# NORTH WALES DOMICILIARY CARE AGREEMENT

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## PART 1- GENERAL PROVISIONS

### 1. INTRODUCTION AND PARTIES

This Agreement is dated 1st April 2018

("the Commencement Date")

**BETWEEEN**:

Denbighshire County Council whose principal address is at County Hall, Wynnstay Road, Ruthin, Denbighshire, LL15 1YN ( **the "Lead Commissioner**") for itself and on behalf of the parties listed in Schedule 10 together and individually referred to as **"The Commissioner(s)"**
**and**

Domiciliary Care Agency
*(Name and address of registered branch/office of the registered Provider)*

**"The Service Provider"**

**Each being individually a Party and collectively the Parties**

**WHEREAS**:

i. The Lead Commissioner in consultation with the Commissioners has selected the Service Provider through Phased Competitive Processes which commenced with Phase 1 upon the Despatch of the Contract Notice ref [OJEU Notice ID: 385681 – 2017] in the Official Journal of the European Union on the [29/09/2017] for the provision of the Services as set out within Schedule 1 Parts 1 to 4 to this Agreement.

ii. It is intended that the Service Provider appointed under this Agreement may be called upon by the Commissioner(s) to provide the Services during the Contract Period but there shall be no requirement or obligation upon the Commissioner(s) to utilise this Framework Agreement for the procurement of their Service needs.

iii. This Agreement sets out the terms and conditions for the Award of Call-Off Contracts commissioning the [Domiciliary Care Services] categorised as **Adult Standard Domiciliary Care Services** as set out in Schedule 1 [Service Specification] ("the Services") by the Commissioner(s) from the Service Providers.

iv. In each Phase the Service Providers shall be categorised into 6 Lots in accordance with the successful Tender submissions. The Lots identified for each Phase being :
   (a) Anglesey
   (b) Gwynedd
   (c) Conwy
   (d) Denbighshire
   (e) Flintshire
   (f) Wrexham

IT IS HEREBY AGREED:

i. The Commissioner(s) may award Call-Off Contracts in respect of the Services in accordance with the Terms and Conditions of this Agreement.

ii. The Service Providers shall provide the Services according to the Call-Off Contract Conditions and the Terms and Conditions of this Agreement which shall incorporate the Schedules attached hereto.

iii. The Commissioner(s) shall in consideration of the provision of the Service, pay such Costs and Fees to the Service Providers as set out in Schedule 5 [Price Matrices] to this Agreement.

## 2. DEFINITIONS AND INTERPRETATION

2.1 In this Agreement, unless the context otherwise requires, capitalised expressions shall have the meanings set out below or as expressed within the relevant Clause or Schedule in which that capitalised expression appears.

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| **Abuse** | Defined in Section 197(1) of the Social Services & Wellbeing (Wales); Act means physical, sexual, psychological, emotional or financial abuse (and includes abuse taking place in any setting, whether in a private dwelling, an institution or any other place), and "financial abuse" includes— having money or other property stolen; being defrauded; being put under pressure in relation to money or other property; having money or other property misused; |
| **Agreement** | The Framework Agreement entered into between the Commissioner(s) and the Service Providers including its Clauses, schedules, appendices, **the Service Provider's tender** and any other documents expressly incorporated. |
| **Assessment** | means a written assessment carried out by Commissioner(s) of a Person's individual eligible care and support needs and the personal wellbeing outcomes set out in the Person's Care and Support Plan |
| **Assessment review** | Process of monitoring the progress of the Care and Support Plan on a systematic basis throughout the Agreement period and in conjunction with the Provider and the Person(s) and their informal Carers or representatives. |
| **Block contract** | An agreed level of Service provided to one or more Person(s) and / or in an agreed geographic location at a fixed price applicable for a set period of time. The contract will include a specification, or equivalent schedule, detailing the service requirements. |
| **Breach of contract** | A failure of a party to this Agreement to perform his or her obligations as set out therein. |
| **Business (office) Working Day** | Every official working day of the week between and including Monday to Friday, excluding public holidays in Wales. |
| **Caldicott Principles** | Means a number of general principles that health and social care organisations should use when reviewing its use of client information alongside the Data Protection Act principles |
| **Call Off** | Means the commissioning of Services that may be made by the Commissioner(s) from the Service Providers under the Commissioning and Call Off Procedures as set out in the Framework Agreement. |
| **Call-Off Contract** | Means the collective of the Purchase Order issued by the individual Commissioner setting out the specific requirements and the Call-Off Contract terms and conditions duly executed by the Parties. |
| **Care Co-ordinator** | The person assigned by the Commissioner(s) to coordinate the care and support and/or any other information, advice or support services provided to a Person(s). |
| **Care and Support Plan** | The document which underpins the Service to be provided following the Person's assessment, outlining how his/her wellbeing outcomes will be met. A specimen copy of the Care and Support Plan is set out in Schedule 4 to the Call Off Contract Terms and Conditions. |
| **Care / Support Worker** | The registered Person employed by the Provider to be involved in directly providing the Service, registered with Social Care Wales as and when applicable. |
| **Call** | A visit scheduled by the Service Providers to deliver the Service the Service by the Care/Support Worker. |
| **Carer** | A person who provides or intends to provide care for an adult or disabled child (excluding paid carers). |
| **Code of Practice/ Code of Professional Practice** | The Code of Professional Practice for Social Care issued by Social Care Wales setting out the conduct and practice expected of the social care profession in Wales |
| **Complaints & Concerns Procedure** | The Complaints Procedure as set out in Clause 26 |
| **Competence** | The knowledge, skills, attitudes and ability to practise safely and effectively without the need for direct supervision. |
| **Confidential Information** | Any information which has been designated in writing by either Party as being confidential or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to all personal data and sensitive personal data within the meaning of the DPA and Section 124 of the Police Act 1997 in relation to the business, affairs, properties, assets, trading practices, Service Developments, trade secrets, personnel, Person(s) and suppliers of either Party, and the Commercially Sensitive Information. |

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| **Contract** | The Call Off Contract terms and conditions which becomes effective following authorisation of the Call-Off Contract. |
| **CQC** | Care Quality Commission or such other replacement body acting as the independent regulator of health and social care in England |
| **CIW (formerly CSSIW)** | Care Inspectorate for Wales or such other replacement body authorised in Wales to act in accordance with the Care Standards Act 2000 and Regulation and Inspection of Social Care (Wales) Act 2016 |
| **Data Controller** | has the meaning set out in the DPA |
| **DPA** | means the Data Protection Act 1998, the EU Data Protection Directive 95/45/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI2000/2689), the Privacy and Electronic Communications (EC Directive) Regulations 2003, the GDPR, the LED and any applicable national implementing Laws as amended from time to time, the Data Protection Act 2018 [subject to Royal Assent ],and all applicable laws and regulations relating to the processing of Personal Identifiable Data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner; |
| **Data Processor** | Shall have the meaning in Schedule 9 |
| **Data Protection Requirements** | means the requirements of the DPA |
| **Data Subject** | has the meaning set out in the DPA; |
| **Deprivation of Liberty (DoLS) Safeguards** | means the framework of safeguards set out in Schedule A1 to the Mental Capacity Act 2005 |
| **Disclosure & Barring Service (DBS)** | means a Non-Departmental Public Body established under the Protection of Freedoms Act 2012 with the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) |
| **Domiciliary Care** | Defined in the Regulation & Inspection of Social Care (Wales) Act 2016 as "the provision of care and support to a person who by reason of vulnerability or need (other than vulnerability or need arising only because the person is of a young age) is unable to provide it for him or herself and is provided at the place in Wales where the person lives (including making arrangements for or providing services in connection with such provision). It excludes the skills and expertise of a qualified nurse. |
| **Emergency** | Is an exceptional circumstance where failing to act would cause unacceptable distress to, or affecting the wellbeing of the Person receiving the Service. |
| **Enhanced Domiciliary Care** | Shall mean person centred, outcome based care and support provided to Person(s) with complex needs living in their own home in the community to achieve their wellbeing outcomes. The Service will generally be commissioned following a health or multi-disciplinary assessment. Additional Staff training and competencies will be required in order to meet the Person's physical, mental or emotional wellbeing needs. |
| **Equipment** | The Provider's equipment, and materials used in the performance of its obligations under this Agreement. |
| **Freedom of Information Act (FOIA)** | The Freedom of Information Act 2000 and any subordinate legislation made under the Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation. |
| **Framework Agreement** | Means the overarching terms and conditions under which specific purchases (call-offs) can be made. |
| **General Data Protection Regulation (GDPR)** | Means The General Data Protection Regulation (GDPR) (Regulation (EU) 2016/**679**) |
| **Good Industry Standards** | Standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence, and foresight which wold reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances. |
| **Health Board** | The Betsi Cadwaladr University Health Board. |
| **Joint Controller** | Where two or more controllers jointly determine the purposes and means of data processing, they shall be joint controllers |
| **Key Personnel** | As defined in Clause 3. |
| **Law** | Any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, Delegated or subordinate legislation or notice of any Regulatory Body. |

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| **Lot** | Means the services divided into Lots as referred to in the OJEU Notice and the recitals to this Agreement |
| **Material Breach** | A breach (including an anticipatory breach) that is not minimal or trivial in its consequences to the People supported by the service and or the Commissioner(s). In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding; however the outcome can lead, if not remedied, to termination of the Agreement. |
| **Multi-Disciplinary Team** | A group of health and/or social care workers who are members of different disciplines, each providing specific services to the Person(s). |
| **Mini tender** | Shall mean the tender exercise as set out in Schedule 2 [ Call-off Award Criteria ] to be used to award a Call-Off Contract |
| **Outcomes** | Means the impact or end results of the Service on a Person's life and wellbeing |
| **Personal Data** | Means personal data defined in the DPA |
| **Provider's Representative** | The individual authorised to act on behalf of the Provider for the purposes of this Agreement |
| **(Individual) Purchase Order** | The document used to define the service arrangements for individuals, detailing for example start date and time of service |
| **Quality Standards** | Standards as defined within the contract and specification, including National Minimum Standards for Domiciliary care Agencies in Wales to be replaced in 2018 by regulations, standards and guidance under the Regulation & Inspection of Social Care (Wales) Act 2016 |
| **Reablement** | Service for people with poor physical or mental health or disability to help them live as independently as possible by learning or re-learning the skills necessary for daily living |
| **Registered Manager** | The person registered with the CIW or CQC and/or Social Care Wales to manage the domiciliary care service provided by the Provider |
| **Responsible Individual** | means an individual who is eligible to be a responsible individual under subsection (2) of the Regulation & Inspection of Social Care (Wales) Act 2016, who the Welsh Ministers are satisfied is a fit and proper person to be a responsible individual (section 9) and designated by a service provider in respect of a place at from or in relation to which the provider provides a regulated service and specified as such in the service providers registration. |
| **Relative** | (a) spouse or civil partner, or a person who lives with them as their spouse or civil partner;<br>(b) parent or parent in law; son or daughter; son in law or daughter in law; stepson or stepdaughter; brother or sister; aunt or uncle; grandparent;<br>(c) the spouse or civil partner, or a person who lives with them as if their spouse or civil partner, or any person specified in sub-paragraph |
| **Regulated Service** | as defined in Part 1, section 2 of the Regulation & Inspection of Social Care (Wales) Act 2016 |
| **Risk Assessment** | An assessment by an appropriately trained and qualified person of the potential risks to Person(s) and Staff associated with delivering the Person(s)'s package of care. |
| **Safeguarding** | Means protection from abuse harm and neglect, and promoting of children/adults' physical, emotional and mental health, education, training and leisure, contribution to society and social and economic well-being |
| **Safeguarding Co-ordinator** | The person assigned to oversee and co-ordinate the process that deals with allegations of abuse and neglect against children and adults at risk |
| **Service Conditions** | The Service Conditions forming part of the Call Off Contract |
| **Service Delivery Plan** | A plan written by the Service Providers which specifies how the Person's outcomes are to be met in accordance the Person's Care and Support Plan |
| **Service Location** | The location where the Service is provided or planned to be provided. |
| **Service Provider(s)** | Means the Service Providers appointed under the Agreement to provide the Service who shall maintain a valid registration of the Domiciliary Support Agency pursuant to the Regulation & Inspection of Social Care (Wales) Act 2016 or Care Standards Act 2000 where applicable or any statutory modification or re-enactment thereof. |
| **Service Provider's Lots** | Means the lots referred to in Schedule 5 to the Framework Agreement in accordance with the Service Provider's appointment under the Framework Agreement. |
| **Supported Living** | Shall mean accommodation based Standard or Enhanced Domiciliary Care provided to Person(s) living in their own homes in the community with or without housing related support. Supported Living services will be compliant with Wales Government's and/or North Wales' Supporting People Programme Outcomes Framework and Reach Standards or equivalent. |

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| **Social Care Wales (formerly Care Council for Wales & Social Services Improvement Agency)** | Assembly sponsored public body implemented from April 2017 under the Regulation & Inspection of Social Care (Wales) Act 2016 who's responsibilities include registration and the regulation of social care workforce in Wales and leading improvements in social care in Wales |
| **Social Services and Well Being (Wales) Act 2014** | The legal framework for improving the well-being of people who need care and support, and carers who need support. |
| **Person's Representative** | The relative or friend or carer or other (for example solicitor) nominated from time to time by the Person to represent him / her and may include the Person's Attorney or Deputy where the Attorney or Deputy has the authority to make the decisions in question. Where the Person lacks the mental capacity to nominate a Representative, the Parties shall proceed in accordance with the principles of the Mental Capacity Act 2005. |
| **Relevant Partners** | The partners defined by section 162(4) and section 130(5)(b) of the Social Services and Well Being (Wales) Act. |
| **Service** | The Service to be provided in accordance with the terms of the Contract, the Service Specification, Service Conditions and the Person's Care and Support Plan. |
| **Significant Carer/ Representative** | The individual responsible for the Person(s) or acting on behalf of the Person(s) |
| **Sleep-in** | Arrangement between the Commissioner and the Service Providers for Staff to be present generally between 11pm and 7am to support a Person(s) should they need assistance. A sleep-in will normally be considered to include any assistance required with going to bed/rising. Sleep-in Staff are not expected to be awake or woken for long periods during the night. If the Care Worker is woken any time up to a maximum of 2 hours or more than twice during the night, this then becomes a waking night and should be reviewed by the Commissioner(s),unless otherwise specified and agreed. |
| **Specification** | The description of the Service to be provided under this Contract. |
| **Staff** | All persons employed by the Provider to perform this Contract together with the Provider's, employees, agents and sub-contractors used in the performance of this Agreement. |
| **Standard Domiciliary Care** | For the purposes of the Framework and Contract, this means person centred, outcome based care and support with or without housing related support provided to Person(s) living in their own home in the community (including personal care traditionally known as 'homecare' or 'home support') to achieve their wellbeing outcomes as detailed in the Service Specification. |
| **Sustainable Development** | Means ensuring that our actions contribute to the social, economic and environmental well being now and in the future, improving the environment, building stronger community, reducing social exclusion and poverty and encouraging the development of the economy. |
| **TUPE Regulations** | Means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as may be amended or modified from time to time. |
| **Waking Night** | Where the Care/Support Worker is required to be awake during the night to attend to and provide regular / frequent care and support (which may include support to remain safe and/or personal care tasks) throughout the night. |

## 3 KEY PERSONNEL

3.1 The Parties have agreed to the appointment of Key Personnel.

3.2 The Key Personnel shall have the authority to act on behalf of their respective organisations in all matters relating to the Provision of the Service, the Operation and Conduct of the Framework Agreement and or any Call-Off Contract thereto and shall hold sufficient seniority within the organisation to have the power to bind their organisations contractually on matters for which they are deemed to be responsible:

i) The Authorised Officer for each Council shall be the most senior Officer who has responsibility for Social Services or such other person as the respective Authorised Officer may nominate from time to time
The Health Board's Authorised Officer shall be the Area Directors or such other person as the respective Authorised Officer may nominate.

ii) Procedural matters or matters relating to any provision of this Agreement if for the Commissioners should be referred to either the relevant Council's [Contracts Manager/Officer] or the [Health Board's Continuing NHS Healthcare Strategy and Quality Assurance Manager] in the first instance.

iii) The Service Provider shall nominate a Registered Manager who shall be the person registered under the Care Standards Act 2000 and the Domiciliary Care Agencies (Wales) (Amendment) Regulations 2013 and / or with Social Care Wales and the Responsible Individual registered with CIW under the Regulation & Inspection of Social Care (Wales) Act 2016

iv) The Registered Manager shall have day-to-day contact with the Commissioners and people supported by the service and together with the Responsible Individual shall be responsible for the Contract Performance on behalf of the Service Providers.

v) The Registered Manager and/or Responsible Individual shall be given authority to make policy-level decisions on behalf of the Service Providers and bind the organisation contractually.

vi) The Service Providers shall notify the Commissioner(s) of any change in the appointment of the Registered Manager and/or Responsible Individual.

3.3 The Service Providers shall, where possible, provide at least one months' written notice of its intention to replace Key Personnel.

3.4 The Service Providers acknowledges that the Key Personnel are essential to the proper provision of the Service to the Commissioner(s). Where a vacancy occurs, the Service Providers shall use their reasonable endeavours to appoint replacement Key Personnel as soon as practicably possible and any such replacement shall hold current suitable qualifications, experience and be fully competent to carry out the tasks assigned to the Key Personnel and have undergone such enhanced DBS checking as appropriate for the due performance of the Services.

3.5 The Commissioner(s) may require the Service Providers to remove, or procure the removal of, any of its nominated Key Personnel where in the reasonable opinion of the Commissioners it considers the Key Personnel's performance to be unsatisfactory for any reason which has a Material Adverse Impact upon the proper performance of the Contract or for behaviour which gives rise to Wellbeing or Safeguarding concerns.

3.6 In the event of Key Personnel being replaced for whatever reason each individual organisation shall bear the costs associated therewith.

## 4 THE PERIOD OF THE AGREEMENT

4.1 The Agreement shall take effect on the Commencement Date and shall continue in force until Expiry [31st March 2022] or earlier termination howsoever arising.

4.2 The Commissioner(s) may extend this Agreement, where it is lawfully able to do so beyond the Initial Period of the Agreement (Extension Period).

4.3 Prior to the Expiry of the Agreement set out in the clause 4.1 above, the Commissioner(s) shall give at least 6 months' written notice to the Service Providers of the intention to extend the Agreement.

4.4 The Parties acknowledge that termination or expiry of the Agreement shall not cause any Call-Off Contract to terminate automatically. For avoidance of doubt, the Service Call-Off Contract shall remain in force unless terminated earlier in accordance with the individual Call off Contract.

## 5 THE SERVICES

**5.1** The Services applicable under this Agreement shall be provided to adults and/or children and families subject to the Service Provider's appointment under this Agreement for the Lot(s) as detailed in the tender notice and as further set out below:

Phase 1:
Lot 1: Adults Standard Domiciliary Care - Anglesey
Lot 2: Adults Standard Domiciliary Care - Gwynedd
Lot 3: Adults Standard Domiciliary Care - Conwy
Lot 4: Adults Standard Domiciliary Care - Denbighshire
Lot 5: Adults Standard Domiciliary Care - Flintshire
Lot 6: Adults Standard Domiciliary Care - Wrexham

## 6 APPOINTMENT OF THE SERVICE PROVIDERS

6.1 The Commissioner(s) shall appoint the Service Providers as potential contractors for the Services in accordance with provisions of clause 5.1 above. Following appointment, the Service Providers shall be eligible to be considered for the award of Call-Off Contracts during the period of this Agreement.

6.2 The Service Providers accept that the Commissioner(s) have appointed a number of Service Providers in respect of each Lot and that the Service Providers do not have an exclusive right to provide the Service for any of the Lots it is appointed to at any point throughout the period of the contract.

## 7 REGISTRATION WITH STATUTORY BODIES

7.1 The Service Providers shall obtain and maintain valid registrations which permit the Service Providers and their personnel to carry out and perform the required Services from the appropriate Government and/or Statutory Bodies as determined from time to time pursuant to the prevailing legislative provisions. Service Providers currently registered with CIW will be required to re-register under the Regulation & Inspection of Social Care (Wales) Act 2016 by 31st August 2018; Service Providers currently registered with CQC will be required to have submitted an application for registration with CIW under the Regulation & Inspection of Social Care (Wales) Act 2016 by 4th April 2018. Failure to do so may result in suspension of this Agreement in line with Clause 53 [Part 7] of this Agreement.

7.2 The Service Providers shall produce to the Commissioner(s) certified copies of certificates evidencing the organisation's registration, the Registered Managers certification and where appropriate individual personnel certification through DBS.

7.3 In the event of termination, revocation, refusal of any Registrations or Certifications the Commissioner(s) have the right to either suspend or terminate the Service Providers from performing under the Call-Off contract or suspend or remove the Service Providers from the Framework Agreement without notice.

7.4 The Providers shall immediately notify the Commissioner(s) of any event affecting registration and/or:

i) Any intention to vary the Service Provider's registration, detailing any potential impact that this may have on existing or potential future call-off contracts and/or their position of the Framework.

ii) Any variation/s being imposed upon the Service Provider's Registration or other Certification.

Where variations can be rectified in a short time frame and full Registration and Certification reinstated the Commissioner's shall have the right to suspend the Service Providers pending rectification in or attachment of conditions to registrations, the Commissioner(s) may terminate the Call-Off Contract forthwith by notice in writing to the Service Providers. The Service Providers shall notify the Commissioner(s) immediately if any such event or other event affecting registrations occurs.

## 8 SCOPE OF THE AGREEMENT

8.1 This Agreement governs the relationship between the Commissioner(s) and the Service Providers and sets out the mechanism by which individual Call-Off Contracts can be procured for the provision of the Services by the Service Providers.

8.2 The Service Providers shall be eligible to receive Purchase Orders in the form as set out in Schedule 4 for the provision of Services as required by the Commissioner(s) during the Period of this Framework Agreement.

8.3 Nothing in this Agreement shall create, or be deemed to create a partnership or joint venture or relationship of employer and employee or principal and agent between the Parties. Neither Party shall have authorisation to make representations to act in the name of, or act on behalf of, or otherwise bind any of the other Parties to any obligation.

8.4 No undertaking or any form of statement, promise, representation or obligation shall be deemed to have been made by the Commissioner(s) in respect of the total quantities or values of the Service to be commissioned by the Commissioner(s) pursuant to this Agreement and the Service Providers acknowledges and agrees that it has not entered into this Agreement on the basis of any such undertaking, statement, promise or representation.

8.5 The Service Providers agrees that it shall not in its dealings with the Commissioner(s), impose, rely upon or attempt to impose or rely upon any other contractual term other than the terms detailed in this Agreement.

## 9 THE SERVICE PROVIDERS' OBLIGATIONS

9.1 The Service Providers shall deliver the Services in accordance with Schedule 1 [Service Specification] and the terms of this Agreement and in compliance with each individual Call Off Contract and any Special Conditions required by the procuring Commissioner to satisfy User needs.

9.2 In performing the Contract the Provider shall comply with all applicable statutory obligations for the time being in force including (without limitation) those relating to health, safety and welfare, environment, modern slavery, employment rights and relations, working rights, human rights, data protection and equality.

9.3 The Provider shall supply the services in accordance with the Wales Government's Code of practice on Ethical Employment in Supply Chains (http://gov.wales/topics/improvingservices/bettervfm/code-of-practice/?lang=en). The Provider's Whistle blowing policy should cover all of the aspects of ethical employment included within the Code of Practice on Ethical Employment in Supply Chains,

9.4 specifically:

- Modern Slavery
- Blacklisting
- False self-employment
- Unfair use of umbrella schemes and zero hours contracts
- Paying the Living Wage.

9.5 The Provider shall ensure that any subcontractors have accepted the Service Provider's obligations under the Agreement and Call-off Terms and Conditions, particularly in relation to ethical employment and human rights.

9.6 The Commissioners may terminate the Contract by notice with immediate effect if the Provider is the subject of:

i) A claim for breach of the Human Rights Act
ii) A formal investigation, or the subject of a claim arising, in connection with its statutory obligations relating to employment rights, employment relations, working rights or equality.
iii) A formal investigation for or is the subject of prosecution for any offence under the Modern Slavery Act 2015.

9.7 The Service Providers shall ensure that all personnel are competent and suitably qualified to perform the Services under the terms of the contract and that each member of the Service Provider's staff have undergone such DBS checking to the highest level appropriate for the need to work with young people and vulnerable persons of all age groups.

9.8 The Service Providers shall ensure that all personnel appointed to carry out the Services in accordance with any Call-Off contract have undertaken such Health and Safety at Work etc, Act training as necessary to ensure safe performance of the Services in relation to any manual handling and any control of substances hazardous to health and or dealing with sharps and or dispensing or use of medicines or pharmaceutical materials or and substances including the appropriate and effective disposal of clinical/medical or pharmaceutical substances or appliances..

9.9 The Service Providers shall ensure that there are sufficient personnel engaged to meet the requirements of any Call-Off contract to which he becomes a party at all times including ensuring that holiday and sick leave can be covered when needed without any delay or inconvenience to the People supported by the service.

9.10 The Service Providers must maintain such insurance as is necessary to protect his employees, the People supported by the service and members of the Public in the performance of his duties.as set out in clause 28 to this Agreement.

9.11 The Service Providers shall ensure that all required reports, care plans, health charts and records are properly and accurately maintained in accordance with the provisions of the DPA as applicable.

9.12 The Service Providers shall issue to the Commissioner such appropriate VAT compliant invoices detailing the Service provided in accordance with the Call –Off Contract, the People supported by the service details as necessary, the time spent with the People supported by the service and a breakdown of rates applied to each element.

9.13 The Service Providers shall ensure that all Policies, Procedures and such other Guidance as might be required, by all staff, People supported by the service and other personnel involved with the Service Provision, are readily available, up-to date and fit for purpose.

## 10 THE COMMISSIONER(S)' OBLIGATIONS

10.1 The Commissioner(s)' obligations under this Agreement are obligations of the Council / Health Board in its capacity as a contracting party only.

10.2 The Parties shall acknowledge that Commissioner(s) are independently responsible for commissioning and awarding such Call-Off Contracts to meet the demands and Requirement of their Users

10.3 The Commissioners shall be responsible for making timely payment(s) for the Services delivered in accordance with the terms set out in this Agreement and where appropriate invoices have been received as stated in clause 9.8 above.

10.4 The Commissioners shall be responsible for adhering to the Code of Practice on Workforce Matters (2014)

## 11 NO EXCLUSIVITY

11.1 The Service Providers acknowledges and agrees that in entering into this Agreement:

11.1.1 There is no obligation whatsoever on the Commissioner(s) to invite or select the Service Providers to provide the Service and/or to commission any Service under this Agreement and;

11.1.2 No form of exclusivity has been conferred on the Service Providers nor volume or value guarantee granted by Commissioner(s) in relation to the provision of the Service by the Service Providers. The Commissioner(s) are at all times entitled to enter into other contracts and agreements with other Service Providers(s) for the provision of any or all the same as or a similar Service.

## 12 DUE DILIGENCE

The Service Provider(s) acknowledge(s) that:

12.1 The Commissioner(s) has delivered or made available to the Service Providers all of the information and documents that the Service Providers considers necessary or relevant for the performance or its obligations under this Agreement.

12.2 It has made its own enquiries to satisfy itself as to the accuracy of the Due Diligence Information.

12.3 It has satisfied itself (whether by inspection or having raised all relevant Due Diligence questions) with the Commissioner(s) before the Commencement Date and has entered into this Agreement in reliance on its own due diligence alone.

12.4 it shall not be excused from the performance of any of its obligations under this Agreement on the grounds of, nor shall the Service Providers be entitled to recover any additional costs or charges, arising as a result of any:

i) Misrepresentation of the requirements of the Service Providers in the Invitation to Tender or elsewhere; and/or
ii) Failure by the Service Providers to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

## 13 PURCHASE ORDER

13.1 Where a Service is required, the Commissioner(s) shall issue a Commissioner specific Purchase Order in form set out in schedule 4, to the Service Providers in writing prior to the commencement of the Service.

13.2 For avoidance of doubt, a Purchase Order may be agreed for the provision of the Service to one or more Person(s) in the same or separate households, such Service Requirements or Special Conditions will be set out within the Purchase Order

13.3 The Purchase Order may be issued by the Commissioner via post, electronic mail or through other online solutions as agreed between the Parties.

13.4 By signing and returning the Purchase Order (which may be by electronic means), the Service Provider is confirming that it is able to provide the Services and that it is able to accept the terms and conditions of the Call-Off contract un-amended and confirm the date upon which the Service Providers will execute the Call-Off contract.

13.5 The Purchase Order shall not enter into force, be legally binding or have any other effect until:

i. the Purchase Order contains the details of the Service to be provided to the people or person to be supported by the service; and

ii. the Service Provider has confirmed that it has adequate and competent personnel available to undertake the Service and be able to respond to the people supported by the service within the required time frame; and

iii. the Purchase Order has been agreed by the Parties and signed by the authorised representatives of both Parties to it; and

iv. the Call-Off Contract with the Purchase Order as a Schedule is duly executed; at which time the Call-Off Contract shall form a separate contract between the Parties as distinct from the Framework Agreement, but shall still be subject to the over-arching terms and conditions

## 14 COMMISSIONING OF THE SERVICES

14.1 The Commissioner(s) shall be entitled at any time in its absolute and sole discretion during the Framework Period to commission the Services detailed within this Agreement and set out in Schedule 1.

14.2 The Service shall be commissioned following the strict terms of the Call-Off process set out in Schedule 2 [Call-off award procedures] to this Agreement by undertaking a Mini-Competition or by making a Direct Award for the Services required.

14.3 In the event of a challenge made following any of the Commissioner(s) failing to comply with the call-off variation procedure / process (sub-Schedule 6 of Schedule 3 – Call-off Contract Terms & Conditions) then each defaulting Commissioner shall be severally liable and fully responsible for their own acts or omissions and shall indemnify each other Commissioner for any consequential costs or damages

14.4 When Services are required from the Service Provider under this Agreement, the Commissioner(s) shall:

i. Set out the request and Service requirements so that they understand the needs of the People supported by the service;
ii. identify the relevant Lot which its requirements fall into;
iii. Commence the Call-Off procedure in accordance with the Schedule 6 (Commissioning and Call Off Procedures) to this Agreement;
iv. Issue a Purchase Order detailing the requirements of the Service to the Service Provider;
v. Agree the details with the winning Service Provider and sign the Purchase Order to confirm the intention to enter into a Call-Off Contract and agree the date for execution of the Call-Off Contract.

14.5 Notwithstanding the fact that the Commissioner(s) has followed a procedure as set out above and in accordance with Schedule 6, the Commissioner(s) prior to the execution of the Call-Off Contract shall be entitled at all times to withdraw a Purchase Order request, withdraw from a Mini-Competition or decline to make an award for its Service requirements..

14.6 Where a Service is no longer required after the execution of a Call-Off contract the terms of that contract shall prevail.

## 15 CONFLICT OF INTEREST

15.1 The Service Providers shall take appropriate steps to ensure that neither the People supported by the service nor any of the Service Provider's personnel are placed in a position where (in the reasonable opinion of the Commissioner(s)) there is or may be conflict or potential conflict between the personal interests of the People supported by the service and the Service Provider's personnel

15.2 In the event of such a conflict arising the Service Providers shall ensure that the appropriate polices for dealing with such incidents are invoked and that the needs and requirements of the People supported by the service remain of paramount importance and priority.

15.3 The Commissioner(s) reserves the right where such incidences are not dealt with to the satisfaction of the Commissioners to require the Service Providers to remove such personnel as necessary and provide replacement personnel.

15.4 Where appropriate replacement personnel cannot be found within a reasonable timeframe, such as not to unduly disrupt the provision of the Service, the Commissioner may mitigate the position at its discretion by suspending the Service Provider's Call-Off Contract and replacing the personnel through another Service Providers, until such time as the suspended Service can be resumed.

15.5 In the event of such mitigation action in clause 15.4 being necessary the Commissioner shall be entitled to recover all reasonable costs associated with the provision of the substitute Service from the suspended Service Providers.

## 16 SUBCONTRACTING AND ASSIGNMENT

16.1 The Service Providers shall not be entitled to sub-contract or assign their position on the Framework Agreement and in all circumstances relating to individual Call-Off Contracts comply with the Schedule 3 (Call off Contract, clause 43 (Transfer and Subcontracting) requirements

## 17 MANAGEMENT OF THE AGREEMENT

17.1 The successful delivery of this Agreement will rely on the ability of the Service Providers and the Commissioner(s) developing a collaborative and strategic relationship following the conclusion of this Agreement with the Service Providers and maintaining that relationship throughout the Period of the Agreement. The Parties shall adopt a proactive management strategy based upon transparency, common goals and the implementation of quality management structures.

17.2 The Parties shall appoint a Nominated Representative(s) to be the key contact(s) in respect of the management of the contracts on their behalf.

## 18 REVIEW OF THE AGREEMENT

18.1 The Service performance and charging rates under the terms of the Agreement shall be reviewed annually by the Commissioner(s) and any findings shall be confirmed, and any variations or service amendments which are required shall be agreed in writing with the Service Providers prior to implementation.

18.2 Where any review gives rise to the need for any terms of any of the Contract documents to be amended such amendments or variations shall only be made in compliance with the Public Contracts Regulations 2015 or such other replacement legislation as applicable at the given time.

18.3 Any variation to the Agreement or Call-Off Contract shall only be valid if a duly executed Deed of Variation is provided

## 19 DISRUPTION

19.1 The Service Providers shall take all reasonable steps to ensure that in the delivery of the Services under this Agreement it does not disrupt or impede the operations of the Commissioner(s), its employees or any other provider employed by the Commissioner(s).

19.2 The Service Providers shall immediately inform the Commissioner's Key Personnel of any actual or potential industrial action, whether such action is by their own employees or others, which affects or might affect its ability at any time to perform its obligations under this Agreement or any Call-Off Contract to which it is a Party.

19.3 In the event of industrial action by the Personnel or the Service Provider's suppliers, the Service Providers shall ensure that it has such methods of mitigation set out which can be implemented immediately to provide a continued Service, such mitigation strategy and replacement personnel to be approved by the Commissioner(s) whose consent shall not be unreasonably withheld or delayed.

19.4 If the Service Provider's proposals as above are considered insufficient or unacceptable by the Commissioner(s), then the Commissioner(s), giving written notice to the Service Providers, may suspend the Call-Off contract and implement its own strategy to ensure a continued Service provision to the People supported by the service. All costs associated with such measures shall be recoverable from the suspended Service Providers.

## 20 NO AGENCY

20.1 Neither the Service Providers nor any of its staff shall be entitled to:-

(i) hold themselves out as being the servant or agent of the Commissioner(s); or
(ii) hold themselves out as being authorised to enter into any contract on behalf of the Commissioner(s);

## PART 2 – FINANCIAL ARRANGEMENTS

### 21 THE PRICE PAYABLE

21.1 The Price payable to the Service Providers in respect of the provision of the Service shall be subject to the award of the Call-Off Contract in accordance with the Purchase Order and Call Off Procedures and subsequent issuing of appropriate invoices as agreed by the Parties.

21.2 In consideration of the provision of the Service under the Call-Off Contract, the Commissioner(s) shall pay the Price for the period applicable and at the Rate as set out in the Call-Off Contract and in accordance with clause 22 below.

### 22 THE RATE(S)

22.1 Subject to the award of the Call-Off Contract, the Rate(s) applicable shall be:

i. At the Service Provider's listed Rate(s) as set out in Schedule 6 (Price Matrices) to this Agreement in respect of a Call-Off Contract awarded directly to the Service Providers without competition;

or;

ii. At the Service Provider's Rate(s) as set out in their tender price in respect of a Call-Off Contract awarded by the Commissioner(s) to the Service Providers as part of a mini tender;

22.2 The Rate(s) in accordance with the Service requirements shall be:

i. The all-inclusive hourly rate or pro-rata rates for partial hours for services during day and/or waking night

ii. The all-inclusive nightly rate for a Sleep-in in respect of a provision of Service at night and early morning generally between the hours of 11pm and 7am, subject to the Person's preferences and life style pattern;

22.3 Subject to clause 22.1 above the Rate(s) for partial hours shall apply as follows:

i. For quarter hour (15 min) the Rate shall be 25% or ¼ of the Service Provider's hourly rate;
ii. For a half hour (30 min) the Rate shall be 50% or ½ of the Service Provider's hourly rate;
iii. For a three quarter (45 min), the Rate shall be 75% or ¾ of the Service Provider's hourly rate;

22.4 The Rate(s) shall apply for the Call-Off Contracts awarded under this Agreement and shall remain in force until reviewed between the Commissioner(s) and the Service Providers.

22.5 The frequency of review of the Service Provider's Rate(s) under this Agreement shall ordinarily be:

i. Annually in accordance with the Commissioner's budget setting process. The Commissioner(s) shall determine, at its discretion, any variation in the Rate paid for the Service which shall take effect each financial year or such other date as agreed by the Parties. In exceptional circumstances the Rate(s) may be reviewed more frequently than annually and/or;
ii. At the time and frequency as identified by the Commissioner(s) in respect of the Service awarded through the mini tender as set out within the associated tender documentation;

22.6 The review of the Rates shall have proper regard to government guidance.

### 23 PAYMENTS

23.1 Payments in respect of the Service awarded under this Agreement shall be made in accordance with the payment process set out in the Call off Contract (Payment Process) or as might otherwise be agreed in the Purchase Order.

23.2 The Commissioner(s) shall be entitled to recover any monies due to them from the Service providers by off-setting such amounts from the Service Provider(s) future invoices or where necessary the Commissioners may pursue a Service Provider(s) for any monies owed as a debt recoverable in Court.

## 24 THE SERVICE PROVIDER'S FINANCIAL RESPONSIBILITIES

24.1 The Service Providers shall maintain responsibility for the financial arrangements of its organisation including adhering to the employer's obligations to pay the National Living Wage for Staff employed under this Agreement. The Service Providers, shall provide to the Commissioner(s) upon request confirmation and assurances that the legal obligations in relation to the payment of Staff including provisions for pensions have been met.

24.2 The Service Providers shall provide upon request to the Commissioner's Representative a copy of its audited accounts and specified accounts in relation to the provision of the Service under this Agreement.

## PART 3 – PERFORMANCE MONITORING, COMPLIANCE, INADEQUATE PERFORMANCE AND ESCALATING CONCERNS

### 25 MONITORING

25.1 The Service provided under this Contract shall be subject to continuous review and monitoring and the Commissioner(s) shall carry out any reviews required of the Service provided under this Contract.

25.2 For the avoidance of doubt, the Commissioner(s) shall monitor, inspect and examine the Service without notice at any time and the Service Provider shall give all such assistance as the Commissioner(s) may reasonably require for such monitoring. Quality monitoring may be by various methods including:

i. Feedback from Person(s) receiving the Service, their relatives or advocate through satisfaction questionnaires, sampling.
ii. Feedback from Care Co-ordinators, Health Board Nurse Reviews and other relevant Staff on the standard of Service provided
iv. An examination of written records, reports or logs which the Service Provider is required to provide
v. The review of the Integrated Care and Support Plan, Service Delivery Plan and progress against the individual Person's outcomes and relevant care planning documentation
vi. Contract reviews
vii. Care Co-ordinator's reviews
viii. Inspection reports issued by the CIW/CQC
ix. Review of policies and procedures held by the Service Provider including dates when these were updated
x. The Service Provider must be able to demonstrate evidence of business continuity planning
xi. Review copies of procedures and forms e.g. specimen supervision form used by the Service Provider

25.3 The Service Provider shall, at all times, co-operate with the Commissioner(s) processes for monitoring arrangements in whatever way as is reasonably requested by the Commissioner(s) including but not limited to, access to premises, Staff and records. The Service Providers shall produce on request and to the satisfaction of the Commissioner records and documented policies and procedures

25.4 The Service Provider shall conduct an annual individual satisfaction questionnaire (administered in accessible formats) to ensure that the people receiving the service/s are afforded opportunities to comment on the manner in which the Service is provided. The Service Provider shall facilitate access to advocacy services where required; specifically in relation to privately funded (including palliative) care as required under Part 10, Chapter 2 of the Social Services and Wellbeing (Wales) Act 2014 and to support the Commissioners in their duties under Part 3 of the same for the provision of advocacy services to be made available to people with needs for care and support for purposes relating to their care and support. Comments and feedback on the Service provided should be made available to the Commissioner(s) upon request.

25.5 The Service Provider shall provide information required by the Commissioner(s) from time to time to inform commissioning activity and / or workforce planning on a local, regional or national basis.

### 26 COMPLAINTS & CONCERNS

26.1 If adverse professional feedback, a complaint or a concern is received about the standard of the provision of the Service, or about any other matter connected with the performance of the Service Provider's obligations under this Agreement, then the Commissioner(s) may take any steps it considers reasonable in relation to that complaint, including investigating the complaint and discussing the complaint with the Service Providers, CIW or/and any Regulatory Body.
Without prejudice to any other rights the Commissioner(s) may have under this Agreement, the Commissioner(s) may, in its sole discretion, uphold the complaint and take any action specified.

26.2 The Service Provider is defined as a 'Responsible Body' under the 'Putting Things Right' Guidance developed in accordance with the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 (http://www.wales.nhs.uk/sites3/docopen.cfm?orgid=932&id=170588)

As such, most of these regulations apply to Service Providers who delivery domiciliary care and support funded in full, or in part by an NHS body. This requires the Service Provider to cooperate fully with Health Board commissioners in respect of any complaint or concern received in such cases where the complainant is not satisfied with the local resolution offered by the Service Provider's own complaints or concerns procedures.

## 27 REMEDIES FOR INADEQUATE PERFORMANCE / INCREASING OR ESCALATING CONCERNS

A (PECG) Professionals Escalating Concerns Group [the Commissioners' Representatives, for example Contract Monitoring / Quality Management leads, Service Manager (budget holder)] may be convened to decide on the most appropriate course of action, based on the evidence provided, and the level of concern which may include any of the following:

(i) Increased monitoring and/or supportive actions by the commissioner or others

(ii) Writing to the Provider outlining the risks or concerns and asking for Development Actions (local resolution)

(iii) Individual reviews of care & support

(iv) Safeguarding enquiries or investigations (following strategy discussion)

(v) Criminal investigations (advice will be given by the Police)

(vi) Attendance at a Formal Provider's Escalating Concerns meeting where Development, Rectification and other corrective actions may be required to be implemented and timeframes set for within which such remedial or corrective actions shall be performed

(vii) A temporary suspension of packages of care; In the event of consideration of a suspension of / packages of care, the PECG should consider the potential impact of the suspension on the provider reputation and financial viability. If a suspension is put in place, the Chair of the PECG should make it very clear to the Provider what they need to do to enable the suspension to be lifted).

(viii) Notice of termination or immediate termination due to significant breach of contract and making alternative service arrangements.

The Commissioner(s) reserves the right to arrange meetings with the Service Provider at its discretion and upon the giving of reasonable notice to discuss the performance of the Service under this Contract.

In regard to the Quality Services: Delivering What Matters – North Wales' procedure(s) for ensuring quality services' ; appropriate remedies shall be applied where in the reasonable opinion of the Commissioner(s):

i. the standard of Service is not in accordance with the terms of the Contract;
ii. the manner in which any Service has been performed is not in accordance with the terms of the Contract;
iii. the procedures used by the Service Provider in the delivery of the Service is not in accordance with the terms of the Contract; or
iv. it has concerns about any other matter connected with the performance of the Service Provider's obligations under the Contract,

The Commissioner(s) may, without prejudice to its right under the Resolution of Dispute clause, if it is the reasonable opinion of the Commissioner(s) that there has been a breach of the Contract by the Service Provider pursuant to the provisions above, do any of the following:

i. without terminating the Contract, itself supply or procure the supply of all or part of the Service until such time as the Service Provider shall have demonstrated to the reasonable satisfaction of the Commissioner(s) that the Service Provider will once more be able to supply all or such part of the Service in accordance with the Contract;
ii. without terminating the whole of the Contract, terminate the Contract in respect of part of the Service only (whereupon a corresponding reduction in the Service Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Service; and
iii. charge the Service Provider for (and the Service Provider shall pay any costs reasonably incurred by the Commissioner(s) including administration costs) in respect of the supply of any part of the Service by the Commissioner(s) or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Service Provider for such part of the Service and provided that the Commissioner(s) uses its reasonable endeavours to mitigate any additional expenditure in obtaining a replacement Service.

If the Service Provider fails to provide any of the Service in accordance with the Contract and such failure is capable of remedy, then the Commissioner(s) shall instruct the Service Provider to remedy the failure and the Service Provider shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 10 [ten] Business (office) Working Days of the Commissioner(s) instructions or such other period of time as the Commissioner(s) may direct. In responding to concerns, consideration is given to the risks to the wellbeing and safety of the people supported by the service and whether it would be appropriate to make any further referrals to the service.

## 28 FORMAL IMPROVEMENT NOTICE

28.1 Where the Service Providers fails to comply with the provisions of this Agreement, The Commissioner(s) may serve a Formal Improvement Notice in writing stating:

i. The precise manner in which the Service Providers is deemed to be in default;
ii. The action which the Service Providers is required to undertake and the time period which the default should be remedied;
iii. The time period may be extended only be express agreement of the Commissioner(s) in writing to the Service Providers;

If the remedial action is not taken by the date given in the Formal Improvement Notice, the Commissioner(s) is entitled to terminate the Agreement in accordance with the terms of this Agreement.

In the event that such default cannot or is not rectified in accordance with this clause above, the Commissioner(s) may at its absolute discretion, choose not to terminate the entire Agreement with the Service Providers, however may:

i. Itself provide or procure the provision of the relevant part of the Service from a third party until the default has been remedied to the reasonable satisfaction of the Commissioner(s) and/or;
ii. Deduct any sums due or otherwise charge to the Service Providers the reasonable cost of any service so provided together with relevant administrative costs and or:
iii. Suspend the Service Provider's appointment for the award of new Call-Off Contracts in accordance with clause 55.1 above until the Commissioner(s) is satisfied that the default has been remedied in accordance to the satisfaction of the Commissioner(s).

If the Service Provider fails to comply and the failure is materially adverse to the interests of the Commissioner(s), prevents the Commissioner(s) from discharging a statutory duty; or maintains persistent failure/s, the Commissioner(s) may terminate the Service under this Contract with immediate effect by giving the Service Provider notice in writing.

In the event of inadequate performance, the Commissioner(s) may without terminating the Service Arrangement, dependent on the circumstances, suspend the Service, for a specified reason for a specific period of time as agreed with the Service Provider in writing until the Service Provider demonstrates to the reasonable satisfaction of the Commissioner(s) that it is able to and will provide the suspended Service to the required standard.

During the period of suspension, the Parties must use all reasonable endeavours to minimise any inconvenience caused or likely to be caused to the Person(s) as a result of the suspension of the Service.

## 29 MONITORING OF FRAMEWORK PROVIDERS WITH NO ACTIVE CALL-OFF AGREEMENTS

29.1 Where the Service Providers are not actively delivering any Service under the Agreement, the Commissioner(s) reserves the right to:

i. Undertake the monitoring activities of the Service Providers as if such Services were being delivered by the Service Providers to ensure compliance with the terms of this Agreement and any prospective Call-Off Contract and/or;
ii. Request the Service Providers to undertake and make available a self-assessment against the terms of this Agreement and Call-Off Contract and/or;
iii. Undertake a desktop assessment or other form of documentation review with regards to the Service Providers to satisfy the Service Provider's compliance with the Agreement and Call-Off Contract;

29.2 The Commissioners shall work collaboratively to minimise duplication of monitoring activities for the Service Providers.

29.3 The Parties shall undertake the monitoring activities in respect of the Service Providers' performance commissioned under the Agreement in accordance with Schedule 3 to this Agreement (Call Off Contract, clause 40 (Monitoring)).

## 30 MEETINGS, NOTIFICATIONS AND REPORTING

30.1 The Service Provider shall attend regular Service Providers forum meetings organised at the Commissioner's premises or other such location to be agreed between the Parties.

30.2 The Service Provider shall, following expiry or any variation provide, the following to the Commissioner(s):

i. Insurance Certificate/s
ii. Name, contact and address of the Service Providers
iii. Name(s) of the Key Personnel of the Service Providers
iv. Up to date registration certificate with the CIW or equivalent body
v. Any change or proposed to the Service Provider's status (including changes to Key Personnel and/or the Statement of Purpose)

## 31 CONTINUOUS IMPROVEMENT AND AUDIT

31.1 The Service Providers shall throughout the Period of the Agreement identify new or potential improvements to the Service. As part of this obligation, the Service Providers shall identify and report to the Authorised Representative:

i. the emergence of any new and evolving relevant technologies which could improve the Service;
ii. new or potential improvements to the Service including the quality, responsiveness, procedures, performance mechanisms in relation to the Service.
iii. new or potential improvements to the interfaces or integration of the Service with other Service provided by third parties or the Commissioner(s) which might result in efficiency or productivity gains or in reduction of operational risk; and
iv. changes in ways of working that would enable the Service to be delivered at lower costs and/or bring greater benefits to the Commissioner(s).

31.2 During the Period of the Agreement, the Commissioner(s) may conduct or be subject to an audit for the following purpose:

i) To verify the accuracy of charges
ii) To review the integrity, confidentiality and security of any information
iii) To review any records created in respect of the provision of the Service
iv) to review the Service Provider's compliance with the DPA, the FOIA, in accordance with clause 35 (Data Protection) and clause 36 (Freedom of Information) and any other legislation applicable to the Service
v) To review any books of account kept by the Service Providers in connection with the provision of the Service
vi) To carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness whit which the Commissioner(s) has used its resources;

31.3 The Commissioner(s) shall use its reasonable endeavours to ensure the conduct of each audit does not unreasonably disrupt the Service Providers or delay the provision of the Service.

31.4 Subject to the Commissioner(s) obligations of confidentiality, the Service Providers shall, upon request, provide the Commissioner(s) with all reasonable co-operation and assistance in relation to each audit including:

i) all information requested by the above persons within the permitted scope of the audit;
ii) access to any sites controlled by the Service Providers and to any equipment used in the performance of the Service; and
iii) access to the Service Provider's Staff

31.5 The Commissioner(s) shall endeavour (but not be obliged to) provide at least five (5) working days' notice of its intention to conduct an audit.

31.6 The Parties agree that they shall bear their own costs and expenses incurred in compliance with their obligations under this clause, unless the audit identifies a material failure by the Service Provider to perform its obligations under this Agreement

31.7 In the event of a material failure being identified the Service Provider(s) shall immediately inform the Commissioner(s) of its strategy to rectify the failing and shall confirm to the Commissioner (s) that the Service Provider (s) will reimburse the Commissioners all reasonable costs associated with audit and the rectification of the material failure

## PART 4 – LIABILITIES, INSURANCE AND WARRANTIES

### 32 LIABILITIES AND INSURANCE

32.1 The Service Providers shall at all times ensure that they have adequate insurance to cover all risks associated with the provision of Services under this Framework Agreement and compliance with individual Call-Off contract provisions

32.2 Failure to comply with the insurance provisions shall at the discretion of the Commissioners give rise to suspension or termination from the Framework Agreement.

32.3 The minimum cover required for the provision of Services shall be:

Professional Indemnity [ £10 million ]

Employers Liability [ £10 million ]

Public Liability [ £10 million]

32.4 The Commissioners shall be entitled at their discretion to request sight of the relevant insurance certificate or notification from the broker that such adequate insurance is in place.

### 33 WARRANTIES AND REPRESENTATIONS

33.1 The Service Providers warrants and represents to the Commissioner(s) that:

i. it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of any other company) to enter into and to perform its obligations under this Agreement.

ii. this Agreement is executed by a duly authorised representative of the Service Providers.

iii. all information, statements and representations contained in the tender in respect of the Service shall remain true, accurate and not misleading and it will promptly advise the Commissioner(s) of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading;

iv. no claim is being asserted and no litigation, arbitration or administrative proceedings is presently in progress or to the bet of its knowledge and belief pending or threatened against it or any of its assets which will or might affect the ability to perform its obligations under this Agreement;

v. it is not subject to any contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under this Agreement and any Call-Off Contract(s) which may be entered into with the Commissioner(s);

vi. no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Service Providers or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue;

## PART 5 – INFORMATION, PROTECTION OF INFORMATION

### 34 INFORMATION REQUIREMENTS

34.1 The Service Provider shall ensure that information is submitted in accordance with the terms of the Call Off Contract and the Agreement and following the Commissioner(s)' request. Such request for information may include but not limited to the following:

i. complaints/compliments received;
ii. incidents including a safeguarding incidents;
iii. performance against required outcomes as set out within the Quality Measurement Framework notification of any voluntary or mandatory embargo, remedial action plan, regulatory breach or non-compliance identified by the CIW/CQC which the provider is subject to;
iv. notification of the change of the Service Provider's financial or organisational position;

34.2 The Commissioner(s) may from time to time notify the Service Providers of what further information may be reasonably required in order to monitor the Service Provider's performance under this Agreement, and in particular the Service Provider's compliance with the Service Specification and the Call Off Contract. The Service Providers shall supply such information as soon as reasonably practicable within an agreed time period.

### 35 RECORDS

35.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call Off Contract, clause 39 (Records and Audit Access)).

35.2 In addition to clause 33.1. above, the Service Providers shall keep the following records which may be required to be provided upon request (the list is not exhaustive):

i. All documents required by the regulatory body *such as* the CIW/CQC (not exhaustive);
ii. This Agreement, the Contract Terms and Conditions, their Schedules and all amendments to such documents;
iii. All other documents, records, orders, notices or certificates required to be produced and/or maintained by the Service Providers pursuant to this Agreement and individual Contracts issued in accordance with the Contract terms and conditions;
iv. Records relating to the appointment and succession of the Service Provider's Manager and each member of the Key Personnel.
v. Documents prepared by the Service Providers or received by the Service Providers from a third party relating to a Force Majeure Event;
vi. All formal notices, reports or submissions made by the Service Providers to the Commissioner in connection with the provision of the commissioned Service;
vii. All certificates, licences, registrations or warranties in each case obtained by the Service Providers in relation to the provision of the Available Service;
viii. Documents prepared by the Service Providers in support of claims for the Charges in respect of the Service/Call-Off Contracts relating to this Agreement;
ix. Documents evidencing any change in ownership or any interest in any or all of the shares in the Service Providers;
x. Financial records, including invoices and audited and un-audited accounts
xi. Records required to be retained by the Service Providers by Law, including in relation to health and safety matters and health and safety files and all consents;
xii. All documents relating to the Insurances to be maintained under this Agreement and any claims made in respect of them;

35.3 The Service Providers shall create, maintain, store and retain the above records provided in accordance with Law and applicable policies;

35.4 The Service Providers shall retain the above records for such periods of time as are permitted and was may be required by Law;

35.5 The Service Providers shall use the above records for the execution of the Service Provider's obligations under this Agreement.

## 36 CONFIDENTIALITY

36.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call Off Contract, clause 33 (Confidentiality)) with regards to the Service Provider's confidentiality obligations.

## 37 SECURITY OF CONFIDENTIAL INFORMATION

37.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call Off Contract, clause 34 (Security of Confidential Information)) with regards to the Service Provider's confidentiality obligations.

## 38 DATA PROTECTION

38.1 The Service Providers shall comply with Schedule 3 (Call Off Contract, clause 35 (Data Protection)) and Schedule 9 to this Agreement with regards to the Service Provider's data protection obligations.

38.2 **Joint Data Controllers**

Each Party shall be a Data Controller for the Personal Data created and processed for performing the Services and the Contract where the nature of the processing requires each Party to be a Data Controller otherwise the Commissioner(s) shall be the Data Controller and the Service Provider shall be the Data Processor. Each Party shall be responsible under the DPA (and subsequently the GDPR), for their own actions, decisions and omissions when processing Personal Data. The Parties shall work collaboratively with respect to their obligations as a Data Controller and/ or Data Processor provided that nothing in this Clause 38 and Schedule 9 and shall negate or alleviate either Party from their obligations as a Data Controller.

38.3 Each Party shall ensure that it and its servants and agents complies in all respects with the DPA and any other relevant Data Protection Requirements in relation to the Personal Data made available to it under this Contract by the other Party or arising through the delivery of the Services.

38.4 If Personal Data is to be shared between a Party and a third party under this Contract the Parties shall comply with its obligations in respect of the DPA.

38.5 Without prejudice to the generality of this Clause and for the avoidance of doubt it is hereby specifically provided that the Parties shall fully, promptly and effectively indemnify and keep so indemnified each other, their servants and agents from and against all and any actions, charges, claims, reasonable costs, damages, demands, reasonable expenses (including legal and administrative expenses), liabilities, direct losses and proceedings whatsoever arising from its failure to comply this Clause 38.

38.6 All Parties shall (and shall ensure that any Sub-Contractor shall) comply with the provisions of Schedule 9.

38.7 **Notices in respect of Data Protection**

The Parties shall serve a notice pursuant to this Clause 38 in writing and each notice shall be delivered personally, or sent by pre-paid first class post, or by recorded delivery, or by commercial courier, to the address as set out in Schedule 10.

Any notice that complies with this Clause 38 shall be deemed to have been received by the addressee:

i) If delivered personally, when left at the address referred to in Schedule10; or

ii) If sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Working Day after posting; or

iii) If delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed

and the avoidance of doubt no notice under this Clause 38 shall be accepted by fax or e-mail.

## 39 FREEDOM OF INFORMATION

39.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call Off Contract, clause 37 (Freedom of Information)) with regards to the freedom of information obligations.

## 40 INFORMATION SHARING

40.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call Off Contract, clause 36 (Information Sharing)) with regards to the information sharing.

40.2 Furthermore, the Commissioner(s) shall, where deemed appropriate, share information with each other about a Service Provider's performance under this Agreement including but not limited to the following:

i. Monitoring reports and activities relating to the Service Provider's performance;
ii. Variation to the Service Provider's appointment under this Agreement;
iii. Concerns relating to the Service Providers;
iv. Decision to suspend the Service Providers (if applicable);
v. Termination of the Agreement with the Service Providers;
vi. Quality of service in accordance with Schedule 7 (Quality Measurement Framework)

## 41 PUBLICITY

41.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call Off Contract, clause 38 (Publicity, Media and Official Enquiries)) with regards to the Service Provider's publicity related obligations.

## PART 6 - STATUTORY OBLIGATIONS, CODE OF PRACTICE AND REGULATIONS

### 42 SAFEGUARDING

42.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call Off Contract, clause 23 (Safeguarding)) with regards to the Service Provider's safeguarding obligations.

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### 43 DISCLOSURE AND BARRING SERVICE (DBS)

43.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call Off Contract, clause 22 of the Call Off Contract (Vetting of Provider's Staff)) with regards to the Service Provider's vetting obligations of their Staff, including provisions for disclosure and barring service.

### 44 OBSERVANCE OF STATUTORY REQUIREMENTS

44.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call off Contract, clause 14 (Observance of Statutory Requirements)) with regards to the Service Provider's statutory obligations.

### 45 DISCRIMINATION

45.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call off Contract, clause 26 (Discrimination)) with regards to the Service Provider's equality obligations.

### 46 THIRD PARTY RIGHTS

46.1 Except as expressly provided elsewhere in this Agreement, only a person who is party to this Agreement shall have any rights under the Agreement (Rights of the Third Parties) Act 1999 to enforce any term of this Agreement. This does not affect any right or remedy of a third party which exists or is available apart from the Act.

### 47 HUMAN RIGHTS

47.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call off Contract, clause 60 (Human Rights Act 1998)) with regards to the Service Provider's equality obligations.

### 48 HEALTH AND SAFETY

48.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call off Contract, clause 32 (Health and Safety)) with regards to the Service Provider's health and safety obligations.

### 49 COMMUNITY BENEFITS

49.1 The Service Providers shall meet the obligations of the Government of Wales Act 2010 with regards to sustainable development.

49.2 The Service Providers will be expected to work with the Commissioner(s) to maximise the community benefits delivered through the Agreement.

49.3 The Service Providers shall maximise community benefits through the lifetime of the Agreement in relation to generating employment opportunities in the local area and introducing innovative approaches such as offering apprenticeship placements as an example.

### 50 BUSINESS CONTINUITY

50.1 The Civic Contingencies Act 2004 places a duty on the Commissioner(s) to ensure that the critical functions continue to operate in the event of an emergency.

The Service Providers shall comply with this duty and is therefore required to:

i. Assess the risk of emergencies occurring and ensure that appropriate contingency planning, emergency planning and mitigation strategies are in place
ii. Ensure that regular practice tests and exercises are undertaken by all staff to ensure that the emergency planning strategies tare effective and implemented by staff efficiently to reduce the risk of injury or accident, training must be given to staff who may become involved in emergency responses on a regular basis.
iii. Put in place business continuity plans to ensure that the Service can continue in the event of an emergency or disaster situation occurring.

50.2 The Service Providers shall comply with Schedule 3, Call off Contract Terms and Conditions with regards to the Service Provider's business continuity obligations in accordance clause 28 of the Call Off Contract (Business Continuity).

## 51 PREVENTION OF BRIBERY, CORRUPT GIFTS AND PAYMENTS OF COMMISSION

51.1 The Service Providers shall comply with the Commissioner(s) policies in relation to the Prevention of Bribery, Corrupt Gifts and Payment of Commission at all times for the Period of the Framework and under any individual Call-Off Contract/s
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51.2 Failure to comply with the provisions of clause 50.1 shall be deemed to be a Material Breach of the Framework Agreement and the Call-Off Contract/s which shall result in the removal of the breaching Service Provider(s) from the Framework Agreement and the Termination of the Call-Off Contract.

## 52 WELSH LANGUAGE

52.1 The Service Providers shall comply with Schedule 3 to this Agreement (Call off Contract, clause 71 of the Call Off Contract (Welsh Language)) with regards to the Commissioner's Welsh language obligations.

## PART 7 – SUSPENSION FROM THE FRAMEWORK

**53** **SUSPENSION**

53.1 Unless otherwise specified within this Agreement the Commissioner(s) may individually at their own discretion or collectively:

i) Suspend the Provider from the Framework
ii) Suspend the award of new Call-Off Contracts to the Service Provider.

53.2 The suspension shall take effect either immediately where there are serious concerns regarding registration, safeguarding, well-being or breaches of health and safety legislation in all other circumstances following a written Formal Notice from the Commissioner(s) to the affected Service Provider.

53.3 Following a suspension the Commissioner (s) shall investigate the matter in full and where rectification is possible the Commissioner(s) shall issue a Formal Improvement Notice (incorporating development and / or Correct Action Plan) setting out the improvements to be made and the time frame within which the rectification must take place.

53.4 The removal of suspensions shall only occur after the Parties have complied with the Improvement Notice and provided a risk assessment has been undertaken to show how and what mitigation strategies have been implemented to prevent a recurrence of the breach. If it is found that the breach cannot be remediated the Suspension may lead to termination.

53.5 The Commissioner(s) shall notify other Commissioner(s) of any intention to suspend the Service Provider's appointment under this Agreement for new Call-Off Contracts in respect of one or more Lots in the following circumstances:

i. If there is a safeguarding issue or If the Commissioner(s) has concerns that the Service Providers through their actions or omissions is placing the health, safety and well-being of Person(s) receiving the service at risk;
ii. If the Agreement has been terminated with the Service Providers;
iii. If ongoing, accumulative performance issues have been identified as part of the monitoring activities;
iv. If there are regular complaints or disclosures by the Person(s) receiving the Service, their representatives, families, advocates, current or previous staff of the Service Providers in relation to the Service Provider's performance;
v. If a decision of the CIW/CQC is to cancel the registration or the Service Providers is served with a notice of proposal to cancel registration;
vi. If a formal improvement notice is issued by the Commissioner(s) to the Service Providers in respect of an individual Contract/Call-Off Contract;
vii. If the Commissioner(s) reasonably considers that a breach by the Service Providers may result in an interruption in the provision of any one or more services;

53.6 In addition to the above, the Parties shall comply with Schedule 3 to this Agreement (Call off Contract, clause 41 (Remedies for Inadequate Performance)) in respect of inadequate performance relating to individual Call-Off Contracts.

## PART 8 - DISPUTE, LEGISLATIVE CHANGE AND LAW

### 54 DISPUTE AND RESOLUTION

54.1 If the Parties are in dispute, they must seek in good faith to resolve the dispute following the process set out in this Agreement.

54.2 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it then the Parties shall use their best endeavours to resolve by agreement. Either party may request:

i. a meeting between representatives within 14 working days of the dispute being raised, and if unresolved;

ii. a further meeting of Senior Representatives of the Commissioner(s) and Service Providers within a further 28 working days. The Parties may invite an independent representative.

54.3 Where the dispute cannot be resolved, a formal mediation facilitated by an independent mediator will be arranged by the Commissioner(s), the costs of which are to be shared equally between all Parties, or otherwise by agreement.

54.4 Where a dispute cannot be resolved between the Commissioner(s) and Service Provider(s) the Service Provider(s) may be removed from the Framework Agreement and any Call-Off contract may be terminated where appropriate to do

### 55 LEGISLATIVE CHANGE

55.1 In the event that a change in law necessitates a change to this Agreement and, provided that such change could not have reasonably been foreseen by the Parties at the Commencement Date, the Parties shall enter determine any cost consequences arising from such changes and determine which Party is able to bear the burden of the Change and manage its impact most cost effectively and agree a cost sharing apportionment of the burden

### 56 GOVERNING LAW

56.1 This Agreement shall be considered as a formal legally binding agreement made in England and Wales and shall be subject to the laws of England and Wales. Should there be a conflict between the law of England and Wales, the law of Wales shall prevail.

56.2 Subject to the provision of the Dispute Resolution Clause 57, the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Agreement and irrevocably submit to the jurisdiction of those courts.

## PART 9 – TERMINATION AND CONSEQUENCE OF TERMINATION

### 57 TERMINATION ON INSOLVENCY

57.1 Without affecting any other right or remedy available to it, the Commissioner(s) may terminate the Service Provider(s) position on the Framework Agreement with immediate effect by giving written notice to the Service Provider(s) if:

i. the Service Providers suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR (being a partnership) has any partner to whom any of the foregoing apply;

ii. the Service Providers commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

iii. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Service Providers;

iv. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Service Providers (being a company);

v. the holder of a qualifying floating charge over the assets of the Service Providers (being a company) has become entitled to appoint or has appointed an administrative receiver;

vi. a person becomes entitled to appoint a receiver over the assets of the Service Providers or a receiver is appointed over the assets of the Service Providers;

vii. the Service Providers (being an individual) is the subject of a bankruptcy petition or order;

viii. a creditor or encumbrancer of the Service Providers attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Provider's assets and such attachment or process is not discharged within [14] days;

ix. any event occurs, or proceeding is taken, with respect to the Service Providers in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 51.1i to clause 1.1viii (inclusive); or

x. the Service Providers suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

xi. any warranty given by the other party (Warranties and Representations) of this Agreement is found to be untrue or misleading.

### 58 TERMINATION ON DEFAULT

58.1 The Commissioner(s) may terminate an individual Service Providers position on the Framework Agreement by giving written notice to the Service Provider with immediate effect if the Service Provider commits a Material Breach and if:

58.2

(i) the Service Provider has not remedied the material breach to the satisfaction of the Commissioner(s) within 20 Business (office) Working Days (excluding Saturday, Sunday and bank holidays), or such other period as may be specified by the Commissioner(s), after issue of a written notice specifying the material breach and requesting it to be remedied; or

(ii) the material breach is not, in the opinion of the Commissioner(s), capable of remedy**.**

58.3 For the purposes of clause [ ], **Material Breach** means a breach (including an anticipatory breach) that is not minimal or trivial in its consequences to the People supported by the service and or the Commissioner(s). In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

58.4 The Commissioner(s) may terminate a Call-Off Contract by giving written notice to the Service Providers with immediate effect if the Service Providers repeatedly breach any of the terms of its Call-Off Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement.

58.5 If the Commissioner(s) fails to pay the Service Providers undisputed sums of money when due, the Service Providers shall notify the Commissioner(s) in writing of such failure to pay. If the Commissioner(s) fails to pay such undisputed sums within [90] Business (office) Working Days of the date of such written notice, the Service Providers may terminate the Agreement in writing with immediate effect, except that such right of termination shall not apply where the failure to pay is due to the Commissioner(s) exercising its rights under the provisions of the Agreement (Recovery of Sums Due).

58.6 The Commissioner(s) may terminate this Agreement giving twenty eight (28) Business Working Days written notice to the Service Providers in any of the following circumstances:

(i) The Agreement has been subject to substantial modification as to its scope and value such that a new procurement exercise would be required to be conducted in accordance with the provisions of Regulation 72(9) of PCR 2015;

(ii) The Service Providers, at the time that the Tender was awarded to the Provider, had been convicted of any one or more of the mandatory grounds for exclusion from participation in the Tender as those grounds are set out in Regulation 57 of PCR 2015; and

(iii) The Tender should not have been awarded to the Service Providers in view of a serious infringement of the obligations under the Treaty on European Union and the Treaty on the Functioning of the European Union (the TFEU) and the Public Contracts Directive 2014/24/EU that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

58.7 The Commissioner(s) may terminate this Agreement without notice and recover any resulting financial loss from the Service Providers in the following circumstances:

i. If the Service Providers or a member of Staff engages in any conduct which, in the opinion of the Commissioner(s), is prejudicial whether by positive action or neglect or to the detriment of the welfare of the Person receiving the Service. Such action will include fraud and theft from the Person, neglect or inappropriate care, cruelty and assault including verbal abuse.

ii. If the Commissioner(s) is satisfied that the Service Providers has committed a breach of the Agreement or has consistently failed to perform the terms, conditions and obligations imposed by this Agreement;

iii. If the Service Providers persistently fails to take corrective action following a default in the provision of this Agreement following a reasonable period of notice given by the Commissioner(s);

iv. If the Service Providers or a person on the Service Provider's behalf takes unreasonable financial advantage of the relationship with a Person supported under this Agreement;

v. Upon the Service Provider's Agency ceasing for whatever reason to be registered pursuant to the Care Standards Act 2000, Regulation and Inspection of Social Care (Wales) Act 2016 or any statutory modification or re-enactment thereof;

vi. If the Service Providers shall have given any financial inducement or reward to an elected Member or employee of the Commissioner(s) in order to gain unfair advantage under or in connection with this Contract and or has committed any offence under the Prevention of Corruption Acts or Section 117 of the Local Government Act 1972;

vii. If the Service Providers has been convicted on an offence under the provisions of the Care Standards Act 2000, Regulation & Inspection of Social Care (Wales) Act 2106 or other legislation and/or where the offence has caused harm or put at risk of harm the Person(s) supported under this Agreement;

## 59 TERMINATION ON NOTICE

59.1 Either Party may terminate this Agreement by giving a minimum of three months' notice in writing to the other Party with an option to reduce or extend for a longer period by negotiation and agreement of both Parties in exceptional circumstances.

59.2 For avoidance of doubt, such termination shall not automatically apply to any Call-Off Contracts in place at the date of the termination of the Agreement unless the notice explicitly states otherwise.

## 60 TERMINATION BY MUTUAL AGREEMENT

60.1 The Agreement may be terminated with immediate effect by mutual written agreement of the Parties.

## 61 FIXED TERMINATION

61.1 The Agreement shall expire automatically at the end of the Period of the Agreement unless otherwise extended in accordance with the terms of this Agreement.

**61.2** For avoidance of doubt, such termination shall not automatically apply to any Call-Off Contracts in place at the date of the termination of the Agreement unless the notice explicitly states otherwise. The Call-Off Contracts shall remain in force until they are terminated or expire in accordance with their own terms as set out in Schedule 3 Call Off Contract and Conditions.

## 62 CONSEQUENCE OF TERMINATION

62.1 Upon termination of this Agreement, the Commissioner(s) shall not place new orders to call off new contracts from the Service Providers.

62.2 Notwithstanding the notice to terminate the Agreement and unless otherwise agreed, the Service Providers shall continue to fulfil its obligations under the Agreement until the date of the expiry of termination or such other date as agreed between the Parties.

62.3 In the event that the termination of the Agreement necessitates a termination of the individual Call-Off Contract, the Service Providers shall, where appropriate, transfer the service and the Person's records, with their permission, to the Service Providers appointed by the Commissioner(s).

62.4 During the applicable notice period the Service Providers shall:

i. Cooperate fully with the Commissioner(s) and any successor Service Providers of the Service, or such part of the Service that have been terminated in order to ensure continuity and a smooth transfer of the Service or such part of the Service and to avoid any inconvenience or risk to the health and safety of the Person(s) or members of the public and to that end the Service Providers may agree with the Commissioner(s) and where appropriate with any successor Provider, a transitional plan.

ii. Promptly render all reasonable assistance and information to the extent necessary to effect an orderly assumption of the Service or such part of the Service by a successor Service Providers.

iii. In so far as it is in the power of the Service Providers to do so, use all reasonable efforts to obtain the consent of the third Parties to the assignment, novation or which relate to or are associated with the Service or such part of the Service which have been terminated and;

iv. Use all reasonable endeavours to minimise any inconvenience caused to or likely to be caused to the Person(s) or perspective Person(s) as a result of the expiry or termination of this Agreement or part of the Service.

## PART 10 – MISCELLANEOUS

### 63 FORCE MAJEURE

63.1 In this Agreement 'Force Majeure' shall mean any cause preventing either Party from performing any or all of its obligations which arises from or is attributable to acts events omissions or accidents beyond the control of the Parties including, without limitation, act of God, war, riot, civil commotion, fire, flood, storm or other form of natural catastrophe or disaster.

63.2 If either party is prevented or delayed in the performance of any of its obligations under this Contract by reason of Force Majeure, that party shall forthwith or as soon as reasonably practicable thereafter serve notice in writing on the other Party specifying the extent and nature of the disruption caused setting out any mitigation strategy to overcome such event and delay and the period of time within which the Service will be resumed

63.3 The party affected by force majeure shall use all reasonable endeavours to bring the force majeure event to a close or to find a solution by which the Agreement may be performed, despite the continuance of the force majeure event.

63.4 If either party is prevented from performance of its obligations for a continuous period in excess of three months the other party may terminate this Contract forthwith by written notice, whereupon all money due under this Agreement shall be paid immediately and in particular:

63.5 The Commissioner(s) shall pay to the Service Providers all payments for the Services provided which have become due and payable and which are not otherwise disputed.

### 64 SEVERANCE

64.1 If any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be removed or struck out and the remaining provisions of this Agreement shall continue in full force and effect as if this Agreement had been executed without the invalid, illegal or unenforceable provision.

64.2 Where the striking out or removal of a clause or sections of this Agreement are so fundamental as to render the contract void the Commissioner and the Service Providers shall immediately commence good faith negotiations to remedy such invalidity.

### 65 REMEDIES

65.1 Save as may be expressly set out in this Contract, no remedy conferred by any provision of this Contract is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity, by statute or otherwise.

### 66 COUNTERPARTS

66.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement but all the counterparts shall together constitute the same Agreement.

## PART 11 – SIGNATURES

**67** **SIGNATURES**

IN WITNESS where the Parties have executed this Agreement the day and year first above written

Signed by or on behalf of the Parties on the date which first appears in this Agreement.

**Signed on behalf of the Service Provider**

Service Provider's Name

Service Provider's Address

Authorised signatory

Name

Position

**Signed, by the Lead Commissioner on behalf of the Commissioner(s)**

**Denbighshire County Council**

Authorised signatory

Name

Position

**EXECUTED AS A DEED** by affixing the )
**COMMON SEAL** of **DENBIGHSHIRE** )
**COUNTY COUNCIL** in the presence of: )
Authorised Sealing Officer

# SCHEDULE 1: Service Specification

# North Wales Domiciliary Care and Support Service Specification: Delivering Wellbeing Outcomes

**This specification details the core outcome framework for all Services which may come under the umbrella of 'Domiciliary Care' or 'Care and Support at home'.**

**Service conditions are detailed within the Agreement.**

## Definitions:

***Standard domiciliary care*** is person centred, outcome based care and support services (including personal care traditionally known as 'homecare' or 'home support') aimed at supporting people to achieve their wellbeing outcomes – as detailed in the specification. The services will be available for people who have eligible care & support needs, including

- Children and young people aged 17 and under, and for adults / families where there are children in the home
- Adults over the age of 18,
- Children or adults were an additional outcome of the care & support is the provision of a short break for a Carer including young carers [as defined by section 3(4) of the Social Services and Wellbeing (Wales) Act 2014 - "a person who provides or intends to provide (unpaid) care for an adult or disabled child"] when detailed in a Carer Support Plan

*Specifically:*

- People with physical / sensory impairments
- People with learning difficulties
- People with mental health support needs
- Older people
- People with acquired brain injury or spinal injury
- People with substance misuse needs
- People with dementia (including those with complex dementia)
- People with neuro developmental disorders (including autism / Asperger's / epilepsy)
- People with end of life needs

*This is not:*

- Enhanced domiciliary care (tasks that require additional staff competences / qualifications and are delegated by a health registrant, under a standard operating procedure), or
- Supported living.

Enhanced domiciliary care and supported living provision will be contracted under a separate tender and specification.

***'Extra Care'*** services may include standard and/or enhanced domiciliary care, provided within the defined housing scheme only or may also include the surrounding area. Any future extra care provision not specified in the initial geographic sub-lots is anticipated to be let under the call off / allocations procedure; additional service requirement detail will be provided within the call off instructions of individual commissioners.

## Core domiciliary care specification

Domiciliary or 'Homecare' services should aim to enable people with high support needs to maximise and maintain their wellbeing and have an improved quality of life. Commissioning for outcomes means a focus on long-term changes, rather than short term inputs / outputs.

By developing an outcomes framework (below) and reviewing our internal processes for care & support planning and review & contract monitoring, we aim to give providers greater freedom and flexibility to work with people they support to design and coproduce the activities that will achieve those outcomes. We also anticipate that some of these activities may be delivered in partnership with other community groups and organisations.

We hope to stimulate creativity and innovation that will enable us to transform the way services are delivered and jointly (as commissioners and providers) respond to the anticipated unprecedented demand for services within challenging financial constraints.

**Services should operate on the basis of achieving** three overarching service outcomes:

√ ***People have a positive experience of care and support:***
- The value of relationships is recognised ; care and support respects and promotes people's individuality, dignity and rights,
- Positive risk management is promoted and people whose circumstances make them vulnerable are safeguarded and protected from avoidable harm
- People are valued as individuals, who are (where appropriate) part of a social network of family, friends and community. People who receive care and support have a number of strengths and assets, which must be acknowledged and drawn upon in order to enable them to help themselves and others.

√ ***The quality of life for people with high support needs is enhanced, such that they are enabled (where possible):***
- To be as mobile, healthy, active and independent as possible; having improvement in health or the capacity to sustain health – both mental health and physical health
- To achieve improvements in undertaking daily living functions enabling them to remain living in their own home whilst being connected to their community - delaying and reducing the need for care and support.

√ ***Following a health or wellbeing crisis, services work together to ensure that people are supported as effectively as possible:***
- Transfer of care between organisations is effective and any necessary health and social care & support is provided for the person and/or their Carer/s
- Achieving improvements in confidence and ability to self-care
- At end of life, people are supported (as far as possible) to make advanced plans, to maintain dignity (wishes, cultural and religious traditions) and comfort (including symptom control), including psychological and spiritual care

**In achieving these outcomes,** services should have regard to:
" Measuring Wellbeing Outcomes in Social Services: National Outcomes Framework for people who need care and support and Carers who need support" – http://gov.wales/docs/dhss/publications/160610frameworken.pdf

| **Taken from:**<br><br>**Adult Social Care Outcomes Framework** | **Domain 1**<br><br>***Enhancing quality of life for people with care & Support needs*** | **Domain 2**<br><br>***Delaying and reducing the need for care and support*** | **Domain 3**<br><br>***Ensuring that people have a positive experience of care & support*** | **Domain 4**<br><br>***Safeguarding adults whose circumstances make them vulnerable and protecting from avoidable harm*** |
|---|---|---|---|---|
| Suggested Service Aims | The service will enhance the quality of life for people receiving care & support, supporting them in doing things they find difficult, whilst preserving and developing abilities and skills. | The service will enable people receiving care & support to maintain their contribution as active citizens within their communities for as long as possible, taking into account peoples' social, cultural circumstances and choice. | Providers will be innovative in seeking to develop flexible and responsive services that reflect the choice of the individual. Services will address the needs of individuals and ensure outcomes of support plans are met. | The service will enable people receiving care & support to feel safe and supported to plan ahead to have the freedom to manage risks the way that they wish. |
| What people can expect | • Being informed<br>• Getting care & support through the Welsh language<br>• Getting help to be independent<br>• Belonging<br>• Having a social life<br>• Safe and healthy relationships<br>• Engaging and participating<br>• Doing the things that matter to me<br>• Learning & Developing<br>• Achieving potential<br>• Being valued in society | • Engaging and participating<br>• Knowing what care, support and opportunities are available to me<br>• Getting the help I need, when I need it, in the way I want it<br>• Being supported to work | • Being healthy and active<br>• Being happy<br>• My (unpaid) Carer/s are supported to maintain their own wellbeing and where they wish and are able to do so, to continue to support me.<br>• My rights are respected<br>• I have voice and control.<br>• I am involved in making decisions that affect my life<br>• My individual circumstances are considered<br>• I can speak for myself or have someone who can do it for me | • Not living in poverty<br>• Living in the right home (suitable living accommodation that meets my needs)<br>• Being safe and protected from abuse, harm and neglect |

Care & Support requirements:

The national wellbeing outcomes framework was developed as a result of conversations with people from Wales about what keeps them well.

These factors are individual and personal, however there were some core themes, which have been developed as a list of 'I statements'. These statements can be used as indicators of wellbeing or quality of life – such as 'I am happy', or 'I am healthy'.

These can also be used to judge a person's satisfaction with the care and support they receive, the degree to which care and support services *contribute* to achieving these outcomes.
*(It is recognised that the fluctuating state of wellbeing is achieved due to a balance of internal and external factors and that the performance of care and support services cannot be judged by the degree to which a person achieves their wellbeing).*

**Care and Support services are no longer defined by or restricted in relation to 'personal care' tasks.**
**The following table describes what people expect from care and support services (defined in 'I statements') and the kind of support requirements that may be anticipated.**

| Wellbeing factors | What people expect | Care & Support requirements include: |
|---|---|---|
| Physical and mental health and emotional well-being | • I am happy<br>• I am healthy<br>• My (unpaid) Carer/s are supported to maintain their own wellbeing and where they wish and are able to do so, to continue to support me. | Services work with people and relevant partners to:<br>- Undertake activities that promote, protect and improve people's physical and mental health and emotional well-being<br>- Achieve improvements in mobility and other functional activities of daily living ('enablement')<br>- Provide unpaid Carers with a break from their caring responsibilities |
| Protection from abuse and neglect | • I am safe and protected from abuse, harm and neglect | Services prevent, protect and safeguard people from abuse and neglect or any other kinds of harm. |
| Enablement, Learning (education, training) and recreation | • I can learn and develop to my full potential<br>• I can do the things that matter to me | Services actively encourage and support people to:<br>- Learn and develop and participate in society.<br>- Achieve improvements in skills of daily living including the ability to self-care ('enablement') |

| Wellbeing factors | What people expect | Care & Support requirements include: |
|---|---|---|
| Domestic, family and personal relationships | • I belong<br>• I have safe and healthy relationships | Services support people to safely develop and maintain healthy domestic, family and personal relationships. |
| Contribution to society | • I can engage and participate<br>• I feel valued in society | Services actively encourage and support people to learn, develop and participate in society |
| Securing rights & entitlements.<br>Participating in work | • I know what care, support and opportunities are available to me<br>• I get the help I need, when I need it, in the way I want it<br>• My rights are respected<br>• I have voice and control. I am involved in making decisions that affect my life<br>• My individual circumstances are considered<br>• I can speak for myself or have someone who can do it for me | Services:<br>- Work with people to define and plan how to minimise risks to individual personal wellbeing outcomes<br>- Regularly measure the impact of care and support on people's lives and the achievement of personal outcomes<br>- Regularly review care and support activities intended to support individuals' to achieve their individual personal wellbeing outcomes.<br>- Actively promote human rights & anti-discriminatory practice |
| Social and economic well-being<br>Participating in Work<br>Suitability of living accommodation | • I am supported to work<br>• I have a social life and can be with the people that I choose<br>• I do not live in poverty<br>• I get the help I need to grow up and be independent<br>• I get the care though the Welsh language if I need it<br>• I have suitable living accommodation that meets my needs | When detailed in individuals' care and support plans, services support people to:<br>- Work or volunteer<br>- Achieve greater economic well-being,<br>- Have a social life<br>- Live in accommodation that meets their needs. |

**Services should:**

- **Have ongoing development plans to achieve the highest possible degree of co-production, giving people being supported and/or their representative's greater power and control over service design, delivery and quality management.**
- **Work in partnership with commissioner/s to deliver on 'triple bottom line' outcomes :**
  - Adding social value,
  - Minimising any adverse impact on the environment and
  - Offering value for money (NEF & Treasury definition … "value for money is not the choice of goods or services based on the lowest cost … but takes account of 'whole life costs', where wider social and environmental costs and benefits also need to be brought into any assessment ") http://www.neweconomics.org/publications/entry/commissioning-for-outcomes-co-production

Standards of Quality & Safety in delivering outcomes: Quality characteristics

In addition to the conversations across Wales that lead to the measures of wellbeing for the National Wellbeing Outcomes Framework, commissioners in North Wales have engaged with people receiving care and support at home, providers of care & support services and citizens who may require care and support in the future.

A key enquiry has been ***'what makes great homecare'?*** In summarising the responses, themes for delivering what matters in home care are:

**I need:**

- **A reliable and flexible level of service that can give me more when I need it and less when I don't**
- **Help with my wellbeing (not just personal care needs)**

**I want:**

- **People who suit me, who I can establish a bond with; people who can help me with what I need help with, when I want that help (i.e. I want a fast response from people who have the authority, power and knowledge to help me).**
- **A service that listens to and meets my individual needs**
- **To feel informed and in control of my service (by being told about any changes in advance; being informed about my mum/dad's health and care)**

**Developing a Service Outcome Measurement Framework**

It is the aspiration of the commissioners within this service agreement to identify a range of measures to support continuous service improvement and to support the understanding of the impact on the quality of life that receiving homecare has.

Whilst the baseline measures within this specification are drawn from regulation, good practice and the National Outcomes Framework for Social Services in Wales, it understood that:

- A number of the factors that impact on individual wellbeing (such as health, wealth and opportunity) are without the control of the commissioning organisation and the care & support provider.
- The establishment of a measurement framework will be an iterative process developed in partnership over time by commissioners and providers based on their interactions with and learning from the North Wales Citizens that they support.

As a result of engagement, key quality characteristics have been determined with indicators and measures.

These are detailed in the (separate) Quality Measurement Framework

## Appendix 1: DRAFT Medicines Management and health related tasks checklist

Domiciliary Care Providers should read this appendix in conjunction with the contract terms and conditions, relevant regulation, legislation policies and procedures

A further specification will be developed detailing additional workforce and organisational requirements in respect of enhanced domiciliary care.

The table below aims to give an **indication** of the medicines management and health tasks within standard and enhanced domiciliary care service specification (this is open to revision in line with policy guidance and in respect of local / delegation agreements):

| **Medicines management and health related task** | **Medicines management level A0,B1,C2,D3** | **Standard** | **Enhanced level** |
|---|---|---|---|
| **Medication management** | | | |
| Monitoring self-administration of medicines (with permission of person) reporting to health professional if not in accordance with care plan | A0 | √ | |
| Fixing medication patches | D3 | | √ |
| Administering injections (with written procedures signed off by health registrant | D3 | | √ |
| Administering eye drops | A0 | | √ |
| Nebuliser Care - Setting up and providing guidance / advise on use | D3 | | √ |
| Washing of mask for nebuliser, oxygen therapy or NIV therapy | A0 | √ | |
| Washing filter from oxygen machine | A0 | √ | |
| Washing of spacer device | A0 | √ | |
| Oxygen –set-up and providing guidance / advise on use | D3 | | √ |
| Suppositories / Enema | D3 | | √ |
| Intravenous medication – hydration drip/syringe driver | - | x | x |
| Prompting person if breathless to use inhaler | B1 | √ | |
| Prompting person with diabetes to inject their prescribed insulin dosage | B1 | √ | |
| Awareness of safe storage of medication | A0 | | |
| Basic Foot Care | | √ | |
| Finger nail care | | √ | |
| Assistance with personal hygiene.<br>Help to dress / undress | | √ | |
| Dental /oral Hygiene | | √ | |
| Hair washing | | √ | |
| Shaving | | √ | |
| Washing / bathing / showering | | √ | |
| Bed bath / chair bath | | √ | |
| Compression stockings – following nursing assessment | | x | √ |
| TED stockings - following nursing assessment | | √ | |

| Medicines management and health related task | Medicines management level A0,B1,C2,D3 | Standard | Enhanced level |
|---|---|---|---|
| **Record keeping** | | | |
| Care plan – recognising when a person's health is deteriorating | | √ | |
| **Taking and recording observations/tests** | | | |
| Prompting person with heart failure to weigh selves in line with care plan | | √ | |
| Prompting person with diabetes to record blood glucose levels | | √ | |
| Assist people to self-monitor using tele-health device | | √ | |
| Taking & recording measurements e.g. temperature, blood pressure blood glucose levels | | | √ |
| Phlebotomy | | | √ |
| **Tissue Viability** | | | |
| Basic pressure area care, including passing on advice & guidance | | √ | |
| Simple wound dressing (apply a dry dressing) | | √ | |
| Intentional rounding / repositioning | | √ | |
| Identification of skin care issues & (with permission of person) reporting to health professional were concerned | | √ | |
| Dressing wounds / leg ulcers | | | √ |
| Chronic wound management | N/A | | √ |
| **Stoma care** | | | |
| Emptying / changing stoma bag | | √ | |
| Monitoring of site & cleaning | | √ | |
| **Continence care** | | | |
| Promotion of continence | | √ | |
| Exercise to encourage bladder control | | √ | |
| Faecal continence advice | | √ | |
| Emptying / changing of catheter bags | | √ | |
| Routine bladder wash | | x | √ |
| Changing catheter tube - external | | √ | |
| Changing catheter tube - internal | | x | x |
| **Infection control** | | | |
| Adheres to clinical waste policy | | √ | |
| Maintains infection control process | | √ | |
| Management of sharps | | √ | |

| Medicines management and health related task | Medicines management level A0,B1,C2,D3 | Standard | Enhanced level |
|---|---|---|---|
| **Nutrition & Hydration** | | | |
| Helping to feed orally | | √ | |
| Swallowing or specialist food | | | √ |
| Intravenous feeding | | x | x |
| PEG site | | | √ |
| PEG feeding | | | √ |
| MUST assessment | | | √ |
| **Prevention of falls** | | | |
| Supporting the person when mobilising with ambulatory oxygen | | √ | |
| Encouraging exercise | | √ | |
| Promotion of use of mobility aids | | √ | |
| Reports on episodes of falls | | √ | |

## Appendix 2: Care & Support Outcomes Framework

**Everybody in Wales has a right to wellbeing and a responsibility to maintain and/or contribute their own wellbeing.**

**North Wales commissioners have adopted the 'five ways to wellbeing' model as a way of communicating the activities that individuals' can undertake to promote their own wellbeing:**

### 5 awgrym llesol - 5 ways to wellbeing

| | |
|---|---|
| Cymryd sylw | Arafwch...gwerthfawrogwch...cydnabyddwch eich doniau eich hun ac eraill |
| Cysylltu | Cyfarfod...cymrd rhan...galwad at gyfaill...gwrando |
| Bod yn actif | Rhowch gynnig arni...cerdded...rhedeg...beicio...dawnsio...garddio..canu |
| Cadwch dysgu | Rhowch gynnig ar rhywbeth newydd...mentrwch...gofyn sut...lle a pham |
| Rhoi | Rhannu beth sydd gennych...gwenu ar eraill...gwirfoddoli |
| Take notice | Slow down...appreciate...recognise your own and others talents |
| Connect | Meet up...join in...phone a friend...listen |
| Be active | Get up and have a go...walk, run, cycle, dance, garden, sing |
| Keep learning | Try something new...have a go...ask how, where and why |
| Give | Share what you have...smile at others...volunteer |

**The following table describes how the wellbeing factors, outcomes of effective care & support and 5 ways to wellbeing inter-relate:**

| **Wellbeing factors** | **Outcome/s of care & support** | **Personal responsibility for own health & wellbeing (5 ways to wellbeing)**<br>***Things all service providers should encourage people to do*** |
|---|---|---|
| Physical & mental health. Emotional wellbeing | - Being healthy and active<br>- Being happy<br>- Getting help to be independent | *Be active* – Take a walk, go for a run. Step outside. Cycle. Play a game. Garden. Dance. Discover a physical activity you enjoy and that suits your level of mobility and fitness.<br>*Take notice* - Be curious. Catch sight of the beautiful. Remark on the unusual. Notice the changing seasons. Be aware of the world around you and what you are feeling. Reflecting on your experiences will help you appreciate what matters to you. |
| Protection from abuse & neglect | - Being safe<br>- Being protected from abuse and neglect | *Take notice* - Be aware of the world around you and what you are feeling. |
| Learning (education, training) & recreation | - Learning & Developing<br>- Achieving potential<br>- Doing the things that matter | *Keep learning* - Try something new. Rediscover an old interest.<br>Learn to play an instrument or how to cook your favourite food.<br>Set a challenge you will enjoy achieving. Re-gain a lost skill<br>Learning new things will make you more confident as well as being fun |
| Domestic, family & personal relationships | - Having safe and healthy relationships<br>- Having a social life | *Connect* - With the people around you. With family, friends, colleagues and neighbours. At home, work, school or in your local community. Building these connections will support and enrich you every day. |
| Securing rights & entitlements | - Being informed<br>- Getting care & support through the Welsh language | |

| **Wellbeing factors** | **Outcome/s of care & support** | **Personal responsibility for own health & wellbeing (5 ways to wellbeing)**<br>***Things all service providers should encourage people to do*** |
|---|---|---|
| Contribution to society | - Engaging and participating<br>- Being valued in society<br>- Belonging | *Give back* - Do something nice for a friend, or a stranger.<br>Thank someone. Smile.<br>Volunteer your time. Join a community group.<br>Look out, as well as in.<br>Seeing yourself, and your happiness, linked to the wider community can be incredibly rewarding and creates connections with the people around you. |
| Social & economic wellbeing | - Being supported to work<br>- Not living in poverty | |
| Suitability of accommodation | - Living in the right home. | |

## SCHEDULE 2: COMMISSIONING AND CALL-OFF (AWARD) PROCEDURES

Services under the Agreement may be awarded directly without further competition or via a mini tender as follows:

1. Direct award without further competition *(where the specification requires no refinement) based on criteria which take into account:*
   - needs / wishes of the person / people to be supported
   - capability (organisational & staff competence)
   - capacity (staff availability)
   - responsiveness (proximity of other service provision in the local area) i.e. geography
   - price

2. Mini-competition ('mini-tender') *when supplementary refinement of the Service Specification is required and/or further competition is required in relation to the price seeking the most economically advantageous offer based on quality and price*.

The award criteria for any mini tenders will be as follows:

Quality: 0 – 70%
Price: 30 – 100%

**<u>AWARD THROUGH MINI TENDER</u>**

A mini-tender shall apply when supplementary refinement of the Service Specification is required and/or further competition is required in relation to the price seeking the most economically advantageous offer based on quality and price.

The Commissioner(s) shall conduct a further mini tender for the provision of the Service and shall identify the Service Providers capable of performing the Service(s) in accordance with the Service Provider's Lots as applicable.

A Call-Off Contract shall be awarded following completion of the mini tender to the Service Providers with the most economically advantageous proposal taking into account the award criteria detailed in the Framework Agreement.

The undertaking of a mini tender shall not mean renegotiating substantially changing the Service Specification or the terms of the Framework Agreement.

The Commissioner(s) shall set out:

i. Service requirements/Service Specification
i. the time limit for submission which takes into account factors such as the complexity of the Service
ii. the award criteria in accordance with the Framework Agreement
iii. the weightings to reflect the requirements and evaluation methodology

Following completion of the mini tender, the Commissioner(s) shall award the Service(s) by placing a Call-Off Contract with the successful Service Providers which shall include:

i. the Services requirements/ Service Specification
ii. the commencement of the Service and period applicable
iii. the statement relating to the provision of the Service(s) submitted by the successful Service Providers
iv. the price payable for the Service(s) in accordance with the tender submitted by the successful Service Providers
v. incorporates the Contract Terms and Conditions for the provision of Domiciliary Care Services

**NO AWARD**

Notwithstanding the fact that the Commissioner(s) has followed a procedure as set out above, the Commissioner(s) shall be entitled at all times to decline to make an award for its Service requirements.

## SCHEDULE 3: CALL- OFF CONTRACT

## (TERMS & CONDITIONS FOR THE PROVISION OF DOMICILIARY CARE (CARE AND SUPPORT AT HOME') SERVICES

**SEE SEPARATE DOCUMENT**

## SCHEDULE 4: SPECIMEN PURCHASE ORDERS

| Prynw(y)r Gwasanaeth / Service Purchaser(s) | |
|---|---|
| Gwasanaethau Cymdeithasol | Social Services |
| Bwrdd Iechyd Prifysgol Betsi Cadwaladr | Betsi Cadwaladr University Health Board |

| Darparwyr Gwasanaeth / Service Providers | | |
|---|---|---|
| Enw | | Name |
| Cyfeiriad | | Address |
| Rhif Ffôn | | Telephone Number |
| **Defnyddiwr Gwasanaeth / People supported by the service** | | |
| Teitl / Cyfenw | | Title / Surname |
| Enw(au) Cyntaf | | Forename(s) |
| Cyfeiriad | | Address |
| Cod Post | | Post Code |
| Rhif Ffeil Gwasanaethau Cymdeithasol | | Social Services File Number |
| Rhif GIG | | NHS Number |
| Oed | | Age |
| Rhyw | | Sex |

This is an Arrangement for the commissioning of domiciliary care services in accordance with the North Wales Domiciliary Care Agreement. The full call off contract terms and conditions apply to this Call-Off Contract.

| **WCCIS No:** | | **NHS No:** | |
|---|---|---|---|

| **SSD No:** | | **NHS No:** | |
|---|---|---|---|

| Disgrifiad o'r Gwasanaeth / Service Description | | |
|---|---|---|
| | | Service Type |
| | | Cost Per Unit |
| | | Cost |
| | | Start Date |
| | | End Date |

| Disgrifiad o'r Ymweliad / Visit Description | | |
|---|---|---|
| | | Pattern |
| | | Start Date |
| | | End Date |
| | | Duration |

| Llofnodiau / Signatures | |
|---|---|
| • to be translated<br>• | By completing this Call-Off Contract the Service Providers and the Commissioner acknowledge that they are entering in to a binding contract in accordance with the terms and conditions of the North Wales Domiciliary Care Agreement and the Call Off Contract Terms. |

| Cynrychiolydd y Gwasanaethau Cymdeithasol / Social Services Representative | |
|---|---|
| Signed: | Designation: |
| Name (Block Capitals): | Date: |
| **Cynrychiolydd y Darparwr / Provider Representative** | |
| Signed: | Designation: |
| Name (Block Capitals): | Date: |

| | |
|---|---|
| Bydd y Cyngor yn defnyddio'r wybodaeth a ddarparwyd gennych. Mae dyletswydd ar y Cyngor I ddiogelu'r cyllid cyhoeddus y mae'n gyfrifol amdano a gall ddefnyddio'r wybodaeth hon i atal a chanfod twyll. Gall hefyd rannu'r wybodaeth at yr un dibenion gyda sefydliadau eraill sy'n delio â chyllid cyhoeddus. | The Council will use the information you provided. The Council is under a duty to protect the public funds it handles and may use this information to prevent and detect fraud. It may also share the information for the same purposes with other organisations which handle public funds. |

| ADDITIONAL INFORMATION |
|---|
| Invoices are to be made out to: Isle of Anglesey County Council<br>Invoices are to be submitted electronically to: Asfinance@ynysmon.gov.uk<br>Hard copy to: Social Services Department, Client Finance, Isle of Anglesey County Council, Llangefni Ynys Môn LL77 7TW |
| RETAINERS: No retainers are payable in the case of hospital admission. |

| Prynw(y)r Gwasanaeth / Service Purchaser(s) | |
|---|---|
| Gwasanaethau Cymdeithasol | Social Services |
| Bwrdd Iechyd Prifysgol Betsi Cadwaladr | Betsi Cadwaladr University Health Board |

| Darparwyr Gwasanaeth / Service Providers | | |
|---|---|---|
| Enw | | Name |
| Cyfeiriad | | Address |
| Rhif Ffôn | | Telephone Number |

| Defnyddiwr Gwasanaeth / People supported by the service | | |
|---|---|---|
| Teitl / Cyfenw | | Title / Surname |
| Enw(au) Cyntaf | | Forename(s) |
| Cyfeiriad | | Address |
| Cod Post | | Post Code |
| Rhif Ffeil Gwasanaethau Cymdeithasol | | Social Services File Number |
| Rhif GIG | | NHS Number |
| Oed | | Age |
| Rhyw | | Sex |

This is an Arrangement for the commissioning of domiciliary care services in accordance with the North Wales Domiciliary Care Agreement. The full call off contract terms and conditions apply to this Call-Off Contract.

| **SSD No:** | | **NHS No:** | |
|---|---|---|---|
| **Disgrifiad o'r Gwasanaeth / Service Description** | | | |
| | | Service Type | |
| | | Cost Per Unit | |
| | | Cost | |
| | | Start Date | |
| | | End Date | |

| Disgrifiad o'r Ymweliad #0 / Visit Description #0 | | |
|---|---|---|
| | | Pattern |
| | | Start Date |
| | | End Date |
| | | Duration |

| Llofnodiau / Signatures | |
|---|---|
| | By completing this Call-Off Contract the Service Providers and the Commissioner acknowledge that they are entering in to a binding contract in accordance with the terms and conditions of the North Wales Domiciliary Care Agreement and the Call Off Contract Terms. |

| Cynrychiolydd y Gwasanaethau Cymdeithasol / Social Services Representative | |
|---|---|
| Signed: | Designation: |
| Name (Block Capitals): | Date: |
| **Cynrychiolydd y Darparwr / Provider Representative** | |
| Signed: | Designation: |
| Name (Block Capitals): | Date: |

| **SSD No:** | | **NHS No:** | |
|---|---|---|---|

| | |
|---|---|
| Bydd y Cyngor yn defnyddio'r wybodaeth a ddarparwyd gennych. Mae dyletswydd ar y Cyngor I ddiogelu'r cyllid cyhoeddus y mae'n gyfrifol amdano a gall ddefnyddio'r wybodaeth hon i atal a chanfod twyll. Gall hefyd rannu'r wybodaeth at yr un dibenion gyda sefydliadau eraill sy'n delio â chyllid cyhoeddus. | The Council will use the information you provided. The Council is under a duty to protect the public funds it handles and may use this information to prevent and detect fraud. It may also share the information for the same purposes with other organisations which handle public funds. |

**ADDITIONAL INFORMATION**

Invoices are to be made out to: Conwy County Borough Council
Invoices are to be submitted electronically to: socialservices.finance@conwy.gov.uk or
hard copy to: Social Services Department, Finance Team, Dinerth Road, Colwyn Bay

RETAINERS: In accordance with clause 16.2 of the "Call Off Contract", in the event of unplanned absences such as hospital admissions, the Service shall, unless otherwise requested, be automatically retained at the 50% of the service price per week ("Retainer") from the date of the first occurrence when the Service Providers was unable to provide the Service.

The retainer will be applicable for 2 weeks (14 days), inclusive of the day of first occurrence at the rate applicable for the Service, exclusive of enhanced rates for bank holidays.

At the end of the retainer period, the Service will be automatically terminated with immediate effect with no further termination notice, unless specifically requested by the Commissioner(s) to further extend the retainer period with the Service Providers in writing for a further specific period which will be reviewed by the Commissioner(s).

During a retainer period, the Commissioner(s) may terminate the retained Call-Off Contract with immediate effect by written confirmation to the Service Providers. At any time during the retainer period the service can be reinstated by the Commissioner(s) by telephone notification and subsequent written confirmation. The Commissioner(s) shall endeavour to give the Service Providers a minimum of 24 hour notice, although this may not be possible on all occasions.

The Retainer will cease following commencement of the Service in accordance with the existing Call-Off Contract or a reinstated Call-Off Contract, as applicable.

During the retainer period the Service Providers shall retain capacity to be able to restart the Service any time during the retainer period and shall make every effort to ensure the same Care/Support Workers is rota-ed to to provide continuity of Service.

The Service Providers shall not claim a retainer where Care/Support Workers are re-deployed into a new care setting during the Person's absence from the service location. Care/Support Workers may be employed by the Service Providers in another capacity, however, the Service Providers may not charge the Commissioner(s) twice

**SPECIMEN FORM**
**INDIVIDUAL PURCHASE ORDER –**

| **THE COMMISSIONER(S)** | |
|---|---|
| **1. The Organisation (COMMISSIONER(s))** | **2 Designated Officer** |
| **Name:** | **Name:** |
| **Tel: Fax:** | **Out of Hours Tel:** |

| **THE SERVICE PROVIDERS** | |
|---|---|
| **1. Name of Service Providers:** | |
| **2. Name of Registered Manager:** | |
| **Address:**<br><br>**Postcode:** | **Emergency – Contact Name** |
| **Tel: Fax:** | **Tel:** |

This is an Arrangement for the commissioning of domiciliary care services in accordance with the North Wales Domiciliary Care Agreement. The full call off contract terms and conditions apply to this Call-Off Contract.

| **PERSONAL INFORMATION** | | | |
|---|---|---|---|
| **SURNAME** | | **CASE NO:** | |
| **FORENAME(S)** | | **Gender:** | |
| **ADDRESS:**<br><br>**Postcode:** | | **Date of Birth:** | |
| **Rate** | £ | Care Type | Personal/Non-personal |

| | |
|---|---|
| **Start Date:** | |
| **Finish Date:** | |

| **PRICE PER UNIT (ex VAT)** | | | **TOTAL UNITS PER WEEK** | | |
|---|---|---|---|---|---|
| Waking Nights 8 pm – 9 am | Sleep-in | | DAY 9am – 8 pm | Waking Nights 8pm-9am | Sleep-in |
| £ | £ | | | | |
| **SERVICES PROVIDED** | | | | | |

Times of Cover – outcomes should be entered on the care plan and form part of this arrangement.

| | DURATION OF VISITS e.g 10 am – 12 pm, 5 pm – 6 pm | | | | Total Units per day | No of visits per day | No of miles per visit |
|---|---|---|---|---|---|---|---|
| | AM visit | AM visit | PM visit | PM visit | | | |
| Monday | | | | | | | |
| Tuesday | | | | | | | |
| Wednesday | | | | | | | |
| Thursday | | | | | | | |
| Friday | | | | | | | |
| Saturday | | | | | | | |
| Sunday | | | | | | | |
| TOTAL: | | | | | | | |

| **VARIATION (if Applicable)** | | **MILEAGE (paid in accordance with Purchaser(s)'s published rates)** | |
|---|---|---|---|
| Minimum units per week | | Rate per mile | |
| Maximum units per week | | Total miles per week | |
| | | Total Cost per week | £ |

| **OVERALL SUMMARY** | |
|---|---|
| Total Cost of care per week (inc mileage) | £ |

| FURTHER INFORMATION (If carer support brief description of service) |
|---|
| |

| **COMMISSIONER AUTHORISED REPRESENTATIVE** | | | |
|---|---|---|---|
| Signed: | | Designation: | |
| Name: (Block Capitals) | | Date: | |
| **SERVICE PROVIDERS AUTHORISED REPRESENTATIVE** | | | |
| Signed: | | Designation: | |
| Name: (Block Capitals) | | Date: | |

**ADDITIONAL INFORMATION**

Invoices are to be made out to Flintshire County Council

**RETAINERS:** In accordance with clause 16.2 of the "Call Off Contract", in the event of unplanned absences such as hospital admissions, the Service shall, unless otherwise requested, be automatically retained at the 50% of the service price per week ("Retainer") from the date of the first occurrence when the Service Providers was unable to provide the Service.
The retainer will be applicable for 2 weeks (14 days), inclusive of the day of first occurrence at the rate applicable for the Service, exclusive of enhanced rates for bank holidays.

At the end of the retainer period, the Service will be automatically terminated with immediate effect with no further termination notice, unless specifically requested by the Commissioner(s) to further extend the retainer period with the Service Providers in writing for a further specific period which will be reviewed by the Commissioner(s).

During a retainer period, the Commissioner(s) may terminate the retained Call-Off Contract with immediate effect by written confirmation to the Service Providers. At any time during the retainer period the service can be reinstated by the Commissioner(s) by telephone notification and subsequent written confirmation. The Commissioner(s) shall endeavour to give the Service Providers a minimum of 24 hour notice, although this may not be possible on all occasions.

The Retainer will cease following commencement of the Service in accordance with the existing Call-Off Contract or a reinstated Call-Off Contract, as applicable.

During the retainer period the Service Providers shall retain capacity to be able to restart the Service any time during the retainer period and shall make every effort to ensure the same Care/Support Workers is rota-ed to provide continuity of Service.

The Service Providers shall not claim a retainer where Care/Support Workers are re-deployed into a new care setting during the Person's absence from the service location. Care/Support Workers may be employed by the Service Providers in another capacity, however, the Service Providers may not charge the Commissioner(s) twice

**SPECIMEN FORM**
**INDIVIDUAL PURCHASE ORDER**

| **THE COMMISSIONER(S)** | |
|---|---|
| **1. The Organisation (Commissioner(s))** | **2 Designated Officer** |
| **Name:**<br>**Denbighshire County Council**<br>**Community Support Services**<br>**Care Brokers**<br>**P.O. Box 62, Ruthin, LL15 9AZ** | **Name:** |
| **Tel: 0300 4561000 Fax: 01824 708369** | **Out of Hours Tel: 0845 0533116** |
| **THE SERVICE PROVIDERS** | |
| **1. Name of Service Providers:** | |
| **2. Name of Registered Manager:** | |
| **Address**:<br>**Postcode:** | **Emergency – Contact Name** |
| **Tel: Fax:** | **Tel:** |

This is an Arrangement for the commissioning of domiciliary care services in accordance with the North Wales Domiciliary Care Agreement. The full call off contract terms and conditions apply to this Call-Off Contract.

| **PERSONAL INFORMATION** | | | | | |
|---|---|---|---|---|---|
| **SURNAME** | | | **CASE NO:** | | |
| **FORENAME(S)** | | | **Gender:** | | |
| **ADDRESS:**<br>**Postcode:** | | | **Date of Birth:** | | |
| **Rate** | £ | | Care Type | Personal/Non-personal | |
| **Start Date:** | | | | | |
| **Finish Date:** | | | | | |
| **PRICE PER UNIT (ex VAT)** | | | **TOTAL UNITS PER WEEK** | | |
| Waking Nights<br>8 pm – 9 am | Sleep-in | | DAY<br>9am – 8 pm | Waking Nights<br>8pm-9am | Sleep-in |
| £ | £ | | | | |
| **SERVICES PROVIDED** | | | | | |

Times of Cover – outcomes should be entered on the care plan and form part of this arrangement.

| | DURATION OF VISITS<br>e.g 10 am – 12 pm, 5 pm – 6 pm | | | | Total Units per day | No of visits per day | No of miles per visit |
|---|---|---|---|---|---|---|---|
| | AM visit | AM visit | PM visit | PM visit | | | |
| Monday | | | | | | | |
| Tuesday | | | | | | | |
| Wednesday | | | | | | | |
| Thursday | | | | | | | |
| Friday | | | | | | | |
| Saturday | | | | | | | |
| Sunday | | | | | | | |
| TOTAL: | | | | | | | |

| **VARIATION (if Applicable)** | | **MILEAGE (paid in accordance with Purchaser(s)'s published rates)** | |
|---|---|---|---|
| Minimum units per week | | Rate per mile | |
| Maximum units per week | | Total miles per week | |
| | | Total Cost per week | £ |
| **OVERALL SUMMARY** | | | |
| Total Cost of care per week (inc mileage) | | £ | |
| FURTHER INFORMATION (If carer support brief description of service) | | | |
| **COMMISSIONER AUTHORISED REPRESENTATIVE** | | | |
| Signed: | | Designation: | CARE BROKER |
| Name: (Block Capitals) | | Date: | |
| **SERVICE PROVIDERS AUTHORISED REPRESENTATIVE** | | | |
| Signed: | | Designation: | |
| Name: (Block Capitals) | | Date: | |

**ADDITIONAL INFORMATION**

Invoices are to be made out to Denbighshire County Council and submitted electronically to the following address: fao.team@denbighshire.gov.uk
RETAINER: In accordance with clause 16.2 of the "Call Off Contract", in the event of unplanned absences such as hospital admissions, the Service shall, unless otherwise requested, be automatically retained at the 50% of the service price per week ("Retainer") from the date of the first occurrence when the Service Providers was unable to provide the Service. The retainer will be applicable for 2 weeks (14 days), inclusive of the day of first occurrence at the rate applicable for the Service, exclusive of enhanced rates for bank holidays.

At the end of the retainer period, the Service will be automatically terminated with immediate effect with no further termination notice, unless specifically requested by the Commissioner(s) to further extend the retainer period with the Service Providers in writing for a further specific period which will be reviewed by the Commissioner(s).

During a retainer period, the Commissioner(s) may terminate the retained Call-Off Contract with immediate effect by written confirmation to the Service Providers. At any time during the retainer period the service can be reinstated by the Commissioner(s) by telephone notification and subsequent written confirmation. The Commissioner(s) shall endeavour to give the Service Providers a minimum of 24 hour notice, although this may not be possible on all occasions. The Retainer will cease following commencement of the Service in accordance with the existing Call-Off Contract or a reinstated Call-Off Contract, as applicable.
During the retainer period the Service Providers shall retain capacity to be able to restart the Service any time during the retainer period and shall make every effort to ensure the same Care/Support Workers is rota-ed to to provide continuity of Service.
The Service Providers shall not claim a retainer where Care/Support Workers are re-deployed into a new care setting during the Person's absence from the service location. Care/Support Workers may be employed by the Service Providers in another capacity, however, the Service Providers may not charge the Commissioner(s) twice.

# Adran Oedolion, Iechyd a Llesiant
# Adult, Health and Welfare Department

Cyngor Gwynedd
Canolfan Frondeg
Ala Uchaf
Pwllheli
LL53 5RE

01758 704429

## Rhif Archeb / Order No:

**Dyddiad / Date:**
**Ein Cyf / Our Ref:**

| | |
|---|---|
| **Darparwr / Provider:**<br>**Enw / Name:**<br>**Cyfeiriad / Address:**<br><br>**E-bost / E-mail** | **Gweithiwr / Worker:**<br>**Enw /Name:**<br>**Tîm / Team:** |
| **Cyfeiriad prif gwmni /**<br>**Main company address:**<br><br>**Enw / Name:**<br>**Cyfeiriad / Address:**<br>**E-bost / E-mail:** | **Cleient / Client:**<br>**Enw / Name:**<br>**Cyfeiriad / Address:** |

| Math / Type | Manylion / Detail | Dechrau / Start | Diwedd / End | Amlder / Freq | Llun / Mon | Maw / Tue | Mer / Wed | Iau / Thu | Gwe / Fri | Sad / Sat | Sul / Sun | Cyf / Tot | Uned / Unit | Dwbl / Double | Cost YW / Cost PW |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | |

**Nodiadau/Notes**

**Dylid cyfeirio pob anfoneb yn fisol i sylw 'CYNGOR GWYNEDD' i'r cyfeiriad uchod.**
**All invoices should be made out to 'CYNGOR GWYNEDD', and sent monthly to the above address**

**Bydd taliad yn daladwy ar ôl derbyn y nwyddau neu wasanaeth i'r safon a gytunwyd.**
**Payment will only be made after the receipt of goods or services to the agreed standard.**

**Gan gyfeirio at gymal 16.2 o'r Contract Gofal Cartref, ni fydd Cyngor Gwynedd yn talu tâl cadw (retainer)**
**With reference to clause 16.2 of the Domiciliary Care Services Contract, Gwynedd Council will not pay a retainer.**

**Gan gyfeirio at gymal 53.1.2 o'r Contract Gofal Cartref, bydd y Contract yn dod i ben ar ddiwrnod y farwolaeth.**
**With reference to clause 53.1.2 of the Domiciliary Care Services Contract, the contract shall cease on the day of death.**

**Cymal 53.3.1 - mewn amgylchiadau lle mae'r Archeb wedi ei gwblhau ond nid yw'r gwasanaeth wedi cychwyn, gall y Darparwr rhoi o leiaf 24 awr o rybudd i'r Prynwr. Gall y Prynwr terfynu'r archeb yn syth cyn i'r gwasanaeth gychwyn.**

**Clause 53.3.1 - In circumstances where an Individual Purchase Order has been completed but the Service has not yet began, the Provider may give a minimum of 24 hours notice to the Purchaser. The Purchaser may terminate a Purchaser Order before it has begun with immediate effect.**

**Rhaid I'r nwyddau a'r gwasanaeth gydymffurfio a'r holl Ddeddfau a Rheoliadau Diogelwch a Lles.**
**Goods and Services must comply with Safety, Health and Welfare Law and Regulations.**

**Mae'r ffigyrau uchod yn net o unrhyw dreth ar werth (TAW). Ar gyfer cyflenwyr sy'n gofrestredig ar gyfer TAW, yn unol a gofynion statudol, bydd Cyngor Gwynedd yn talu TAW ar y raddfa briodol, lle derbynir anfoneb TAW dilys.**
**The above figures are net of any VAT. Gwynedd Council as required by statute will also pay VAT. Registered suppliers the appropriate rate on receipt of a valid VAT invoice.**

**Rhif TAW/ VAT No. :- 636 6009 41**

SPECIMEN FORM

# INDIVIDUAL PURCHASE ORDER

**This is the Individual Purchase Order in accordance with the Terms and Conditions of the Domiciliary Care Framework.**

**Broker Number:**
**xxxxxx**

**Service User Name and Address:**
**xxxxxx**

**WCBC RAISE Number:**
**xxxxxx**

**Details of services currently provided, which are to assist with duties as stated on the care plan:**
**xxxxxx**

**Total Weekly Hours:**
**xxxxxx**

**Total Weekly Cost:**
**£xxxxx**

**Start Date:**
**xxxxxx**

**Provider:**
**xxxxxx**

You must inform us, via the Change of Service procedure (to contractsteam-adults@wrexham.gov.uk), of any deviation to the care booked.

Contact details for care brokers are as follows: Emma Eyton, Julie Keogh or Nicole Roberts.
Tel: 01978 298673, 01978 298666 or 01978 298037 Email: carebrokers@wrexham.gov.uk

RETAINERS: No retainers are payable.

GIG CYMRU NHS WALES | Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

SPECIMEN FORM

# BCUHB Commissioning Care Plan

Name:

DOB:

Address:

Tel:

Date: 10/10/2016

| IDENTIFIED NEED | MANAGEMENT PLAN | OUTCOMES / GOALS | Agency responsible |
|---|---|---|---|
| **1. Behaviour** | | | BCUHB or LA? Joint? Community Teams? |
| **2. Legal Status** e.g. MCA / DoLS / MHA | e.g. Best Interest Assessment / s.117 aftercare plan | | |
| **3. Cognition** | | | |
| **4. Mental Health Needs** | | | |
| **5. Communication** | | | |
| **6. Physical Health Needs** (Mobility, Nutrition, Continence, Skin) | | | |
| **7. Drug Therapies & Medication** | | | |

| | | | |
|---|---|---|---|
| **8. Finances & Affairs** | Financial Appointee?<br>LPA / EPA? | | |
| **9. Social Needs / Activity Timetable** | | | |
| **10. Accommodation Needs** | | | |

| | |
|---|---|
| **Monitoring Arrangements:**<br>What plans are in place for monitoring the care plans? | **Contingency Planning:**<br>In the event of problems occurring with the implementation of the care plan |
| **Individuals Agreement:**<br>Does person agree with the care plan? Yes / No<br><br>Date of Mental Capacity Assessment? | **Information Sharing Agreement:**<br>Has consent been obtained to share information contained within this care plan, with Health & Social Care agencies as necessary? Yes / No<br>If NO, please state why not:<br><br>Date of Best Interest Plan? |
| **Details the care package as requested by the Multidisciplinary Team (including provider details):** | |
| **Cost of care package (including 1:1 costs etc)** | |
| **Weekly Total:**<br><br>**Cost to BCUHB:**<br><br>**Cost to Local Authority:**<br><br>**Date care package commenced:** | **Annually:**<br><br>**Cost to BCUHB:**<br><br>**Cost to Local Authority:** |

**Care plan agreed by multi-disciplinary team:**

| NAME | DESIGNATION | SIGNATURE | DATE |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

*Please send a copy to the BCU CHC Finance team, together with the providers detailed costing.*

## SCHEDULE 5: PRICING MATRICES

1 The Schedule hereby sets out the Rate(s) applicable for the Service detailed in the Agreement and the appointment of the Service Provider's Lots.

2 The Rate(s) are applicable for the Service awarded directly by the Commissioner(s) to the Service Providers under the Agreement in accordance with the Commissioning and Call Off Procedures (Schedule 5, clause 1 Direct Award Without Competition) and are therefore excluding any Rate(s) that may be subject to a mini tender.

[To be completed following completion of the procurement process of the Agreement the Service Provider's Rates]

| Lot/s | | Hourly rate | ½ hour rate | ¾ hour rate | Sleep-in rate/hour | Care Plan activity mileage rate / mile |
|---|---|---|---|---|---|---|
| **2018/9** | | | | | | |
| Lot 6 | Wrexham | | | | £9.65 | |
| Lot 1 | Isle of Anglesey | | | | £9.65 | |
| Lot 5 | Flintshire | | | | £9.65 | |
| Lot 3 | Conwy | | | | £10.18 (may vary by local negotiation) | |
| Lot 4 | Denbighshire | | | | £9.65 | |
| Lot 2 | Gwynedd | | | | £9.65 | |
| **2019/20** | | | | | | |
| TO BE ADVISED (SEE CLAUSE 22.5) | | | | | | |

## SCHEDULE 6: FRAMEWORK MANAGEMENT

### 1. Introduction and Context.

This document outlines the management of the overall framework.
The Commissioners are committed to:

- Share key objectives;
- Collaborate for the benefit of Citizens and Carers, including informing one another about changes in service provision, service planning, anticipated change of ownership and/or CIW (or equivalent ) registration status;
- Communicate with each other clearly and regularly; sharing relevant information, expertise and plans. This may include sharing information provided as part of the tender unless identified by the tenderer as confidential
- Avoid duplication wherever possible, seeking continuous improvement by working together to get the most out of the resources available and by finding better, more efficient ways of doing things;
- Share the potential risks involved in service developments;
- Promote the partnership approach at all levels across commissioning organisations;
- Developing an approach that is flexible / adaptable to reflect changing needs, priorities and lessons learnt, and which encourages co-production of services with Citizens;
- Seek to avoid disharmony but, where this arises, to resolve it quickly at a local level, wherever possible.

### 2. Management of the Framework, Agreements and Responsibilities.

- The Commissioners will commission individual packages of care and support locally and will manage the day-to-day relationships with appointed providers.
- The North Wales Social Care and Well-being Services Improvement (NWSWIC)'s Regional Collaboration Team (on behalf of the North Wales Regional Commissioning Board) will support Commissioners by providing high-level management and performance review / quality management of the overall Framework on behalf of the Commissioners.

This may include, but is not limited to, the following activities:

- coordinating regional tendering activities; Meet the Buyer' events and communication
- coordinating annual fee reviews;
- coordinating quality / governance information, for example requesting that Providers upload information (e.g. insurance / registration certificates; financial information) to a single regional information portal such as Proactis e-tendering system, in an effort to reduce the administrative burden on Providers supplying more than one commissioner
- coordinating enforcement actions in response to matters of issue / concern affecting more than one local authority area;

- coordinating the development of a regional quality management approach including obtaining people's views about the service/s;
- coordinating / developing regional commissioning strategies;
- coordinating work with appointed providers to develop the regional market and service delivery;
- dispute resolution where a local solution cannot be achieved;

**3. Management of issues and concerns relating to appointed providers.**

The individual Commissioners will manage issues / concerns occurring at an individual local authority area level. NWSWIC will coordinate managing issues / concerns relating to individual appointed providers that are evident in more than one local authority area, as detailed in the Quality Services: Delivering What Matters – North Wales' procedure(s) for ensuring quality services and responding to increasing and escalating risks or concerns in contracted care and support services (including 'embargo policy')

**Management of issues and concerns relating to commissioners.**

Appointed providers are to address these to the individual Commissioner concerned in the first instance.

**4. Dispute resolution.**

Disputes will be handled between the individual Commissioner and the appointed provider as per the mechanism detailed in the Agreement.

Subject to the agreement of all parties concerned, NWSWIC may act on behalf of all parties concerned as a further stage in the dispute resolution process in an effort to achieve an amicable solution.

**5. Sharing of information between Commissioners and NWSWIC.**

The Commissioners will share information (of a non-sensitive / non-confidential / non-personal nature) relating to appointed providers with one another and with NWSWIC for the purpose of:

- Procurement and lead commissioning activities
- Identifying and sharing good practice;
- identifying and addressing issues of concerns with appointed providers;
- developing a shared understanding of the market place;
- developing a shared understanding of the services that appointed providers can provide;
- informing future commissioning / de-commissioning strategy;
- quality management / performance monitoring of appointed providers.

Details on what information will be shared between Commissioners, and how this will be done, are found in the document titled 'Memorandum of Understanding for Sharing of Monitoring Reports'.

This information will be shared between the Commissioners and NWSWIC.

## 6. Sharing of information between appointed providers and NWSWIC.

In order to undertake the activities outlined at 2 above NWSWIC requires information on the volume and type of business each appointed provider has with each Commissioner.

Requests for information from NWSWIC will be kept to a minimum. Appointed providers will not unreasonably refuse requests for information from NWSWIC.

In order to facilitate the most beneficial working relationships with appointed providers NWSWIC will share relevant information with appointed providers (examples of this being future commissioning intentions, Market Position Statements, etc.) and pursue an 'open door policy' whereby appointed providers may raise / discuss any issues relevant to achieving this.

## 7. Changes to an appointed provider's status.

Appointed providers must inform NWSWIC in writing of any change(s) in status (such as ownership, scope of supply, factors affecting the delivery of the service, etc.).

## 8. Framework management.

Framework management may be further developed during the lifetime of the framework.

## SCHEDULE 7: DRAFT QUALITY MEASUREMENT FRAMEWORK
## (to be further developed in conjunction with Framework Providers)

### Standards of Quality & Safety in delivering outcomes: Quality characteristics

In addition to the conversations across Wales that lead to the measures of wellbeing for the National Wellbeing Outcomes Framework, commissioners in North Wales have engaged with people receiving care and support at home, providers of care & support services and citizens who may require care and support in the future.

A key enquiry has been ***'what makes great homecare'?*** In summarising the responses, themes for delivering what matters in home care are:

**I need:**

- **A reliable and flexible level of service that can give me more support when I need it and less when I don't**
- **Help with my overall wellbeing (not just personal care needs)**

**I want:**

- **People who suit me, who I can establish a bond with; people who can help me with what I need help with, when I want that help (i.e. I want a fast response from people who have the delegated authority, confidence and knowledge to help me).**
- **A service that listens to and meets my individual needs**
- **To feel informed and in control of my service (by being told about any changes in advance; Carers want to be informed about their family member's health and care)**

### Developing a Service Outcome Measurement Framework

It is the aspiration of the commissioners within this service agreement to identify a range of measures to support continuous service improvement and to support the understanding of the impact on the quality of life that receiving homecare has.
Whilst the baseline measures within this specification are drawn from regulation, good practice and the National Outcomes Framework for Social Services in Wales, it is understood that:

- A number of the factors that impact on individual wellbeing (such as health, wealth and opportunity) are without the control of the commissioning organisation and the care & support provider.
- That the establishment of a measurement framework will be an iterative process developed in partnership over time by commissioners and providers based on their interactions with and learning from the North Wales Citizens that they support.

**As a result of engagement, the following quality characteristics have been determined.**
**Care and Support Providers will be asked to establish their own baseline and set annual targets within their Quality Management activities:**

**Quality characteristic 1: Satisfaction with support received & outcomes achieved**

Indicator 1 a) *Evidence of satisfaction with quality of service, including satisfaction with the people that provided help, care & support*

*Measures:*
People able to receive information in a language & format of their choice
People able to receive care and support in a language of their choice
People reporting that their quality of life has improved as a result of the care and support they have received

Indicator 1 b) *Continuity of staff (staff pay and conditions, retention rates, development opportunities & roster systems)*

*Measure:* People reporting that they are satisfied with their care & support workers and have positive relationships with them

Indicator 1 c) *Staff training & competence (qualification & skill levels)*

*Measures:* Staff that have completed the Social Care Induction Framework
Staff with required qualification level/s
Staff undertaking additional training / qualifications over and above mandatory requirements
Staff with Welsh language skills

Indicator 1 d) *Unpaid Carers feel supported and engaged within support arrangements*

*Measures*:
Carers reporting that they are fully engaged in developing care and support plans
Carers reporting that they are valued and supported as a co-provider

**Quality characteristic 2: Co-production with people receiving support and / or their Carers**

(*Co-production is a relationship where professionals and citizens share power to design, plan and deliver support together, recognising that both partners have vital contributions to make in order to improve quality of life for people and communities. We believe that co-production is the most effective method of achieving outcomes with people* – New Economics Foundation).

Indicator 2) *Use of person centred processes such as 'Working Together for Change' or similar system that uses engagement with stakeholders to drive organisational an operational change based on what is working / not working from each stakeholders' perspective.*

*Measure:*
People reporting that their support plan:
- takes account of what is important to/for them, how and when they need support
- enables them to do the things that matter to them (including taking positive risks)

People able to have some degree of choice regarding their support staff

**Quality characteristic 3: Safeguarding people at risk**

Indicator 3 a) *Percentage of staff new to the sector, receiving safeguarding training within induction (6 months)*

Indicator 3 b) *Safeguarding referrals & actions, learning from incidents and accidents*

**Quality characteristic 4: Social value**

Indicator 4 a) *Reablement / enablement approach or other evidence based interventions that result in reducing the care and support input from managed services (e.g. through additional staff competences and/or co-working with the third sector to develop community connections / information support networks)*

*Measures:*
People are signposted (where appropriate) to services / schemes that could promote wellbeing; such as to GP, community nursing, therapy services, housing support / equipment & adaptations / handy person schemes
People perceive that their ability to undertake a daily living function has improved since receiving the service, e.g. personal care, cooking, caring for their own home.
People perceive that their confidence has improved since receiving the service, e.g. feeling happier and safer at home and undertaking daily living tasks with less support
People whose care and support enables them to maintain existing relationships and/or make new connections in their community

Indicator 4 b) *Positive employment practices*

*Measures:*
Workers are not charged for items which are necessary for them to perform their role e.g. uniforms, PPE
Number of workers employed who were previously not in education, employment or training and/or whom were formerly claiming welfare support
Number of workers working regularised hours moved from zero hours to regularised-hours contract
Zero hours contract workers have paid induction and training and where qualifying paid holiday, SSP and access pension schemes

Indicator 4 c) *Additional skills training provided (above social care induction / mandatory & vocational training) e.g. life skills, Welsh language training)*

Indicator 4 d) *Contributions to and impact on the local economy (e.g. ethical staff terms and conditions, training, qualifications and career development opportunities provided., especially for target groups such as long-term unemployed and or young people that are not in education, employment or training).*

**Quality characteristic 5: Environmental impact**

Indicator 5) Arrangements to provide continuity of care workers, adequate travel time and minimise negative environmental impacts, such as waste and carbon emissions.

***Additional Key Performance Indicators include:***

- CIW reports, notices and information (including information provided by CIW and the provider themselves such as annual reports, self-assessments etc)
- Service feedback obtained by the purchaser / commissioner - including questionnaires, compliments, concerns and complaints
- Adult at Risk referrals related to people supported by the Care and Support Provider and the quality of enquiries undertaken by them
- Evidence of collaboration with other Service Providers
- Evidence of financial sustainability (such as annual accounts, Dunn & Bradstreet risk scores etc)
- Examples of innovative and solution focussed approaches to meeting individual outcomes
- Contract management- accuracy, timeliness of invoices, responsiveness, record keeping etc
- Evidence of staff terms and conditions, which may include compliance with the Wales Government Code on Ethical Employment / UNISON Ethical Care Charter

**Quality Management requirements**

Care and Support Providers must ensure that a quality management system is in place to ensure:

a) Internal control of quality and consistency of practice and be committed to a process of continuous service improvement
b) Measurement of quality indicators (detailed above) and/or any other subsequently agreed
c) Compliance with the Framework requirements, call-off contract and any Individual Call-Off Contracts
d) Compliance with local, regional and national policy, regulatory and legislative requirements

Care and Support Providers will be expected to have Annual Quality Management Plans in place to evidence internal review and continuous improvement in relation to regulatory and /or contract requirements.

Quality indicators and performance measures (including key performance indicators) will be reviewed throughout the life of the contract and the commissioners (Councils and Health Board) may use a third party representative to manage this.

Contract monitoring and review activity visits may be either pre-planned or unannounced and the commissioners / representatives reserve the right to view all records that relate to individuals that reside in within their area of operation. Monitoring may include an Annual Performance Review for which both the commissioner and care and support provider should provide information and which may take account of external information such as from Social Care Wales and/or the Care and Social Services Inspectorate for Wales.

| The North Wales commissioning partners have agreed to adopt the UNISON Ethical Care Charter as detailed below. | |
|---|---|
| **Ethical Care Charter standard** | **How this will be evaluated / monitored** |
| The starting point for commissioning will be individual need and not tasks or minutes.<br>Social Care Workers will have freedom to provide appropriate care and will be given time to talk to the people they support. | The principle of the Social Services & Wellbeing (Wales) Act 2014 is that care and support is provided to meet risks to wellbeing that cannot be mitigated by the individual, their family or other community services.<br>The starting point for commissioning is mitigating risks to wellbeing, supporting people to achieve personally identified outcomes and minimising dependence on care and support. |
| Homecare workers will be paid for their travel time, their travel costs and other necessary expenses such as mobile phones. | Domiciliary Care providers are asked to demonstrate this commitment within the commercial envelope (unit hourly rate breakdown) |
| Those homecare workers who are eligible must be paid statutory sick pay | |
| The time allocated to visits will match the needs of the clients. In general, 15-minute visits will not be used if they undermine the dignity of the clients. | The core principle that we are working towards in North Wales is that the frequency, timing and duration of visits should be agreed between the provider and person supported based on the agreed hours / support budget (resource allocation)<br>Our aspiration is that Providers are involved in the assessment and care and support planning. |
| Visits will be scheduled so that homecare workers are not forced to rush or leave early to get to the next visit on time | |
| People will be allocated the same homecare worker(s) wherever possible | This will be monitored by the commissioners as a quality indicator |
| Zero hour contracts will not be used in place of permanent contracts | This may be monitored by CSSIW in future and will be monitored by commissioners as a quality indicator<br>North Wales' commissioners recognise that employers may wish to use a range of employment contract types to enable them to recruit and retain sufficient workers to provide flexibility and meet service demand.<br>We would wish to see evidence of offers of guaranteed hours' contacts (e.g. minimum of 4 hours worked per 4 weeks) being offered when there is consistency of service demand and minimum guaranteed hours contracts being offered in place of zero hours contracts to ensure employee commitment and that employees at least meet minimum training and supervision requirements |
| Providers will have a clear and accountable procedure for following up staff concerns about peoples' wellbeing | This will be monitored as a quality indicator and includes employer systems for monitoring the wellbeing of workers, particularly lone-workers |

| Ethical Care Charter standard | How this will be evaluated / monitored |
|---|---|
| All homecare workers will be regularly trained to the necessary standard to provide a good service (at no cost to themselves and in work time) | Domiciliary Care providers are asked to demonstrate this commitment within the commercial envelope (unit hourly rate breakdown) |
| Homecare workers will be given the opportunity to regularly meet co-workers to share best practice and limit their isolation | This will be monitored by the commissioners as a quality indicator |
| All homecare workers will be paid at least the Living Wage | Annual price reviews will take account of employment legislation in respect of national wage requirements |
| If Council employed homecare workers paid above this rate are outsourced it should be on the basis that the provider is required, and is funded, to maintain these pay levels throughout the contract | Commissioners will take account of the appropriate Codes of Practice on 'Workforce Matters' |
| All homecare workers will be covered by an occupational sick pay scheme to ensure that staff do not feel pressurised to work when they are unwell | This is considered to be an individual employer decision / responsibility and will be demonstrated through the commercial envelope (unit hourly rate breakdown) |

## SCHEDULE 8: VARIATION FORM

Variation Form No:
.....

BETWEEN:

1. This Agreement is varied as follows and shall take effect on the date signed by both Parties: [Guidance Note: Insert details of the Variation]

2. Words and expressions in this Variation shall have the meanings given to them in the Agreement.

3. The Agreement, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Commissioner/s

Signature

Date Name (in Capitals) Address

Signed by an authorised signatory to sign for and on behalf of the Service Provider

Signature

Date Name (in Capitals) Address

**SCHEDULE 9 DATA PROTECTION PROVISIONS**

**The following definitions shall apply to this Schedule 9**

| | |
|---|---|
| **Certified Data Wiping** | means data destruction through a service that can certify that data held on information technology systems (including hard disk drives and/or other digital media) has been wiped. |
| **Data Controller** | has the meaning as set out in the Data Protection Legislation. |
| **Data Loss Event** | any event that results, or may result, in unauthorised access to Personal Data held by the Service Provider under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement; |
| **Data Processor** | has the meaning as set out in the Data Protection Legislation. |
| **Data Protection Impact Assessment** | an assessment by the Commissioner(s) of the impact of the envisaged processing on the protection of Personal Data; |
| **Data Protection Legislation** | means the DPA, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003,the General Data Protection Regulation and the Law Enforcement Directive in so far as it relates to the processing of data and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice is sued by the Information Commissioner; |
| **Data Subject** | means any living person who is the subject of Personal Data as defined in the DPA. |
| **Data Subject Access Request** | means a request made by a Data Subject in accordance with rights granted pursuant to the DPA to access his or her Personal Data. |
| **DPA** | means the Data Protection Act 1998 and (ii) the Data Protection Act 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy.; |
| **GDPR** | means the General Data Protection Regulation (Regulation (EU) 2016/679); |

| | |
|---|---|
| **Law** | means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body of which the Provider is bound to comply; |
| **LED** | means the Law Enforcement Directive (Directive (EU) 2016/680); |
| **Personal Data** | shall have the same meaning as set out in the DPA and relates only to personal data, or any part of such personal data, of which the Commissioner(s) is the Data Controller and in relation to which the Service Provider is providing the Services under this Agreement. |
| **Protective Measures** | appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it; |
| **Regulatory Body** | means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Agreement or any other affairs of the Commissioner(s). |
| **Sub-Contractor** | means a contractor that enters into a sub-contract with the Service Provider. |
| **Working Day** | means any day other than a Saturday or Sunday or public holiday in England and Wales. |

1. The Service Provider shall (and shall ensure that any Sub-Contractor or third party shall) comply at all times with the Data Protection Legislation and their obligations as a Data Processor or Data Controller as the case may be in respect of Personal Data belonging to the Data Controller and shall not perform its obligations under this Agreement in any such way as to cause the Commissioner(s) to breach their obligations under the Data Protection Legislation. The Commissioner(s) shall be the Data Controller of the Personal Data and the Service Provider shall be the Data Processor of the Personal Data unless it is agreed or is apparent from the nature of the processing that the Service Provider shall be a Data Controller in which case the Parties shall be joint Data Controllers and the provisions of the Data Protection Legislation in relation to Data Controllers shall apply to both Parties.

2 Each Party shall ensure that it and its representatives shall comply in all respects with the Data Protection Legislation and any other relevant Data Protection Legislation in relation to all information made available to it under this Agreement by the other Party or arising through the delivery of the Services.

3 If Personal Data shall be shared between the Service Provider and any Sub-Contractor or third party under this Agreement the Service Provider shall ensure the Sub-Contractor or third shall comply with this Schedule 9.

4 Upon expiry or termination of this Agreement the Service Provider shall at no cost to the Commissioner(s) ensure that Personal Data shall be transferred back to the Commissioner(s) or provided to a replacement service provider (as directed by the Commissioner(s)) unless the Service Provider shall be obliged by Law to retain the Personal Data.

5 Upon expiry or termination of this Agreement any Personal Data that remains on the Service Provider's (or any Sub-Contractor's) computer systems shall be cleaned from the computer systems in accordance with industry practice relating to Certified Data Wiping.

6 Without prejudice to the generality of this Schedule 9and for the avoidance of doubt it is hereby specifically provided that the Service Provider shall fully, promptly and effectively indemnify and keep so indemnified the Commissioner(s), its servants and agents from and against all and any actions, charges, claims, reasonable costs, damages, demands, reasonable expenses (including legal and administrative expenses), liabilities, direct losses and proceedings whatsoever arising from its failure to comply this Schedule 9 or Clause 38 of this Agreement.

7 If a notice is required to be given between the Data Controller or the Data Processor the notice shall be in writing and shall be delivered personally, or sent by pre-paid first class post, or by recorded delivery, or by commercial courier, to each Party required to receive a notice under the Data Protection Legislation at its address as set out in Schedule 10.

8 The Service Provider shall (and shall ensure that any Sub-Contractor shall):

i) process Personal Data only to the extent, and in such manner as is necessary for the delivery of the Services, by Law, or by any Regulatory Body and the Service Provider shall inform the Commissioner(s) if it considers that any of the Commissioner(s') instructions infringe the Data Protection Legislation;

ii) ensure that it has in place Protective Measures, which have been reviewed and approved by the Commissioner(s) as appropriate to protect against a Data Loss Event having taken account of the:
(a) nature of the data to be protected;
(b) harm that might result from a Data Loss Event;
(c) state of technological development; and
(d) cost of implementing any measures;

iii) process that Personal Data only in accordance with this Schedule 9, Annex 1 hereto and Clause 38, unless the Service Provider shall be required to do otherwise by Law. If it is so required the Service Provider shall promptly notify the Commissioner(s) before processing the Personal Data unless prohibited by Law

iv) implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, damage, destruction, alteration or disclosure;

v) take reasonable steps to ensure the reliability of any of its Staff who have access to the Personal Data and that its Staff shall not process Personal Data except in accordance with this Agreement (and in particular this Schedule 9 and Annex 1 hereto);

vi) ensure that its Staff (unless they have appropriate authority) shall not have access to the Personal Data and enter into appropriate confidentiality undertakings with the Service Provider or Sub-Contractor ;

vii) obtain prior written consent from the Commissioner(s) to transfer Personal Data to any Sub-Contractor or affiliates for the delivery of the Services;

viii) ensure that Staff required to access the Personal Data shall be informed of the confidential nature of the Personal Data and comply with the obligations set out in this Schedule 9,Annex 1 and Clause 38 and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Commissioner(s) or as otherwise permitted by this Agreement;

ix) ensure that Staff shall receive an adequate level of training in data protection and in the use, care, protection and handling of Personal Data;

x) ensure that none of its Staff shall publish, disclose or divulge any of the Personal Data any third party unless directed in writing to do so by the Commissioner(s);

xi) notify the Commissioner(s) within twenty-four [24] hours if it becomes aware of a breach or alleged breach of the Data Protection Legislation;

xii) provide the Commissioner(s) with full co-operation and assistance in relation to investigating breaches of the Data Protection Legislation, (to include inspection of premises and security arrangements if requested);

xiii) notify the Commissioner(s) within five [5] Working Days, if it receives:
- a request from a Data Subject or a third party to have access to a person's Personal Data; or
- a complaint or a request relating to the Commissioner(s’) obligations under the Data Protection Legislation.

xiv) at the written direction of the Commissioner(s), delete or return Personal Data (and any copies of it) to the Commissioner(s) on termination or expiry of the Agreement unless the Service Provider is required by Law to retain the Personal Data.

9 The Service Provider shall (and shall ensure that any Sub-Contractor shall) provide the Commissioner(s) with full co-operation and assistance in respect of any complaint or request made, including:

i) providing the Commissioner(s) with full details of the complaint or request;

ii) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Commissioner(s’) instructions;

iii) providing the Commissioner(s) with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Commissioner(s)); and

iv) providing the Commissioner(s) with any other information requested by the Commissioner(s) in respect of the complaint or request.

10 The Service Provider shall not transfer Personal Data outside of the EU unless the prior written consent of the Commissioner(s) has been obtained and the following conditions are fulfilled:

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

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

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

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

11 Subject to clause 15 of this Schedule 9, the Service Provider shall notify the Commissioner(s) immediately if it:

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

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

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

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

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

(f) becomes aware of a Data Loss Event.

12 The Service Provider shall (and shall ensure that any Sub-Contractor shall) permit the Commissioner or the Commissioner's representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit its data processing activities and comply with all reasonable requests or directions by the Commissioner (s) to enable the Commissioner(s) to verify that the Service Provider (or Sub-Contractor) is in full compliance with its obligations under the Data Protection Legislation.

13 The Service Provider's obligation to notify under clause 11 of this Schedule 9 shall include the provision of further information to the Commissioner(s) in phases, as details become available.

14 The Service Provider shall provide all reasonable assistance to the Commissioner(s) in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may include:

(i) a systematic description of the envisaged processing operations and the purpose of the processing;
(ii) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
(ii) an assessment of the risks to the rights and freedoms of Data Subjects; and
(iii) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

15 Taking into account the nature of the processing, the Service Provider shall provide the Commissioner(s) with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 11 of this Schedule 9 (and insofar as possible within the timescales reasonably required by the Commissioner(s)) including by promptly providing:
(a) the Commissioner(s) with full details and copies of the complaint, communication or request;
(b) such assistance as is reasonably requested by the Commissioner(s) to enable the Commissioner(s) to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
(c) the Commissioner(s), at its request, with any Personal Data it holds in relation to a Data Subject;
(d) assistance as requested by the Commissioner(s) following any Data Loss Event;
(e) assistance as requested by the Commissioner(s) with respect to any request from the Information Commissioner’s Office, or any consultation by the Commissioner(s) with the Information Commissioner's Office.

16 The Service Provider shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule9 provided that this requirement does not apply where the Service Provider employs fewer than 250 staff, unless:
(a) the Commissioner(s) determines that the processing is not occasional;
(b) the Commissioner(s) determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
(c) the Commissioner(s) determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

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

18 Before allowing any Sub-Contractor to process any Personal Data related to the Agreement, the Service Provider shall:
(a) notify the Commissioner(s) in writing of the intended Sub-Contractor and processing;
(b) obtain the written consent of the Commissioner(s);
(c) enter into a written agreement with the Sub-Contractor which shall give effect to the terms set out in this Schedule9and clause 38 of this Agreement such that they apply to the Sub-Contractor; and
(d) provide the Commissioner (s)with such information regarding the Sub-Contractor Provider as the Commissioner(s) may reasonably require.

19 The Service Provider shall remain fully liable for all acts or omissions of any Sub-Contractor.

20 The Commissioner(s) may, at any time on not less than 30 Working Days' notice, revise this Schedule 9 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.

21 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Commissioner(s) may on not less than 30 Working Days' notice to the Service Provider amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

22 The Service Provider shall provide all reasonable assistance to the Commissioner(s) in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may include:

(i) a systematic description of the envisaged processing operations and the purpose of the processing;
(ii) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
(ii) an assessment of the risks to the rights and freedoms of Data Subjects; and
(iv) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

23 Failure by the Service Provider to comply with its obligations under this Schedule 9 and Clause 38 may be regarded as a material breach of this Agreement.

## SCHEDULE 9 ANNEX 1

### Processing, Personal Data and Data Subjects

The Service Provider shall comply with any further written instructions given by the Commissioners with respect to the processing of Personal Data. Any such further instructions shall be incorporated into this Schedule 9 Annex 1.

### Description Details

**Subject matter of the processing**

*This should be a high level, short description of what the processing is about i.e. its subject matter*

**Duration of the processing**

*Clearly set out the duration of the processing including dates*

**Nature and purposes of the processing**

*Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc.*

**Type of Personal Data**

*Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc*

**Categories of Data Subject**

*Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc*

**Retention of Personal Data**

*Describe for how long the personal data will be retained, how it be returned, or how it will be destroyed.*

**SCHEDULE 10 THE COMMISSIONERS**

**For the avoidance of doubt the provisions of this Schedule 10 shall apply to this Agreement.**

**The reference in this Agreement to 'Commissioners' shall include:**

Denbighshire County Council whose principal address is at County Hall, Wynnstay Road, Ruthin, Denbighshire, LL15 1YN

Isle of Anglesey County Council whose principal address is at Council Offices, Llangefni, Anglesey, LL77 7TW.

Conwy County Borough Council whose principal address is at Bodlondeb, Bangor Road, Conwy, LL32 8DU.

Gwynedd Council whose principal address is at Stryd y Jel, Caernarfon, Gwynedd, LL55 1SH.

Flintshire County Council whose principal address is at County Hall, Mold, Flintshire, CH7 6NB.

Wrexham County Borough Council whose principal address is at the Guildhall, Wrexham, LL11 1AY.

("The Council/s")

and

Betsi Cadwaladr University Health Board whose principal address is Headquarters, Ysbyty Gwynedd, Penrhosgarnedd, Bangor, Gwynedd, LL57 2PW

('The Health Board')

**The reference in this Agreement to 'Parties' shall include:**

Denbighshire County Council whose principal address is at County Hall, Wynnstay Road, Ruthin, Denbighshire, LL15 1YN

Isle of Anglesey County Council whose principal address is at Council Offices, Llangefni, Anglesey, LL77 7TW.

Conwy County Borough Council whose principal address is at Bodlondeb, Bangor Road, Conwy, LL32 8DU.

Gwynedd Council whose principal address is at Stryd y Jel, Caernarfon, Gwynedd, LL55 1SH.

Flintshire County Council whose principal address is at County Hall, Mold, Flintshire, CH7 6NB.

Wrexham County Borough Council whose principal address is at the Guildhall, Wrexham, LL11 1AY.

("The Council/s")

and

Betsi Cadwaladr University Health Board whose principal address is Headquarters, Ysbyty Gwynedd, Penrhosgarnedd, Bangor, Gwynedd, LL57 2PW

(‘The Health Board’)

For the purposes of Clause 46 Contracts (Rights of Third Parties) Act 1999 the above named Commissioners shall have rights to take the benefit of this Agreement and to enforce the obligations arising thereunder.