

Disability Support Services Outcome Agreement

[Purchasing Agency]

and

[Provider]

Legal entity number	
Contract name	
Contract type	
Start date	
Expiry date	
Contract number	

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Outcome Agreement

1 Parties

- 1.1 Her Majesty the Queen in Right of New Zealand acting by and through the Director General of Health (**Purchasing Agency**).
- 1.2 *[Full legal name of NGO services provider, include any relevant registration numbers (eg, company, charity or incorporated society numbers) and address]* (**Provider**).

2 Introduction

- 2.1 The Framework Terms and Conditions (2nd edition) are part of this Outcome Agreement. The Framework Terms and Conditions are available at www.procurement.govt.nz
- 2.2 This Outcome Agreement describes the:
 - (a) Outcomes to be achieved
 - (b) Services the Provider will provide to contribute towards achieving that Outcome
 - (c) Performance measurement framework to assess the provision of the Services, and whether the Services have contributed towards achieving the Outcomes.
- 2.3 The Purchasing Agency engages the Provider to provide the Services on the terms of this Outcome Agreement.

3 Relationship between this Outcome Agreement and the Framework Terms and Conditions

- 3.1 This Outcome Agreement is deemed to incorporate and be governed by the Framework Terms and Conditions (as added to or modified in accordance with clause 14 of the Framework Terms and Conditions).
- 3.2 Unless the context otherwise requires, all terms defined in the Framework Terms and Conditions have the same meaning in this Outcome Agreement.
- 3.3 The Introduction forms part of this Outcome Agreement.

4 Term of this Outcome Agreement

- 4.1 This Outcome Agreement will commence on [insert date] and end on [insert date], unless terminated earlier in accordance with the Framework Terms and Conditions.

5 Services

- 5.1 The Provider will provide the Services listed in Appendix 5 in accordance with the relevant Service Specifications described in Appendix 1.
- 5.2 In providing the Services, the Provider will meet or exceed any performance measures set out in Appendix 1 and Appendix 10. The performance measures will be used to determine whether the Provider has been successful in delivering this service in accordance with this Outcome Agreement so as to contribute towards achieving the Population Outcomes linked to this service.
- 5.3 The Provider must, throughout the term of this Outcome Agreement hold all licences, registrations or certificates relating to it or to the premises where the Provider provides Services that are required by law or under this Outcome Agreement.
- 5.4 In providing the Services the Provider must follow the reasonable directions of the Purchasing Agency. Such directions must be consistent with the terms of this Outcome Agreement.

6 Payment

- 6.1 Subject to the Purchasing Agency's rights under the Framework Terms and Conditions relating to the Recovery, Reduction or Suspension of Payments, the Purchasing Agency will pay the Provider for the Services, the amounts at the times specified in Appendix 5.

7 Contract management

- 7.1 The contract management arrangements for this Outcome Agreement (including monitoring, reporting and audit) are set out in Appendices 2 to 4 and Appendix 9.
- 7.2 The Provider and Purchasing Agency will comply with all applicable obligations under Appendices 2 to 4 and Appendix 9.

8 New intellectual property

- 8.1 If, contrary to the intellectual property (IP) clauses in the Framework Terms and Conditions, any new IP is to be owned by the Purchasing Agency, it will be recorded in Appendix 6.
- 8.2 Any agreed uses of new IP are recorded in Appendix 6.

9 Privacy of personal information

- 9.1 The details of any personal information of individuals that will be shared between the Purchasing Agency and the Provider, and any agreed approach to the management of such information are recorded in Appendix 7.

10 Business viability standards

- 10.1 The Provider will comply with the business viability standards.

11 Contact details

- 11.1 Each Party's contact details are set out below:

Purchasing agency

Contact person

Postal address

Physical address

Email

Phone

Provider

Contact person

Postal address

Physical address

Email

Phone

12 Changes or additions to the Framework Terms and Conditions

- 12.1 The Provider and Purchasing Agency agree to amend the Framework Terms and Conditions as set out in Appendices 8 and 9.
- 12.2 Except as set out in Appendices 8 and 9, the Framework Terms and Conditions remain in full force and effect in relation to this Outcome Agreement.

13 Further definitions

Audit means the audit activities described in the Ministry audit process.

Business viability standards means the standards that have been approved by the Ministry of Health to ensure provider capability. The standards are available on the Ministry website at <https://www.health.govt.nz/our-work/disability-services/contracting-and-working-disability-support-services/contracts-and-service-specifications>

Eligible people means the Service users who are eligible to access Services under this Outcome Agreement on the terms set out in the Service Specifications.

Framework Terms and Conditions means the document of that name posted from time to time at www.procurement.govt.nz. If these conditions change, the Provider and Purchasing Agency may agree in writing to the updated Framework Terms and Conditions applying to this Outcome Agreement, from an agreed date.

Ministry means the Ministry of Health.

Ministry audit process means the processes referred to as the **Quality Assurance, Audit and Review Instructions for Providers** set out on the Ministry website. Both parties must comply with the Ministry audit process.

Purchasing Agency Objectives means the standards or policies published or approved by the Purchasing Agency that the Provider will abide by. These can be found on the Ministry website at <https://www.health.govt.nz/our-work/disability-services/contracting-and-working-disability-support-services/disability-support-services-operational-policy>

Records means all written and electronically stored material, including all records and information held by the Provider or on the Provider's behalf or by its employees, subcontractors or agencies, which are relevant to the provision of Services.

15 Appendices

Appendix 1 – Services, Outcomes to be achieved, and performance measures

Outcome (Population)*1	Refer to the Tier One Service Specification available on the Purchasing Agency website at http://www.health.govt.nz/our-work/disability-services/contracting-disability-support-services/contracts-and-service-specifications
Indicator (Population)	Refer to the Tier One Service Specification*1 available on the Purchasing Agency website at http://www.health.govt.nz/our-work/disability-services/contracting-disability-support-services/contracts-and-service-specifications
Service	<p>This service will be delivered according to the:</p> <ul style="list-style-type: none">• Tier One Service Specification; and• Tier Two and / or Tier Three Service Specifications*2 for this Service available on the Purchasing Agency website at http://www.health.govt.nz/our-work/disability-services/contracting-disability-support-services/contracts-and-service-specifications <p>Any specific specification terms are annexed to this Agreement as Appendix 11.</p>

*1 The Provider is not responsible for achieving the population level Outcome described in the Tier One Service Specification. The Service delivered by the Provider only contributes towards the Population Outcome being achieved.

*2 The relevant specification(s) to apply to the Services will be the specifications that relate to the purchase units incorporated in Appendix 5.

Appendix 2 – Monitoring by the Purchasing Agency

Service	Monitoring activity	Time and frequency of monitoring activity
All services	<p>The Purchasing Agency's contract relationship manager may visit the Provider a minimum of once per year to discuss and monitor performance. This will include:</p> <ul style="list-style-type: none"> • progress in achieving results for People as outlined in the performance measures; and • opportunities for parties to further improve results for People. <p>Responses to reports: The Purchasing Agency's contract relationship manager will respond to reports received from the Provider as required.</p> <p>Other contact: The Purchasing Agency's contract relationship manager may contact the Provider by phone or email from time-to-time as required.</p>	On dates to be agreed between the parties.

2.1 Review and Audit

Both parties acknowledge the ongoing nature of this Outcome Agreement and the need for and commitment to continuous improvement in service delivery and health and disability outcomes within available funding. Both parties agree that this includes from time to time, participating in service review and/or audit, to address areas of poor health status and/or inadequate Service delivery.

Appendix 3 – Reporting

3.1 Regular reporting by the Provider

Service	Report name	Details to be included in the report	Time and frequency of reporting
All services	Six-monthly Outcome Agreement report	Details described in Appendix 10, the Service Specification or in the Qualtrics online tool (if used for reporting)	Six-monthly – on the dates below for the corresponding period <ul style="list-style-type: none">• 20 July (1 January–30 June)• 10 February (1 July–31 December)

3.2 How to provide completed reports

- (i) Providers with services that use the Qualtrics online tool for reporting should follow contract managers' instructions on how to use the tool.
- (ii) For other services, Providers will either:
 - fill out the Excel reporting template that Contract Relationship Managers will provide, or
 - follow reporting instructions in the service specification.
- (iii) Where Qualtrics is not used for reporting, send reports to:

Performance Reporting
Sector Operations
Ministry of Health
Private Bag 1942
Dunedin 9054
Ph: 03 474 8040
Email: performance_reporting@moh.govt.nz

3.3 Critical incident reporting

The Provider must notify the Purchasing Agency of any critical incident using the Critical Incident reporting form available from the Purchasing Agency. A copy of the Critical Incident reporting form is available on the Ministry <https://www.health.govt.nz/our-work/disability-services/contracting-and-working-disability-support-services/reporting-critical-incidents-and-death-service>

Appendix 4 – Regular audits of the Provider

Audit	Time for conducting the audit
Health and Disability Services (Safety) Act 2001 (if relevant).	The Purchasing Agency will give the Provider at least 20 business days' notice of its intention to conduct an audit pursuant to the Health and Disability Services (Safety) Act 2001, except issue-based audits, which may be undertaken at any time pursuant to clause 5.5 of the Framework Terms and Conditions.
Under s10 of the New Zealand Public Health and Disability Act 2000, the Purchasing Agency may monitor performance. Section 22G of the Health Act will be used by the Purchasing Agency to authorise the inspection of any records containing personally identifiable information to verify payment.	Monitoring will include Appendix 2 and Appendix 3 activities and audits under clause 9.8 of Appendix 9. Any audit will be initiated in accordance with and follow the Ministry Audit Process https://www.health.govt.nz/our-work/disability-services/contracting-and-working-disability-support-services/contracts-and-service-specifications

Unless specifically provided in this Appendix, the Provider will not conduct an accreditation review of the Provider but may audit the Provider's compliance with the Business Viability Standards. The Provider agrees that the Purchasing Agency may exchange information with other Government Purchasing Agencies who have contracted with the Provider about the Provider's compliance with the Business Viability Standards and/or any accreditation review performed by any Purchasing Agency.

Appendix 5 – Services and payments

5.1 Payment table

The price the Purchasing Agency will pay for the services is specified in the table below. Note that all prices are exclusive of GST.

* Insert relevant purchase units below.

#	Purchase unit ID	Purchase unit description	Service line	Unit price	Volume	No. of clients	Total price (excl GST)	GST rate	Payment type	Monthly payment
Total price for all services							n/a			

5.2 Payments

(Relevant payment clause to be inserted.)

Appendix 6 – New intellectual property (New IP)

New IP	Agreed uses of New IP
N/A	

Appendix 7 – Privacy of personal information

The Purchasing Agency will collect personal information (including health and disability information), related to the services provided, as identified in this Outcome Agreement and, in particular, in the service delivery description in Appendix 1.

All personal information must be managed in accordance with the Privacy Act 1993 and the Health Information Privacy Code 1994. The parties must safeguard the personal information against loss, misuse or unauthorised access, use, modification or disclosure.

Appendix 8 – Changes to the Framework Terms and Conditions

N/A

Appendix 9 – Additional terms to the Framework Terms and Conditions

9.1 Child protection policy

In accordance with section 16 of the Vulnerable Children Act 2014 «PROVIDER_NAME» will:

- (i) adopt, as soon as practicable, a child protection policy (in respect of the provision of children’s services within the meaning of section 15 of that Act) that complies with section 19 of that Act; and
- (ii) review that policy within 3 years of the date of its first adoption; and
- (iii) in accordance with best practice, post a copy of the child protection policy on its internet site.

9.2 Information

9.2.1 Records

The Provider must keep secure accurate records of the performance of services by the Provider and its employees, agents and advisers and make them available to the Purchasing Agency and its auditors in accordance with its reasonable instructions.

9.2.2 Confidential information

- (a) The parties acknowledge that the following information is not confidential information and nothing in this Outcome Agreement prevents either party from publishing or disclosing any of the following information (subject to removal of any personal or health information):
 - (i) the terms of this Outcome Agreement
 - (ii) any final audit report produced as part of a Ministry Audit Process
 - (iii) the nature and quantity of the services provided
 - (iv) payments made under this Outcome Agreement.
- (b) Subject to clause 9.2.2(c) below, the Provider must:
 - (i) transfer any confidential information it holds within its possession and control to the Purchasing Agency upon the expiration or termination of this Outcome Agreement
 - (ii) ensure that confidential information transferred is of sufficient quality, clarity and completeness to enable the Purchasing Agency to understand and use it.
- (c) If this Outcome Agreement is lawfully terminated for breach, the party in breach will pay the costs of complying with clause 9.2.2(b), otherwise these costs will be shared equally by the parties.

9.3 Renewal processes

- (a) The Purchasing Agency will advise the Provider not less than six months before the end date of this Outcome Agreement if the Purchasing Agency intends to:
 - (i) tender or issue a Request for Proposal (RFP) for continuation of the services but both parties acknowledge that this clause does not create any expectation that the parties will enter a further agreement once this Outcome Agreement expires;
 - (ii) cease to fund the services; or
 - (iii) otherwise choose not to enter into a further agreement with the Provider for the services on expiry of this Outcome Agreement.
- (b) The Provider will advise the Purchasing Agency not less than six months before the end date of this Outcome Agreement if the Provider has decided not to enter into a further agreement for the provision of the services with the Purchasing Agency.

9.4 Remedy plan and other remedies

9.4.1 Relationship context

The following remedy options may be applied if the Purchasing Agency believes the Provider has breached its obligations under this agreement and regular communication described in the Relationship Principles in the Framework Terms and Conditions has not resolved the issue.

9.4.2 Remedy Plan

The Purchasing Agency and the Provider will agree a remedy plan as specified in the Framework Terms and Conditions if the Purchasing Agency believes the Provider has committed a breach of its obligations under this Outcome Agreement.

9.4.3 Other remedies

If the Purchasing Agency believes the Provider has committed a breach of its obligations under this Outcome Agreement, and the breach poses a significant risk to the health and safety of people in the Provider's care, or other significant risk of non-compliance with this Outcome Agreement the Purchasing Agency may initiate any of the following actions:

- (a) initiate an audit; and/or
- (b) appoint an advisor for no longer than 3 months, or for a time agreed in writing, to assist the Provider to resolve any quality issues. The advisors will monitor the Provider's performance and report back to the Purchasing Agency and Provider.

Where an advisor is appointed the Provider must:

- allow the advisor access to the Provider's premises
- allow access to relevant information and documentation; and
- ensure that the advisor is able to carry out his or her duties without disturbance or disruption.

The Purchasing Agency will pay for the costs of any advisor appointed.

(c) Appoint a temporary manager

The Purchasing Agency may appoint an appropriately qualified and experienced temporary manager to take over management of the provision of services on behalf of the Provider, to remedy the breach referred to in clause 9.4.3 above.

Where a temporary manager is appointed, the Provider must:

- allow the temporary manager access to the Provider's premises;
- ensure that the temporary manager is able to carry out his or her duties without disturbance or disruption; and
- comply with any direction or instruction given by the temporary manager.

The Provider will be liable for the reasonable costs of the temporary manager.

(d) Suspend services

Suspend some or all of the services (and suspend payment for those services) on giving written notice to the Provider until the breach is rectified.

(e) Withhold payment

The Purchasing Agency may withhold some or all of the payments to the Provider until the Provider has remedied a breach or until the Purchasing Agency is satisfied that the Provider has taken appropriate steps to ensure that a breach of that nature will not happen again.

(f) Purchasing Agency to remedy the breach itself

The Purchasing Agency may take action itself to remedy any breach and recover reasonable costs from the Provider.

(g) Termination

Exercise its termination rights contained in the Framework Terms and Conditions.

9.5 Purchasing Agency's failure to pay on time

If the Provider provides a valid tax invoice to the Purchasing Agency within the timeframe specified in Appendix 5, and

- (a) the invoice is not the subject of a dispute under clause 7 of the Framework Terms and Conditions, and
- (b) the Purchasing Agency fails to pay that invoice within the timeframe specified in Appendix 5,

the Provider can require a remedy plan to be agreed.

9.6 Uncontrollable event

If an uncontrollable event occurs, clauses 9.6.1–9.6.5 (inclusive) of this Appendix will apply.

9.6.1 No default

Neither party will be in default under this Outcome Agreement if an obligation cannot be performed because it is caused by an uncontrollable event, however the Purchasing Agency's obligation to make payments will cease to the extent that services are not provided.

9.6.2 Obligations of the affected party

Where either party is affected by an uncontrollable event, the party affected must:

- (a) notify the other party in writing of:
 - (i) the nature of the circumstances giving rise to the uncontrollable event;
 - (ii) the extent and likely duration of that party's inability to perform its obligations under this Outcome Agreement; and
- (b) take all reasonable steps to remedy, or reduce the impact of, the uncontrollable event.

9.6.3 Alternative arrangements

The Purchasing Agency may, after consulting with the Provider, make alternative arrangements to ensure performance of the services during the period in which the Provider is unable to provide them as a result of an uncontrollable event and for such reasonable time afterwards as may be necessary to secure an alternative provider or providers at the time the alternative arrangement is entered into.

9.6.4 Variation or termination of services due to uncontrollable event

The parties may agree to what extent, if any, the obligations affected by an uncontrollable event can be varied and vary this Outcome Agreement accordingly.

9.6.5 Termination due to failure to perform obligations

After a party has been unable to perform its obligations for 20 business days because of an uncontrollable event the other party may terminate this Outcome Agreement with immediate effect by providing written notice to the party affected by the uncontrollable event. If either party intends to terminate this Outcome Agreement using this clause, it must provide the party affected by the uncontrollable event with notice of its intention to terminate as soon as reasonably practicable.

9.7 Variation process for a variation event

- 9.7.1 In addition to the variation process recorded in clause 15.2 of the Framework Terms and Conditions, if a variation event occurs that will have a material impact on the provision of services, including the costs of providing services, the following clauses will apply.
- 9.7.2 On the occurrence of a variation event, the parties will both identify and quantify the impact of the variation event and will seek expert advice, if necessary, to assist in dealing with it.
- 9.7.3 Where the parties agree there is a material impact resulting from the variation event, both parties will then seek to agree a variation to this Outcome Agreement, which may include, without limitation:
- (a) reconfiguration of any service; or
 - (b) adjustment to costs of, or payments in respect of any service.
- 9.7.4 Where both parties are unable to agree that there is a material impact on either party, or potential material impact resulting from the variation event, then the matter may be referred to dispute resolution under clause 7 of the Framework Terms and Conditions. Where it is determined through the dispute resolution procedure that there is a material impact on either party, or potential material impact, resulting from the variation event, the parties shall seek to agree a variation to this Outcome Agreement in accordance with clause 9.7.3 above.
- 9.7.5 Each party must negotiate in good faith to reach prompt agreement on any issues, proposed amendments or any alternative proposal.
- 9.7.6 If neither party can agree on any variation to the Outcome Agreement in accordance with clause 9.7.3 or 9.7.4 within two months of agreement under clause 9.7.3, or determination under clause 9.7.4, then either party may terminate this Outcome Agreement by giving three months' written notice.

9.7.7 Despite anything in this Outcome Agreement to the contrary, the Purchasing Agency may vary this Outcome Agreement, on written notice, in order to give effect to a change in law or in the definition of eligible person arising from a change in the law from the date that change has effect.

9.7.8 Any variation to this Outcome Agreement must be in writing and, except for a variation made under clause 9.7.7, signed by both parties.

9.8 Additional audit provisions

In addition to the Framework Terms and Conditions provisions 5.2 to 5.6, the parties agree that the Purchasing Agency may conduct audits in accordance with the Ministry Audit Process.

9.9 Additional termination provisions

If the Provider is:

- (a) placed in liquidation or receivership or is insolvent; or
- (b) convicted of any dishonesty offence relating to any claim for payment from any party (including the Purchasing Agency) or if any of its core management team are so convicted and the Purchasing Agency reasonably considers the Business Viability Standards will not be met,

the Purchasing Agency may terminate this Outcome Agreement immediately on written notice to the Provider.

9.10 Transfer of rights and obligations

9.10.1 Change of ownership

If the Provider is a company, any changes to the shareholders of the company (or any holding company) that alter who controls the company (as defined or used in the Companies Act 1993) will be treated as a transfer that requires the Purchasing Agency's prior written approval.

9.10.2 Transfer of rights and obligations

- (a) The Provider must obtain the Purchasing Agency's prior written approval to transfer all or any part of its rights and obligations under this Outcome Agreement to a third party. In seeking the Purchasing Agency's approval the Provider must:
 - (i) notify the Purchasing Agency, not less than 20 business days before the date of the proposed transfer providing any information reasonably requested by the Purchasing Agency (and by completing the Ministry of Health transfer document "Application for Assignment of Residential Support Agreement" where applicable) and forwarding it to the Ministry of Health Relationship Manager; and

- (ii) satisfy the Purchasing Agency that the proposed transferee is suitable as a provider of the service.
- (b) The Purchasing Agency will endeavour to advise the Provider of its decision concerning the Provider's request within five business days of receiving the Provider's application and any information reasonably requested by the Purchasing Agency. If the Purchasing Agency approves the transfer, the Provider must comply with any reasonable conditions the Purchasing Agency may impose as part of its approval. All other obligations under this Outcome Agreement remain unless the parties agree in writing.

9.11 Cooperation with transfer of service

The Provider agrees to cooperate and provide the Purchasing Agency with assistance it may reasonably require to ensure that any handover of the services to the Purchasing Agency or a third party is conducted smoothly and professionally, either on transfer under clause 9.10 or at the expiry or termination of the Outcome Agreement.

9.12 Applicable Purchasing Agency objectives

The Provider will comply with and any applicable Purchasing Agency objectives.

Appendix 10 – Performance measures and reporting

Name of service:

Clients:

Performance measures*		
How many? (Quantity of effort = #)	How well ...? (Quality of effort = %)	Is anyone better off? (Quantity and quality of effect = #/%)

Narrative report:

What's the story behind the data?

Describe the key factors impacting on the performance measures for this period.

Issues?

Are there any emerging issues or trends you wish to bring to the Purchasing Agency's attention?

Additional performance measures may be incorporated into the Qualtrics online tool and will be completed by the Provider for any of the Services provided under this Outcome Agreement.

Appendix 11 – Additional service specification applicable to this service

[Delete if not applicable]