation of Care Services (Requirements as to Care Services)(Scotland) Regulations 2002, unless the Council has agreed that the Provider may provide alternative information, in which case the information required shall be set out in **Appendix 6**.

C.10 MANAGEMENT OF RESIDENT'S FINANCES

C.10.1 The Provider shall be obliged, where appropriate or as required, to manage the finances of the Resident within the Care Home in accordance with Part 4 of the Adults with Incapacity (Scotland) Act 2000 ("the 2000 Act") and the Code of Practice for Managers of Authorised Establishments. Where the Provider has given notice to the Care Commission to the effect that Part 4 of the 2000 Act will not apply to the Provider, then the Provider will at the same time notify the Council as such.

C.10.2 The Council shall give the Provider any relevant information it holds on how a Resident's finances are to be managed. The arrangements for managing the Resident's finances will be included in the review process as detailed in Clause **A.5.3**. Between reviews, the Provider will report any concerns about the management of the Resident's finances to the Council.

C.10.3 Where the Provider is appointee for the Resident, they will maintain complete, accurate

and up-to-date records of all income and expenditure including the collection and payment of fees and any Additional Service Charges and Extras. The Resident or their Representative will be supported to examine and understand such records and such records shall be immediately available to the Resident or their Representative or the Council acting on their behalf. The Provider must be able to account for the balance of finances of any Resident at any time.

C.10.4 Should the Provider be managing the finances of the Resident under Part 4 of the 2000 Act or as Department for Work and Pensions appointee or simply holding the Resident's personal allowance on their behalf, the Provider shall:-

- i) hold sufficient cash to meet incidental expenses for any two week period and allow the Resident easy and flexible access to their funds;
- ii) hold the Resident's personal funds over £500 in their own interest bearing accounts separate from those of other Residents and from those of the Provider;
- iii) not combine the personal allowances of the Residents to purchase items to be used communally;
- iv) use the Resident's personal allowance or any savings the Provider manages on behalf of the Resident to provide extra benefits to the Resident that are personal to the Resident;
- v) provide guidance to Staff on expenditure of the Resident's personal allowance, particularly for a Resident with mental incapacity;
- vi) ensure that the way monies must be spent on behalf of the Resident is recorded in the Resident's Care Plan;
- vii) notify the Council in writing where the Resident is in receipt of Free Personal and/or Nursing Care and the Provider becomes aware that their capital has reduced to close to the statutory capital limit;
- viii) consult the Care Manager regarding any significant items of expenditure out of the Resident's personal funds not agreed in the Care Plan;
- ix) confirm the arrangements for management of the Resident's finances in writing to the Resident and/or their Representative and the Care Manager.

C.10.5 The Provider shall not use any part of the Resident's personal allowance to pay for their Care or any Additional Service Charges due by the Resident to the Provider.

IN WITNESS WHEREOF

This Contract consisting of this and the 46 preceding pages together with the 7 Appendices attached hereto are executed as follows:

On behalf of authorised signatories by the Parties on the dates and at the places as undernoted.

Signature for and on behalf of the Council

HARRIET L DEMPSTER (Director of Social Work) Full name of Signatory

On _____ (date)

At _____ (place)

Witness Signature

WILMA WILKIE Full name of Witness

Council Headquarters, Glenurquhart Road, Inverness, IV3 5NX Address of Witness

Signature for and on behalf of the Provider

Full name of Signatory

On _____ (date)

At _____ (place)

Witness Signature

Full name of Witness

Address of Witness

This is the Appendix 1 referred to in the foregoing Contract between
[PROVIDER'S NAME] and THE HIGHLAND COUNCIL.

COUNCIL'S APPROVED RATES AND PROVIDER'S PRICE

TO BE INSERTED

*N.B. WHERE THERE IS A DIFFERENCE IN PRICE BETWEEN COLUMN A AND COLUMN B
THE REASONS FOR THIS ARE DETAILED IN APPENDICES 1(a) and 1(b).*

This is the Appendix 1(b) referred to in the foregoing Contract between [PROVIDER'S NAME] and THE HIGHLAND COUNCIL

The Council shall only agree to the Provider making an Additional Service Charge for Additional Services which are demonstrably and significantly higher than those required by National Care Standards or other Clauses of this Contract. The Provider's Price excludes Additional Care Charges for Additional Care which shall be recorded on a Resident's Individual Placement Agreement.

N.B. ADDITIONAL SERVICES DO NOT INCLUDE EXTRAS WHICH ARE INDIVIDUAL TO THE PERSON EG. NEWSPAPERS, HAIRDRESSING. Etc.

NATURE/DESCRIPTION OF ADDITIONAL SERVICE	FREQUENCY OF SERVICE (e.g. per day, per week, per month)	ADDITIONAL SERVICE CHARGE

Appendix 2

This is Appendix 2 referred to in the foregoing Contract between [PROVIDER'S NAME] and THE HIGHLAND COUNCIL and is the pro-forma Individual Placement Agreement issued by the Council to the Provider.

Social Work Services
<Insert Address>
XXXX
XXXX
XXXX

Our Ref:
Your Ref:
Date:

To: <Insert Care Home contact and address>
XXXX
XXXX
XXXX

Dear

INDIVIDUAL PLACEMENT AGREEMENT: <Insert Resident Name> <Date of Birth>

The Council has assessed <Insert Resident name> as having needs that require admission to a Care Home and has identified <Insert Care Home name> as being suitable for this purpose and wish to secure a place for <Insert Resident Name> on the terms set out in the National Care Home Contract signed by Provider on and by the Council on ("the Contract").

<Insert Resident name> has been assessed as requiring the care as detailed in the Care Plan and the Service provided must meet the Resident's assessed needs as detailed in the Care Assessment and Care Plan provided by the Resident's Care Manager.

The Placement will start on <Insert Date> and is intended to be <permanent> <short-term with an end date of <insert date>>. (Insert as appropriate).

Provider's Price and Payment of Charge

The Council confirms that the Provider's Price at today's date is £ (Insert price) per week. The Council, Resident and a third party, if appropriate, shall make the following contributions:

Council Contribution	£ (Insert price) per week
Resident's Contribution	£ (Insert price) per week
Additional Service Charge (To be paid by *Resident/third party/Council) *Delete as appropriate	£ (Insert price) per week
Additional Care Charge (To be paid by the Council)	£ (Insert price) per week

The Resident has confirmed with the Council that they wish the Provider to collect their Resident's Contribution. The Resident will retain £ <insert> Personal Allowance, including the savings disregard.

(Insert if appropriate) <Insert Name of Third Party or Resident where they are able to pay out of savings> has agreed to pay the Additional Service Charge of <Insert £> in return for the Additional Services detailed in Appendix 1 of the Contract. These Additional Services and Additional Service Charges must be detailed in the Residency Agreement and a copy of this passed to the Resident's Care Manager.

(Insert if appropriate) The Council has assessed <Insert Resident name> as requiring additional care as set out in the care plan and has agreed to pay an Additional Care Charge for this level of care.

If for any reason you are not prepared to accept the Placement on the terms and conditions as set out in this letter, you must contact the Council immediately.

Yours faithfully

AN Other
Insert Position

c.c. <Insert name of resident>

Details of Council's Nominated Officers

Care Manager

Name _____

Designation _____

Address _____

Finance/Administration

Name _____

Designation _____

Address _____

Appendix 3

This is Appendix 3 referred to in the foregoing Contract between [PROVIDER'S NAME] and THE HIGHLAND COUNCIL and is the pro forma Individual Placement Agreement issued by the Council to the Provider confirming placement on the basis of Free Personal/Nursing Care Payments

Social Work Services
<Insert Address>
XXXX
XXXX
XXXX

Contact:
Telephone:
Our Ref:
Your Ref:
Date:

To: <Insert Care Home contact and address>

Dear

INDIVIDUAL PLACEMENT AGREEMENT: <Insert Resident's name> <Date of Birth>

The Council has assessed <Insert Resident's name> as having needs that require admission to a Care Home and has identified <Insert Care Home name> as being suitable for this purpose and wish to secure a place for <Insert Resident's name> on the terms set out in the National Care Home Contract signed by the Provider on and by the Council on ("the Contract").

<Insert Resident's name> has been assessed as requiring <insert level of care> and the Service provided must meet the Resident's assessed needs as detailed in the Care Assessment and Care Plan provided by the Resident's Care Manager.

The Placement will start on <Insert Date> and is intended to be (permanent) (short-term with an end date of <insert date>). (Insert as appropriate).

Provider's Price and Payment of Charges

The Council, Resident and a third party, if appropriate, will make the following contributions:

Council Contribution	£ (Insert Free Personal and Nursing Care payment) week
Resident's Contribution	£ (Insert price) per week
Additional Service Charge (To be paid by the *Resident/third party/Council) * Delete as appropriate	£ (insert Price) per week

The Resident has confirmed with the Council that they wish the Provider to collect their Resident's Contribution.

(Insert if appropriate) <Insert Name of Third Party or Resident where they are able to pay out of savings> has agreed to pay the Additional Service Charge of <Insert £> in return for the Additional Services detailed in Appendix 1 of the Contract. The Additional Services and Additional Service Charges must be detailed in the Residency Agreement and a copy of this passed to the Resident's Care Manager.

The Council would draw your attention to the specific Free Personal and Nursing Care Clauses within the National Care Home Contract about payment terms.

If for any reason you are not prepared to accept the Placement on the terms and conditions as set out in this letter, you must contact the Council immediately.

Yours faithfully

AN Other
Insert Position

c.c. <Insert name of resident>

Details of Council's Nominated Officers

Care Manager

Name _____

Designation _____

Address _____

Finance/Administration

Name _____

Designation _____

Address _____

Appendix 4

This is the Appendix 4 referred to in the foregoing Contract between **[PROVIDER'S NAME]** and HOST XXXX Council and is the pro-forma Individual Placement Agreement issued by the PLACING Council to the Provider confirming a cross boundary Placement.

Social Work Services
<Insert Address>
XXXX
XXXX
XXXX

Our Ref:
Your Ref:
Date:

To: <Insert Care Home contact and address>
XXXX
XXXX
XXXX

Dear

INDIVIDUAL PLACEMENT AGREEMENT: <Insert Resident Name> <Date of Birth>

<Insert Name> Council, hereinafter referred to as “the PLACING Council”, has assessed <Insert Resident name> as having needs that require admission to a Care Home and has identified <Insert Care Home name> as being suitable for this purpose and wish to secure a place for <Insert Resident Name> on the terms set out in the National Care Home Contract [signed by the Provider on and by the HOST Council on (“the Contract”)] subject to the qualifications given below.

<Insert Resident Name> has been assessed as requiring the care as detailed in the Care Plan and the Service provided must meet the Resident’s assessed needs as detailed in the Care Assessment and Care Plan provided by the Resident’s Care Manager.

The Placement will start on <Insert Date> and is intended to be (permanent) (short-term with an end date of <insert date>). (Delete as appropriate).

Provider’s Price and Payment of Charges

The PLACING Council, Resident and a third party, if appropriate, shall make the following contributions:

PLACING Council Contribution	£ (Insert price) per week
Resident Contribution	£ (Insert price) per week
Additional Service Charge (To be paid by the *Resident/third party/Council) *Delete as appropriate	£ (Insert price) per week
Additional Care Charge (To be paid by the PLACING COUNCIL)	£ (Insert price) per week

The Resident has confirmed with the PLACING Council that they wish the Provider to collect the Resident's Contribution. The Resident will retain £ <insert> Personal Allowance, including the savings disregard.

(Insert if appropriate) <Insert Name of Third Party or Resident where they are able to pay out of savings> has agreed to pay the Additional Service Charge of <Insert £> in return for the Additional Services and these are outlined in Appendix 1 of the Contract with <Insert Name> HOST Council. These Additional Services must be detailed in the Residency Agreement and a copy of this passed to the Resident's Care Manager.

Please note that the information required for payment purposes under the National Care Home Contract, varies between local authorities, and that the information required by The Highland Council is appended to this letter.

(Insert if appropriate) The PLACING Council has agreed that, <Insert Name> HOST Council, as the local authority in which your Care Home is situated, should be the lead authority for contract management purposes.

If for any reason you are not prepared to accept the Placement on the terms and conditions as set out in this letter, you must contact the Council immediately.

Yours faithfully

AN Other
Insert Position

c.c. <Insert name of resident>
<Insert name of Host Authority>

Details of Council's Nominated Officers

Care Manager

Name _____

Designation _____

Address _____

Finance/Administration

Name _____

Designation _____

Address _____

Encs: Information required for payment

This is the Appendix 5 referred to in the foregoing Contract between [PROVIDER'S NAME] and THE HIGHLAND COUNCIL

NOMINATED OFFICERS

The undernoted person/staff are those whom the Provider and the Council nominate to be the appropriate contact points, unless otherwise notified in writing by either Party to the other, for matters relating to the Care provided in the Care Home or finance/administrative matters or contractual matters. A Resident's care management issues should be addressed to the Resident's nominated Care Manager, as informed through the Individual Placement Agreement

Provider's Nominated Officers

Council's Nominated Officers

<u>Care (A)</u>	<u>Finance/Administration (B)</u>	<u>Contractual Matters (C)</u>	<u>Finance/Administration (A)</u>	<u>Contractual Matters (B)</u>
Name:	Name:	Name:	Name:	Name:
Designation:	Designation:	Designation:	Designation:	Designation:
Address:	Address:	Address:	Address:	Address:
.....
.....
Telephone No:	Telephone No:	Telephone No:	Telephone No:	Telephone No:
Fax No:	Fax No:	Fax No:	Fax No:	Fax No:
E-mail address:	E-mail address:	E-mail address:	E-mail address:	E-mail address:

Appendix 6

**This is the Appendix 6 referred to in the foregoing Contract between [PROVIDER'S NAME] and
THE HIGHLAND COUNCIL**

DECLARATION OF FINANCIAL VIABILITY

TO BE INSERTED

This is the Appendix 7 referred to in the foregoing Contract between **PROVIDER'S NAME** and THE HIGHLAND COUNCIL and is the pro forma Residency Agreement

RESIDENCY AGREEMENT

between

.....(Resident)

and

.....(Provider)

for the provision of care and accommodation at

.....(Care Home)

in

Room

This is the Written Agreement required by National Care Standards that sets out the terms and conditions of residency between the Resident and the Provider and links to the Provider's contract with the Council.

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1. Aims, Objectives and Principles of the Service

- 1.1 We, the Provider shall meet all of your assessed needs in relation to accommodation, meals, activities, support, care, including, where applicable, nursing care.
- 1.2 The Service that you receive shall be flexible and designed to meet your needs as specified in your Care Plan and detailed in your Personal Plan. We shall employ and ensure that at all times sufficient qualified and suitably trained and experienced Staff are available to deliver the Service.
- 1.3 The Service that you receive shall comply with the relevant Care Standards, and shall promote the principles behind the Care Standards, which include dignity, privacy, choice, safety, realising potential, equality and diversity. A copy of the Care Standards shall be available on request from either your Care Manager or the Care Home. Upon request, we shall be pleased to make available copy(ies) of Inspection Reports issued by the Care Commission in respect of our Care Home.
- 1.4 We shall follow the requirements set out in this Residency Agreement and the Care Home Contract in place between us and The Highland Council. A copy of the Council's Care Home Contract may be obtained from your Care Manager.
- 1.5 You and your Representative shall be consulted on all significant proposals, which affect your life or comfort, and your views shall be taken into account.
- 1.6 You and your Representative shall be offered a range of opportunities to give your views, make comments, and offer ideas, both individually and in groups, about the Service provided.

2. Definitions

“Care Assessment” means the community care assessment of your needs which is arranged and approved by the Council.

“Care Commission” means the Scottish Commission for the Regulation of Care, a national body which regulates care services and having its Head Office at Compass House, 11 Riverside Drive, Dundee and its local office at Unit 4, 39-41 Harbour Road, Inverness IV1 1UA (tel. 01463 227630).

“Care Manager” means the person chosen by the Council to assess, oversee and review the care provided to you by us.

“Care Standards” means the National Care Standards Care Homes for Older People which describe what you can expect to receive from us.

“Personal Plan” means the plan developed between us which details your needs and preferences and sets out how these shall be met in a way that you find acceptable.

3. Trial Period

- 3.1 The first four weeks of your stay shall be regarded as a Trial Period to ensure that the Care Home is suitable for you. This period may be extended by agreement between you, us and the Council to allow the Council further consideration of your care needs.

4. Accommodation

- 4.1 Your room shall be a single / double / en-suite / [delete as appropriate] furnished room which we shall maintain in good decorative order and which shall include a lockable facility. Should you wish, we shall provide a lock and key for your room.
- 4.2 No tenancy of any kind is intended to be created in respect of the occupancy of your room. You shall only be requested to move from your appointed room if it is absolutely necessary, and only with your consent and consent of the Council in advance, except in the event of an emergency. Following the emergency, which necessitated the move, you shall be returned to your former room if you so request and if appropriate.
- 4.3 You are welcome to bring personal possessions and furnishings into the Care Home to personalise your room, provided that other Residents or Staff are not inconvenienced or put at risk. We shall give you a written inventory of your possessions and furnishings upon your admission to the Care Home, and we shall keep a copy for our records and shall update it as appropriate.

It must be noted that electrical items are subject to testing in order to ensure safety and we cannot allow unsafe appliances to be used within the Care Home. You are responsible for having equipment safety tested prior to admission and we shall require evidence that this has been satisfactorily carried out. We shall be responsible for subsequent safety testing, but repair and replacement of equipment belonging to you remains your own responsibility.

Any furnishings and furniture that you wish to bring into the Care Home must comply with fire safety requirements. We reserve the right to refuse to allow any item to be brought into the home where we consider it to be a fire risk or other hazard.

- 4.4 We shall provide light and heat and shall explain to you how you may control the temperature in your room.
- 4.5 We shall ensure that your room is in good decorative order. If you choose to have your own room decorated to reflect your own taste you shall meet any additional costs incurred.
- 4.6 We shall ensure a high standard of cleanliness in your room and throughout the Care Home.
- 4.7 We shall provide you with bed linen, towels, flannels, sponges, toiletries and similar items for your own use together with a laundry service for your personal clothing, except dry cleaning. Bed linen shall be changed weekly and as necessary. Personal laundry must be labelled and machine washable. If you require assistance labelling clothes we shall be pleased to help. As the machines are industrial, clothing may wear out quicker than in a domestic situation. Please note that we are not responsible for supplying you with personal clothing.
- 4.8 Within the Care Home you shall have unrestricted access to:

List (e.g. your own room, specified communal areas, gardens, etc.) *

* amend as necessary

4.9 We shall provide you with a choice of menu for breakfast, lunch and evening meal which shall accommodate your dietary needs and, as far as practicable, your personal preferences. Snacks and drinks are available throughout the day and night.

4.10 Either

There is a policy of no smoking throughout the Care Home.

or

You cannot smoke in your bedroom but you may smoke in the designated smoking areas in the Care Home [*insert locations*].

4.11 Either

We have a policy that no alcohol may be consumed in the Care Home.

or

You are free to consume alcohol if you wish. If we have concerns about the effects on you, your medication and /or other Residents or members of Staff, we shall review this together in your Personal Plan.

5. Care to be Provided

5.1 We shall provide you with personal care in accordance with your assessed needs and Care Plan as supplied to us by your Care Manager, a copy of which shall be given to you by your Care Manager. We shall develop this with you into a more detailed Personal Plan during your Trial Period in the Care Home. We shall then review this with you as required, and at least every 6 months.

5.2 Your Care Manager shall arrange a formal review of your placement at the end of your Trial Period and shall inform you and/or your Representative of subsequent review arrangements.

5.3 Where your care needs change significantly we shall request a review with your Care Manager.

5.4 Either

We offer nursing care, and shall provide this to you where this has been agreed in your Care Plan.

or

Whilst we do not offer nursing care ourselves, we shall make arrangements with the National Health Service (NHS) Community Nursing Service on your behalf.

5.5 We shall choose a named member of our Staff to be your key worker who shall be responsible for overseeing your day to day care, and to discuss with you your care needs on an ongoing basis.

- 5.6 You may still use the services of your own general practitioner (GP), if the GP so agrees, or we shall assist you to transfer to a local GP. If you register privately with a GP the supply of drugs and medications shall also be private and any charges arising shall be made accordingly.
- 5.7 We shall enlist the support of the NHS as necessary for routine health checks and also to enable you to remain in the Care Home in the event of illness, should you so wish, unless your GP recommends alternative arrangements.
- 5.8 The administration of your medicines shall be discussed and agreed with you, and shall be recorded in your Personal Plan.
- 5.9 There shall be a choice of social and recreational activities if you wish to participate. You shall be consulted in the planning of these activities.

6. Our Obligations To You

We agree:

- 6.1 to ensure that the Care Home complies with the conditions of registration and maintain at the Care Home at all times the standard of care required by the Care Commission and the Council.
- 6.2 to participate in an assessment of your needs in conjunction with the Council and the development of a Personal Plan.
- 6.3 to allow you as much personal freedom as possible, and only to restrict your movements for your personal safety or the safety of others or to the extent agreed in advance with you and the Council.
- 6.4 to contact your Representative and Care Manager in the event that you are involved in an accident or incident.
- 6.5 to provide on request safekeeping for your personal effects required to be brought into the Care Home up to such limit of value as we may from time to time determine. Further details shall be made available upon request.
- 6.6 to treat all information relating to you as confidential and we shall ensure that you and/or your Representative have access to your Personal Plan and any other information relevant to you.
- 6.7 to assist you, where possible, to maintain a lifestyle of your choice.
- 6.8 to recognise, support and assist you in maintaining links with your local community provided this does not interfere with the freedom of the other Residents in the Care Home.
- 6.9 to ensure you can make and receive telephone calls in private.
- 6.10 to welcome your visitors to the Care Home without prior notice, at all reasonable times, provided their visits do not inconvenience other Residents.
- 6.11 to support you if you decide to refuse to see visitors and if requested we shall advise visitors of your decision.

- 6.12 to ensure Care Home Staff are not permitted to become an Executor in respect of your Will.
- 6.13 to ensure Care Home Staff are not allowed to receive hospitality and acceptance of gifts (including gifts of money) from you or your family, unless this has been previously agreed with us and the Council.

7. Your Obligations To Us

You agree:

- 7.1 to inform us of any medication that you administer yourself, and allow us to monitor this.
- 7.2 that you have a responsibility for the safety of the Care Home which you share with others, therefore safety regulations must be observed.

You are asked to observe:

- i) Fire drills and inspections are carried out at regular intervals and your co-operation is essential.
- ii) We have clear guidelines on smoking, alcohol and drugs which are issued for the protection of all Residents and Staff.
- 7.3 to inform us any time that you leave the Care Home, whether unaccompanied or with visitors, and also to give us an approximate time of return. We shall not be responsible for you once you are outside the Care Home unless you are accompanied by a member of our Staff.
- 7.4 that should you wish to install a telephone in your room, you shall be responsible for meeting the costs of installation, rental and call charges.

7.5 Either

that should you wish to bring a domestic pet into the Care Home and you have been assessed as able to care for the pet without significant support, you may do so with our agreement and the agreement of the other Residents. You shall be responsible for the care of the pet together with any costs including food and veterinary bills.

or

that you shall not bring a domestic pet into the Care Home. This does not preclude visitors bringing their pets with them during a visit with our agreement and the agreement of the other Residents.

- 7.6 to leave the Care Home permanently on termination of this Agreement.

8. Suggestions and Complaints

- 8.1 You are welcome to make comments or suggestions at any time in respect of the service you receive from us.

- 8.2 Should you wish to receive independent assistance or advice we shall help you to contact your Care Manager or other relevant advocate.
- 8.3 Should you be dissatisfied with any aspect of our service, you have the right to complain to us, the Care Commission (who may be contacted at the address and telephone number stated at 2 above) and/or the Council (who may be contacted at Customer Care and Consultation Officer, The Highland Council, Social Work Services, Kinmylies Building, Leachkin Road, Inverness, IV3 8NN). We would encourage you to talk to us in the first instance. Your key worker or Care Home manager shall be pleased to discuss with you or your Representative, any concerns that you may have. If we are unable to resolve the issue to your satisfaction, and you wish to refer your complaint to the Care Commission or the Council, we shall assist you to do this.
- 8.4 A copy of our complaints policies and procedures are attached.

9. Payment of Fees

- 9.1 The weekly fee is detailed in the Individual Placement Agreement issued to you by the Council. This sets out the amount of the contribution you are required to pay as determined by a financial assessment by the Council.
- 9.2 Any changes in your contribution, which may include the annual uprating of Department for Work & Pensions benefits and/or any changes to your financial circumstances, shall be notified to you by the Council.

Either

- 9.3 Where we collect your contribution, [insert either a) or b)]
- a) Payment shall be in arrears although we may invoice you in advance. If the timing of your Department for Works and Pensions benefits payments prevents you from being able to meet the arrangements as set out in 9.4 below, we shall be pleased to arrange an alternative plan with you and your Care Manager.
- b) Payment shall be [*to a maximum of 4 weeks*] in advance. If the timing of your Department for Works and Pensions benefits payments prevents you from being able to meet the arrangements as set out in 9.4 below, we shall be pleased to arrange an alternative plan with you and your Care Manager.

Or

- 9.4 Where the Council collects your contribution, your Care Manager shall advise you of the Council's collection arrangements.
- 9.5 Payment arrangements are as follows:
<insert payment arrangements>
- 9.6 Where we collect your contribution and you fail to pay an invoice within 14 days from the due date or 14 days from the date of the invoice (whichever is the later), then we shall inform the Council who shall seek to recover the debt on our behalf.

9.7 *Either*

If you are admitted to hospital we shall keep your room for 4 weeks. Subject to agreement between the Council and ourselves, this period may be extended if necessary. You shall be required to continue to pay your contribution throughout your hospital stay.

Or

If you are admitted to hospital and you are in receipt of Free Personal and/or Nursing Care payments, you shall be entitled to continue to receive this for the first 14 days, after which you shall be required to pay the full weekly fee thereafter. Upon your discharge from hospital your entitlement to Free Personal and/or Nursing Care shall normally be reinstated by the Council.

9.8 If you terminate your placement at the Care Home without giving the required notice as detailed in Section 14, your fees shall be charged at the normal weekly rate for the unexpired notice period.

9.9 In the event of your death, your fees shall be chargeable for a further three days (or less if your room is reoccupied within this three day period) after which this Agreement shall terminate. Under normal circumstances we shall ask that your room be cleared within three days. However if this is not possible, we can make arrangements to clear your room and store items at the Care Home for seven days. If there has been any overpayment or we have been holding money on your behalf this shall be refunded to your Estate.

9.10 Negotiations between ourselves and the Council in respect of fee rates from 9th April 2007 and beyond are still in progress. Once these are complete we shall inform you of the outcome, and if necessary we shall advise you of any necessary amendments to this Agreement.

10. Additional Charges

Additional Service Charges

10.1 *Either*

There is no Additional Service Charge over and above the Council's Approved Rate for the cost of your Care and Accommodation. If you wish to purchase Extras, details are set out in Section 11.

Or

There is an Additional Service Charge of [*insert amount*] over and above the Council's Approved Rate for the Service you have chosen. This Additional Service Charge covers the following additional facilities, goods and services which have been agreed with the Council:

List facilities, goods and services in accordance with Appendix 1 of National Care Home Contract.

If you wish to purchase Extras, details are set out in Section 11.

10.2 The Additional Service Charge is payable by a third party, or by yourself, where you have sufficient savings or income (excluding your personal allowance) to pay.

10.3 *Either*

Where we collect your contribution towards your fees payment arrangements for the Additional Service Charge shall be the same as those for your Contribution towards fees.

or

Where the Council collects your contribution towards your fees the Additional Service Charge must be paid directly to us. Payment arrangements are as follows:

<insert payment arrangements>

10.4 Where you consider that we are not providing the agreed Additional Services we shall be pleased to discuss your concerns. You have the right to use our suggestions and complaints procedures as detailed in Section 8 of this Agreement.

10.5 If you have chosen to pay an Additional Service Charge and these payments have not been paid by you or your Representative for 4 continuous weeks or are 4 weeks in arrears, we shall arrange for a review of your placement to take place as soon as is practicable after which we may require you to move to less expensive accommodation within the Care Home. If there is no such accommodation available, you may be required to move to another Care Home. Should this be necessary, we shall fully cooperate with you, the Council and/or your Representative to ensure that suitable alternative accommodation is secured.

10.6 We have agreed with the Council that the Price for your Care and Accommodation which includes the Additional Service Charge shall remain fixed until 6th April 2008.

Additional Care Charges [If Applicable]

10.7 The Council has agreed we will provide you with extra care consisting of:
<insert detailed additional inputs / arrangements> to meet your needs which are above the normal level expected for this type of Care Home.

10.8 Review arrangements: these additional care needs shall be reviewed in line with Section 5.1 and more frequently if necessary.

11. Extras

11.1 We can arrange the following extra goods or services in addition to those covered by the Price for your Care and Accommodation. You shall be responsible for the payment of these goods or services and we shall advise you of their cost beforehand.

Insert list of extras

{Examples of which may include:

- Hairdressing
- Aromatherapy Massage
- Newspapers
- Shopping Trolley

- Dry cleaning
- Mobile Clothing Shop
- Private telephone line rental and calls

In the absence of free provision by the NHS, the following may also be provided, but shall be charged in addition to the Price for your Care and Accommodation.

- Chiropody
- Opticians
- Dentistry
- Physiotherapy
- Transportation and Staff escorts to and from medical appointments}

11.2 We shall issue you with full, detailed separate invoices in arrears in respect of any extra goods or services that you request us to arrange or provide.

<insert invoicing and payment arrangements>

12. Personal Expenses Allowance

12.1 Should we become your appointee we shall maintain records of income and expenditure involving the collection and payment of your fees and any additional charges. We shall support you and/or your Representative in the examination and understanding of such records, which we shall make available upon request.

12.2 Where we manage your finances, whether we act as appointee for receipt of your Department for Work and Pensions benefits or simply, where we manage your personal allowance on your behalf, we shall:-

- hold sufficient cash to meet incidental expenses for a two week period and allow you easy and flexible access to your funds;
- hold your personal funds over £500 in your own interest bearing account or [insert amount if lower than £500];

12.3 We shall not use any part of your personal allowance to pay towards any part of the cost of your care.

13. Insurance

13.1 Whilst we have insurance covering all aspects of the provision of the service, this does not extend to your personal property *[exceeding the value of £XXX]*. We shall make good any loss or damage to your property which is the result of our negligence, but you may wish to make your own arrangements to insure all personal property which you bring into the Care Home. Further details of our insurance covers shall be made available upon request.

13.2 We shall not be held liable for any items of personal possessions and furnishings not notified to us for inclusion on the inventory.

14. Notice and Termination Periods for this Agreement

Short Term Placement

- 14.1 If you have been admitted to the Care Home on a short term basis, this Agreement shall terminate automatically at the end of this predetermined period unless we, you and the Council agree to vary the duration.

Trial Period

- 14.2 Throughout the duration of your initial Trial Period in the Care Home:-

We shall after consultation with the Council, be entitled to give a minimum of 7 days' written notice of our intention to terminate your placement in the Care Home.

You or your Representative may terminate your placement in the Care Home by giving not less than 7 days' notice. If you leave before the end of this period of notice you are still liable to pay us your basic contribution for the full 7 days' notice period. After your departure, you shall not be required to pay for any day within the remainder of your notice period where your room has been occupied by another Resident.

- 14.3 After your Trial Period you and/or your Representative may terminate this Agreement for any reason by giving not less than 14 days written notice to both the Council and to us. If you leave before the end of this period of notice you are still liable to pay us your contribution for the full 14 days notice period. After your departure, you shall not be required to pay for any day within the remainder of your notice period where your room has been occupied by another Resident.

Long Term Placement

- 14.4 We cannot tell you to leave the Care Home without a review being held first, involving you/your Representative, your Care Manager and any other relevant professional involved in your care. The reasons for the review shall be fully discussed together with possible solutions before any final decision is made on your continued stay within the Care Home.

- 14.5 After a review has taken place and where we and the Council agree, we shall be entitled to terminate this Agreement upon giving you and the Council 4 weeks notice in writing, or less where both we and the Council agree that:

- i) your physical and/or mental condition deteriorates to the extent that we can no longer provide the service required to meet your assessed needs.
- ii) your behaviour is persistently such that it causes a serious risk to the welfare or is detrimental to the peaceful enjoyment of other Residents or poses a serious risk to the safety of Staff or visitors to the Care Home.
- iii) you have persistently or seriously broken this Agreement.

- 14.6 In the event that we are to sell the Care Home as a going concern to another care provider, we shall give you not less than 4 weeks' written notice.

- 14.7 In the event that we are to close the Care Home, or make changes to our services to the extent that we are no longer be able to keep your placement in the Care Home we may terminate this Agreement by giving not less than 13 weeks written notice to you and the Council. We shall fully cooperate with you, the Council and/or your

Representative to ensure that suitable alternative accommodation is secured.

14.8 During any notice period of this Agreement we shall co-operate with the Council to ensure that your needs are met throughout.

14.9 In the event of your death, this Agreement shall terminate automatically three days after the date of your death.

15. Future Arrangements

15.1 We shall respect your cultural, spiritual and religious wishes related to death and these shall be recorded in your Personal Plan.

15.2 In the event of your death any items of jewellery, cash, bank books and insurance documents, which have been held in the Care Home for safekeeping, shall be forwarded to your next of kin, Executor of your Will or legal representative.

15.3 In the event of your death any fees outstanding to the Council or Care Home shall be charged to your Estate.

15.4 If you have not made a Will and have no known next of kin, or legal representative we shall forward your personal items to the office of the Procurator Fiscal, who shall attempt to trace your relations.

15.5 If you do not have anyone who can arrange your funeral, we shall make the necessary arrangements in consultation with the person responsible for the payment of the costs.

16. Relationship of this Agreement with our Contract with the Council

16.1 Where any of the information in this Agreement conflicts with the terms of the National Contract between us and the Council then the terms of our contract with the Council shall prevail.

Signature for and on behalf of the Provider

On _____ (date)
At _____ (place)

Signature of the Resident

On _____ (date)
At _____ (place)