

Agreement
Between
**HER MAJESTY THE QUEEN IN RIGHT OF HER
GOVERNMENT IN NEW ZEALAND**
(acting by and through the Ministry of Health)



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for Health and Disability Services

You, as the Provider, agree to provide the Services on the terms of this agreement.

Signed for and on behalf of
**HER MAJESTY THE QUEEN IN RIGHT OF
HER GOVERNMENT IN NEW ZEALAND
OF HEALTH by:**

Signed for and on behalf of
«PROVIDER_NAME» by:

Authorised Signatory
Position.....
Date

Authorised Signatory
Position.....
Date

HEAD AGREEMENT – SUMMARY TABLE

This section lists all documents included in The Agreement. The Agreement comes into effect from the commencement date identified in Part 1 below. The following summary table will be updated, in an agreement variation, whenever there is a change to this list.

Part 1 – The Head Agreement

Document	Commencement Date
This Document	«CONTRACT_STARTDATE»

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PART 1 HEAD AGREEMENT

SECTION A: GENERAL TERMS AND CONDITIONS

A1 AGREEMENT

- A1.1 We agree to purchase and you agree to provide Services on the terms and conditions set out in the Agreement, which you and we enter into under section 10 of the New Zealand Public Health and Disability Act 2000.
- A1.2 The Agreement means Part 1 (this document, to be referred to as the Head Agreement), together with Part 2 (the documents listed in the Agreement Summary).
- A1.3 Expressions used in this Agreement are defined in clauses A30.11 and A30.12
- A1.4 If there is any conflict between the terms of Part 1 and Part 2, the terms of Part 2 will prevail.
- A1.5 Both of us acknowledge that both of us expect that Part 1 will not normally be amended and that any such amendment will usually be expressly provided for in Part 2.
- A1.6 The Agreement will commence on the Commencement Date and, subject to any rights of review, amendment, variation or termination, will apply until the End Date.

A2 RELATIONSHIP AND REVIEW PRINCIPLES

A2.1 Relationships

Both of us acknowledge that the relationship between each of us is fundamental in achieving our respective objectives in entering into the Agreement. Both of us therefore agree and commit, to address and develop relationship principles, which will guide both of us in our dealings with each other in the operation of this Agreement.

A2.2 Review

Both of us acknowledge the ongoing nature of this Agreement and the need for and commitment to continuous improvement in service delivery and health outcomes within available funding. Both of us agree that this includes such support as we may agree from time to time, for a streamlined purchase framework and service reviews, which address areas of poor health status and/or inadequate service delivery.

A3 MÄORI DISABILITY AND HEALTH SERVICES

A3.1 Treaty of Waitangi and Mäori Disability and Health Statement

The Treaty of Waitangi establishes the unique and special relationship between iwi Mäori and the Crown. As a Crown organisation we consider the Treaty of Waitangi principles of partnership, participation and proactive protection of Mäori disability and health interests, co-operation and utmost good faith, to be implicit conditions of the nature in which our organisation responds to Mäori disability and health issues.

Equally we require that these principles shall be explicitly expressed in agreements between contracted Service providers and us. Therefore all contracted providers, whose clientele may include Mäori, shall demonstrate how the policies and practices of their provider organisation and Service delivery shall benefit that Mäori clientele. This reflects Objective 11 of the New

Zealand Disability Strategy, which is to ensure that mainstream providers of disability services are accessible to and culturally appropriate for disabled Māori and their whānau. This will include:

- developing the capacity of disabled Māori through the equitable allocation of resources within the context of Māori development frameworks;
- the provision of appropriate training for Māori disability service provider professionals; and
- increasing the advisory capacity of Māori.

A3.2 Māori Health Priority

Where the Services contain a specific Māori Health component the following will apply:

- a. You agree that Māori health is a specifically identified health gain priority area. You must therefore establish and implement a Māori health policy that reflects that fact. In developing this policy, and without limitation, you must take into account our strategic direction for Māori health in terms of minimum requirements for Māori health based on the Treaty of Waitangi, Crown objectives for Māori health and specific requirements negotiated from time to time with us.
- b. You must specify how you intend to implement this policy. Together, we will identify those services you will deliver as explicit contributions to Māori health gain priorities, how these services will be measured to ascertain what benefit is evident and other additional opportunities that may exist for furthering Māori health gain. We will agree any additional services we may need to purchase to implement this policy.
- c. On commencement of the Agreement, you must develop your Māori health policy and operational plans after consultation with us, subject to agreement between both of us as to our respective responsibilities for ensuring that the plans, policy and services are adequately resourced within the current levels of funding.

A4 SERVICE PROVISION

A4.1 Provision of Services

You must provide the Services and conduct your practice or business:

- a. in a prompt, efficient, professional and ethical manner; and
- b. in accordance with all relevant law; and
- c. in accordance with Our Objectives;

from the Commencement Date and then without material interruption until the End Date of the relevant Services or until the Agreement or the relevant Services end in accordance with the terms of the Agreement.

A5 PAYMENTS

A5.1 We will pay you in accordance with the terms of the Agreement.

A5.2 You may only claim payments under this Agreement in respect of Services provided to Eligible Persons unless you are a Disability Information and Advisory Services (DIAS) agency and a set amount of funding is to be provided for Services provided under this Agreement. If there is any conflict between this clause and the Service Specification set out

in Part 2 Section C, Part 2 Section C will prevail in determining the payments that you may claim.

- A5.3 Subject to clause A5.5 below, if we do not pay any amount due to you within three (3) days of the agreed payment date, then you may charge us Default Interest from the agreed payment date.
- A5.4 Subject to any existing arrangements between both of us, no Default Interest is payable with respect to invoices received by us prior to the agreement being signed by both of us.
- A5.5 You must first have given us an invoice completed in the agreed format and we must have received it 10 Working Days before the agreed payment date which must be specified in that invoice.
- A5.6 If you invoice us for Services not covered by this Agreement, we may recoup any payment made in respect of such invoice and charge you Default Interest on such payment from the date paid until recoupment is made.

A6 WITHHOLDING OF PAYMENTS

- A6.1 Where you:
 - a. Breach clause A11.2, or clause A11.6; or
 - b. Have not completed a compliance requirement contained in a notice of default given under clause A12.3(b) or in a notice given under clause A12.4; or
 - c. Fail to meet your obligations in terms of clause A23,

we may withhold some or all of the next payment or payments due until you have remedied the breach, or otherwise complied with the relevant obligation, or until any costs incurred by us have been met, whichever is later.

- A6.2 Where you have failed to comply with any obligations under this Agreement not referred to in clause A6.1, and that failure is material, we may withhold 5% of the next payment or payments due until you comply with the relevant obligation or until any costs incurred by us have been met, whichever is later.
- A6.3 A6.3 We will give 20 Working Days notice of our intention to withhold payments under clause A6.1 and/or A6.2, during which notice period you may remedy your non-compliance.

A7 INSPECTION OF RECORDS UNDER HEALTH ACT 1956

- A7.1 Where we exercise powers under section 22G of the Health Act 1956, or any enactment that replaces that section and, following inspection under that section, we are unable to verify any of the your claims for payment under this Agreement, we may:
 - a. Require you to report at such intervals and on such financial matters as we may specify;
 - b. Withhold payments under this Agreement from you until satisfied of the veracity of any of your claims for payment; and
 - c. Take such further action, as we consider necessary in the circumstances.

A8 CHARGES TO SERVICE USERS

- A8.1 Subject to your right to charge Service Users User Part Charges for certain Services as detailed in the Agreement, you will not charge Eligible People for Services funded by us under the Agreement.
- A8.2 If and when you provide Services to persons who are not Eligible Persons, you will use your best endeavours to charge and recover from that person at least the full cost to you of providing that Service. You will record details of Services provided to such persons, the costs of such Services and the extent to which these costs are recovered.

A9 COST SHIFTING

You must not knowingly be party to any arrangement, which results in

- a. our effectively having to pay more than once; or
- b. you effectively receiving separate payments, whether from us or any other Person for the supply of the same Services or any component of them.

A10 OTHER ARRANGEMENTS

- A10.1 You must not enter into any other agreement or arrangement, which would prejudice your ability to meet your obligations in the Agreement.
- A10.2 You may (subject to your obligations in the Agreement) agree to provide Services for any other person.
- A10.3 You may assign your right to receive payment under this Agreement to another party providing finance to you for the sole purpose of obtaining such finance.
- A10.4 Except as provided in clause A10.3, you must not transfer any part of your rights or obligations under the Agreement without our prior written consent, and such consent is not to be unreasonably withheld.

A11 QUALITY ASSURANCE

- A11.1 Record keeping
- a. You must keep and preserve Records and protect the security of them in accordance with your statutory obligations and make them available to us in accordance with our reasonable instructions and our rights to access such Records.
 - b. In the event of your ceasing to provide the Services you must:
 - i. transfer Records relating to Service Users to the new provider of services to those Service Users; and
 - ii. preserve Records not transferred to another provider.
- A11.2 Access for Quality Audit
- a. You must co-operate with us fully and allow us, or our authorised agents, access to:
 - i. your premises;
 - ii. all premises where your Records are kept;

- iii. Service Users and their families and nominated representatives;
- iv. staff, sub-contractors or other personnel used by you in providing the Services,

for the purposes of and during the course of carrying out:

- v any Quality Audit of your Services at your Premises; or
 - vi. any Quality Audit of your agents or subcontractors who provided services to Service Users to whom you provide Services, or in respect of whom you hold relevant Records.
- b. You must ensure that any sub-contracting or agency agreements you may enter into in relation to the Services include a provision to the effect that the sub-contractor or agent must co-operate fully with us.
 - c. You must ensure that the people appointed by us to carry out the Quality Audit have the access referred to in this clause A11.2, during the hours they are entitled to audit.
 - d. For the purposes of clause 11.2(a)(iii), within 3 Working Days after receiving notice of a Quality Audit under clause A11.3(a), or immediately in the case of a Quality Audit under clause A11.3(b), you must, as far as practicable, provide to us, in writing, the names and addresses of all Service Users' families and nominated representatives or a sample of the names and addresses of Service User's families and nominated representatives, depending on our request.
 - e. We will ensure that the exercise of access under this clause will not unreasonably disrupt the provision of the Services to Service Users.

A11.3 Notice of Quality Audits

- a. Subject to clause A11.3(b), we will give you 10 Working Days prior notice of any Quality Audit unless we agree to greater notice.
- b. If we believe that delay will prejudice the interests of any Person, we may carry out a Quality Audit without prior warning. If we exercise our rights under this clause, we will give you notice on our arrival at your premises of the scope of and reasons for the Quality Audit to be carried out.
- c. We may also, during the course of a Quality Audit commenced under clause A11.3(b), expand the scope of the Quality Audit to matters not referred to in the notice if desirable, in the opinion of the Quality Auditor carrying out the Quality Audit, to assess whether you comply with your obligations under this Agreement.

A11.4 Times for Quality Audits

- a. Subject to clause A11.4(b), a Quality Audit may be carried out between 9 am and 5 pm on any Working Day and at any other time by agreement.
- b. We may carry out a Quality Audit under clause A11.3(b) at any time on any day where reasonably necessary having regard to the scope of that Quality Audit.

A11.5 Appointment of Quality Auditors

- a. We may appoint our staff or third parties to audit, on our behalf, and at our cost, in relation to any of the matters contained in the Agreement. Each Person so appointed is a Quality Auditor.
- b. We will give you prior written notice of the names of the people to be appointed.
- c. You may object to such appointments where any or all of those people appointed (whether our staff or third parties) have a demonstrable conflict of interest, by

advising us of the claimed conflict of interest and providing the evidence which supports your claim.

- d. If we receive advice from you under clause A11.5(c) not less than 5 Working Days before a Quality Audit is to be conducted under clause A11.3(a), we will review the information provided and, if we agree that there is a conflict of interest, the Quality Audit will not proceed until we have appointed a replacement Quality Auditor.
- e. If we receive advice from you under clause A11.5(c) either:
 - i. less than 5 Working Days before a Quality Audit under clause A11.3(a);
or
 - ii. in relation to a Quality Audit under clause A11.3(b),

we may conduct the Quality Audit up to and including the preparation of the Draft Findings Report while we review the information provided. If we agree that there is a conflict of interest, we will appoint a replacement Quality Auditor to verify the Draft Findings Report before we prepare the Final Audit Report.

A11.6 Quality Audit process

- a. In carrying out any Quality Audit we may:
 - i. have access to Health Information about any past or current Service User;
 - ii. observe the provision or delivery of the Services;
 - iii. interview and/or survey Service Users and/or their families (including, without limitation, either in writing or by way of an interview); and
 - iv. interview and/or survey any staff, sub-contractors or other personnel used by you in providing the Services (including, without limitation, either in writing or by way of an interview),

in accordance with the Privacy Act 1993 and any code of practice issued under that Act covering Health Information held by health providers.
- b. Each Quality Auditor may take copies of any parts of the Records for the purposes of the Quality Audit in accordance with the Privacy Act 1993, and any code of practice issued under that Act covering Health Information held by health providers.
- c. You must allow each Quality Auditor to use any photocopier at your Premises, but you are not required to supply paper. If there is no photocopier at your Premises, we may remove the relevant Records from your Premises for the purposes of copying such Records, and we will return those Records on the same day or, if that is not practicable, within 24 hours or a timeframe agreed between both of us.
- d. For the purposes of clause A11.6(a)(iv), during the course of a Quality Audit you must provide opportunities for the Quality Auditors to interview staff, sub-contractors or other personnel used by you in providing the Services, in private, without you or your Manager being present. At the request of a staff member, sub-contractor or other Person being interviewed, a support person (excluding you or your Manager) may be present at any interview.
- e. On the completion of the Site Visit, the Quality Auditor must discuss the preliminary findings of the Quality Audit with you.

A12 QUALITY ASSURANCE – REPORTING AND COMPLETION

A12.1 Draft Findings Report

- a. We will submit a Draft Findings Report to you within 5 Working Days of the Site Visit.
- b. To the extent that we wish to incorporate in the Draft Findings Report any information provided in interviews conducted under clause A11.2(a)(iii) and (iv) and identify the Person or Persons who provided that information, we will do so only with the prior consent of the Persons concerned.
- c. We will include a fair and reasonable summary of the information provided under clause A11.6(a)(iii) and (iv) as an appendix to the Draft Findings Report.
- d. If you disagree with any of the findings in the Draft Findings Report, you may respond to us within 5 Working Days of receipt of the Draft Findings Report, indicating why you do not agree with the findings.

A12.2 Final Audit Report

- a. We must prepare a Final Audit Report that takes into account your comments on the Draft Findings Report.
- b. The Final Audit Report must include:
 - i. a summary of your comments, if any, on the Draft Findings Report;
 - ii. the Final Findings Report, including a statement as to whether or not you are compliant with your obligations under this Agreement;
 - iii. actions that you must take, if any, to become compliant with your obligations under this Agreement (“compliance requirements”);
 - iv. the timeframe within which you must complete the compliance requirements;
 - v. the actions required to verify that you have met the compliance requirements. This may include a follow up visit by the Quality Auditor.
- c. The Final Audit Report will be sent to you within 20 Working Days of the Site Visit.

A12.3 Provider in default

- a. You are in default if you have not completed a compliance requirement specified in the Final Audit Report within the timeframe set in accordance with clause A12.2(b).
- b. Where you are in default, we may give you notice of default, and such notice shall state:
 - i. where the compliance requirement was to be completed within 2 Working Days, that you have a further period of not less than 2 Working Days from the date of notice of the default to comply with the relevant compliance requirement;
 - ii. where the compliance requirement was to be completed within 2 to 10 Working Days, that you have a further period of not less than 10 Working Days from the date of the notice of default to comply with the relevant compliance requirement; or
 - iii. in all other cases, that you have a further 20 Working Days from the date of the notice of default to comply with the compliance requirements.
- c. If, by the end of any period stated under clause A12.3(b), you have not completed the compliance requirement(s) in question, we may:

- i. vary the compliance requirement;
 - ii. extend the timeframe to complete the compliance requirement;
 - iii. withhold payment in accordance with clause A6; or.
 - iv. terminate this Agreement in accordance with clause A27.
- d. When we are satisfied that you have completed all compliance requirements, we will notify you in writing that you are compliant.

A12.4 Material or repeated failure

If in our opinion, based on reasonable grounds:

- a. Your non compliance with your obligations under this Agreement, as stated in a Final Audit Report, is material; or
- b. On the basis of a Final Audit Report and any previous Final Audit Report relating to any previous Quality Audit of your Premises, you have repeatedly failed to comply with your obligations under this Agreement,

we may give you a single period of not less than 20 Working Days to complete any or all compliance requirements specified under clause A12.2(b)(iii), and if by the end of that period, you have not completed the relevant compliance requirements, clause A12.3 shall not apply and, despite clause A13.4, we may terminate this Agreement under clause A27.

A12.5 Advice to Family Members

We may advise a Service User's family or nominated representative about the progress of a Quality Audit at any time during the course of or following the Quality Audit where we have serious concerns (based on reasonable grounds) about the health and safety of that Service User.

A12.6 A Quality Audit is completed when we notify you that you are compliant.

A12.7 Publication of Final Audit Report

- a. Subject to clause A12.7(b), we may publish the Final Audit Report on our website and in any other medium.
- b. A Final Audit Report will not be published while that Final Audit Report is being reviewed under clause A13 or is the subject of dispute resolution under clause A25.
- c. Subject to the Privacy Act 1993 and any code of practice issued under that Act, you must make the Final Audit Report available to any Person for reading on request.
- d. If a Person requests a copy of the Final Audit Report, you may require that Person to pay reasonable costs for copying.

A12.8 We retain the right to conduct a Quality Audit after this Agreement ends, but only in respect of Services provided prior to termination, or following termination under clause A29.

A13 QUALITY AUDIT REVIEW

A13.1 If you dispute any element of the Final Audit Report, you may apply to us for a review of the Quality Audit.

A13.2 We will review the Quality Audit only if we receive an application for review under clause A13.1 no later than 10 Working Days after the Final Audit Report is sent to you.

A13.3 Quality Audit Review Process

- a. We will notify you that the application for review has been received.
- b. We will request information in relation to the issues raised by you from the Quality Auditors who carried out the Quality Audit.
- c. Our Chief Internal Auditor, or a Person responsible for this function within the Ministry, will review all information relating to the Quality Audit.
- d. Following our Chief Internal Auditor's review, we will discuss our response to the issues raised with you.
- e. Both of us must use our best endeavours to resolve the issues raised by you.
- f. If we agree with any issues raised by you, we will amend the Final Audit Report accordingly.
- g. If you and we are unable to resolve any issue raised within 20 Working Days from the date that we receive your application for review, then either of us may require mediation under clause A25.1(b) and clause A25 will apply accordingly.

A13.4 You must comply with all your obligations, including any compliance requirements issued under clause A12.2(b), while the review process is carried out, but we will not terminate the Agreement under clause A12.3(c) until the review is complete.

A13.5 Where you have complied with any compliance requirements in the Final Audit Report issued under clause A12.2(b) ("the original requirements"), which are amended or removed under clause A13.3(f) ("the amended requirements"), we will reimburse you an amount equal to our assessment of the difference between the reasonable costs of complying with the original requirements and the amended requirements.

A14 FINANCIAL MANAGEMENT AND AUDIT

A14.1 You must operate sound financial management systems and procedures in relation to

- a. the Services;
- b. your premises; and
- c. Service Users where you are maintaining or managing Service User personal funds.

A14.2 If you receive moneys from other sources on behalf of a Service User (except payments for the Services) these moneys shall be noted in a separate accounting record held on behalf of the client, and you will keep full records of all such moneys for inspection by either the Service User on whose behalf such funds are being held or his/her authorised agent or by us or our authorised agent. You shall make these funds available to the Service User as requested or needed by that Service User or his/her legal representative.

A14.3 Where we have serious concerns (based on reasonable grounds) that you are not operating sound financial management systems and procedures, without limiting any of our other rights in this Agreement, we may:

- a. request that you provide, to an independent auditor appointed by us at our cost, within 30 days of our request:
 - i. a copy of your most recent accounts, including accounts relating to individual or all Service Users personal funds;
 - ii. any previous year's accounts (audited or otherwise, as required by us); and/or
 - iii. a solvency certificate from an appropriately qualified Person; and
- b. arrange for that independent auditor to audit:
 - i. the correctness of the information you give us under clause A14.2(a);
 - ii. your calculations of the cost of providing the Services; and
 - iii. your financial position.

A14.4 The independent auditor:

- a. must not disclose details of your costs of providing the Services; but
- b. may advise us if he or she considers that your financial position may prejudice, or otherwise affect, your ability to carry out your obligations under the Agreement; and
- c. may advise us if he or she considers that you are not appropriately managing Service Users personal funds.

A14.5 If the independent auditor so advises us under clause A14.4 (b), we may carry out a Quality Audit.

A15 INSURANCE

A15.1 You must have reasonable comprehensive insurance covering your business throughout the term of the Agreement or so long thereafter as required for the purposes of the Agreement. You must notify us on request of the insurance cover you have put in place. You may self-insure where you consider it to be appropriate.

A16 INDEMNITY

A16.1 You must indemnify us for all claims, damages, penalties or losses including reasonable costs (but excluding indirect or consequential losses) caused by:

- a. a failure by you to comply with obligations in the Agreement; or
- b. any act or omission by either of you or by any person for whom you are responsible, where that act or omission occurs in the course you performing (or failing to perform) an obligation in the Agreement.

A16.2 Clause A16.1 does not mean that you are responsible for legal liabilities caused by us, or our servants or agents, actions or omissions. Where there is joint responsibility, each of us will bear their own proportion of the liability according to the degree of responsibility involved.

A17 COMPLAINTS

A17.1 Complaints Procedure

You will enable Service Users/families/whanau and other people to make complaints through a procedure for the identification and management of complaints. This procedure will meet the Health and Disability Commissioner's Code requirements and will also ensure that:

- a. the complaints procedure itself is made known to and easily understandable by consumers/families/whanau
- b. all parties have the right to be heard
- c. the person handling the complaint is impartial and acts fairly
- d. complaints are handled at the level appropriate to the complexity or gravity of the complaint
- e. any corrective action required following a complaint is undertaken
- f. it sets out the various Complaints Bodies to whom complaints may be made including the Complaints Body referred to in the Agreement, and the process for doing so. Service Users/families/whanau will further be advised of their right to direct their complaint to the H&D Commissioner and to us, particularly in the event of non-resolution of a complaint
- g. complaints are handled sensitively with due consideration of cultural or other values
- h. Maori Service Users and their whanau will have access to a Maori advocate to support them during the complaints process
- i. Service Users who complain, or on whose behalf families/whanau complain, shall continue to receive Services which meet all contractual requirements
- j. complaints are regularly monitored by the management of the Services and trends identified in order to improve service delivery
- k. it is consistent with any complaints policy as notified by us from time to time.

A17.2 If we wish to initiate a quality audit based on any complaints we have received, we will inform you of the substance of that complaint in the notice required under clause A11.3(b).

A17.3 We will give you reasonable assistance in respect of any complaints made to any Commissioner appointed by statute, which involve both of us.

A18 WARRANTY

Each of us warrants that all material information given to the other is correct, to the best of our respective knowledge and belief.

A19 DEALING WITH ISSUES AND RISKS

A19.1 Notification of issues and risks

- a. Upon becoming aware of any:
 - i. significant risks,
 - ii. significant issues (including those that could reasonably be considered to have high media or public interest), orwhich materially reduce or affect, or are most likely to materially reduce or affect, the ability of either of us to meet our obligations under the Agreement, each of us will notify the other.

- b. We must discuss with each other possible ways of remedying the matters notified. Discussion or attempted discussions will not limit any of either party's rights under the Agreement.
- c. You will notify us in writing if an event occurs that results in the death of, or significant injury or harm to, a Service User or Service Users with your Services. Such notification will include a full description of the incident, its consequences, the remedial action taken and any further action required. You will notify us within two working days in the case of a death and within seven working days of significant injury or harm.

A20 VARIATIONS TO THE AGREEMENT

A20.1 This Agreement may be varied at any time by agreement between both of us and also on the occurrence of any of the following Variation Events:

- a. Where either of us consider that changes occurring as a result of:
 - i. any change in law;
 - ii. any change in the definition of Eligible Person arising from a change in the law after the date on which this Agreement commences;
 - iii. requirements under the Service Agreement;
 - iv. significant changes in the health sector environment or costs that are beyond the control of either of us,

will have a material impact on the provision of Services including the costs of providing Services.

- b. Where an Uncontrollable Event occurs. In that case clause A21 will apply in addition to provisions of this clause.

A20.2 On the occurrence of a Variation Event, we will both identify and quantify the impact of the Variation Event and will seek expert advice, if necessary, to assist us in doing so.

A20.3 Where we both agree there is a material impact resulting from the Variation Event, both of us will then seek to agree a variation to this Agreement, which may include, without limitation:

- a. Reconfiguration of any Services; or
- b. Adjustment to costs of or payments in respect of any Services.

- A20.4 Where both of us are unable to agree that there is a material impact, or potential material impact resulting from the Variation Event, then the matter may be referred to dispute resolution under clause A25. Where it is determined through the dispute resolution procedure that there is a material impact, or potential material impact, resulting from the Variation Event, the parties shall seek to agree a variation to the Agreement in accordance with clause A20.3.
- A20.5 Each of us must negotiate in good faith to reach prompt agreement on any issues, proposed amendments or any alternative proposal.
- A20.6 If neither of us can agree on any variation to the Agreement in accordance with clause A20.3 or A20.4 within 2 months of agreement under clause A20.3, or determination under clause A20.4, then either of us may terminate this Agreement by giving 6 months written notice.
- A20.7 Despite anything in this Agreement to the contrary, we may vary this 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.
- A20.8 Any variation to this Agreement must be in writing and, except for a variation made under clause A20.7, signed by both of us.

A21 UNCONTROLLABLE EVENTS

- A21.1 The person affected by an Uncontrollable Event will not be in default under the terms of the Agreement if that Uncontrollable Event causes the default. The person affected must:
- a. promptly give written notice to the other specifying:
 - i. the cause and extent of that person's inability to perform any of the person's obligations; and
 - ii. the likely duration of the non-performance;
 - b. in the meantime take all reasonable steps to remedy or reduce the impact of the Uncontrollable Event.
- A21.2 Neither of us is obliged to settle any strike, lock out or other industrial disturbance.
- A21.3 Performance of any obligation affected by an Uncontrollable Event must be resumed as soon as is reasonably possible after the Uncontrollable Event ends or its impact is reduced.
- A21.4 If you are unable to provide any Services as the result of an Uncontrollable Event we may make alternative arrangements suitable to us for the supply of those Services during the period that you are unable to supply them after we consult with you.

A22 REVIEW

- A22.1 A review initiated under this clause A22 must relate solely to matters applicable to the provision of disability support services nationally for the purpose of ensuring nationally consistent and nationally applicable provisions.
- A22.2 Subject to compliance with clause A22.3, we may, including on your request, at any time initiate a review, for whatever reason, of:
- a. the whole or any part of the Agreement 9 months from the Commencement Date of the Agreement; and/or

- b. the whole or any part of a Service Schedule that forms part of this Agreement before the End Date of that Service Schedule;

by giving you 10 Working Days written notice.

- A22.3 The written notice initiating a review under clause A22.2 must describe the purpose for the review, issues to be addressed and any proposals in existence at the time of the notice. Any proposals developed subsequent to the Commencement Date will be communicated to you in writing as soon as possible after they have been developed.
- A22.4 Following a review initiated under this clause A22, we may propose amendments to the whole or part of the Agreement or Service Schedule. Both of us will then, in good faith, seek to agree on what amendments, if any, will be made to the Agreement or relevant Service Schedule. This clause A22.4 does not require either of us to withdraw from or compromise what either of us considers to be fundamental policy, principles, objectives or requirements arising from the Services Agreement.
- A22.5 To assist us to reach such agreement, we may both agree to appoint an independent person with relevant expertise to analyse the impact, financial or otherwise, of any proposed amendment. The independent expert is to act as an expert and not as an arbitrator and their advice will not be binding. All costs associated with the appointment of the independent expert are to be shared equally between both of us or otherwise as determined by the independent expert.
- A22.6 Any amendments to the Agreement or a Service Schedule that are specific to you are to be made by agreement between us. For the purposes of this clause A22, “amendments” includes, without limitation, the addition of a new provision or Service Schedule to this Agreement or the deletion of an existing provision or Service Schedule to this Agreement.
- A22.7 If both of us are unable to agree on any such amendment within 3 months of the date of the written notice of the review under clause A22.2, both of us will then refer the matter in writing to our respective chief executives for discussion.
- A22.8 If our respective chief executives are unable to agree on what amendments, if any, should be made to the whole or part of the Agreement or a Service Schedule within one month of the matter being referred to them, then the matter will be referred in writing to the Minister for determination. Any determination by the Minister under this clause A22.8 will be binding on both parties.
- A22.9 Any amendments agreed under clauses A22.4 or A22.7 will take effect under this Agreement from a date agreed to by both of us. Any amendments determined by the Minister under clause A22.8 will take effect from the date specified by the Minister.
- A22.10 Any review of the Agreement or any Service Schedule initiated by us before the Commencement Date of this Agreement will be deemed to have been initiated in accordance with clauses A22.2 and A22.3.

A23 WE MAY REMEDY YOUR FAILURE TO MEET YOUR OBLIGATIONS

- A23.1 A23.1 Where you have, in our opinion (such opinion based on reasonable grounds), committed a breach of your obligations under this Agreement you have an obligation to remedy such breach.

If such a breach, in our opinion, requires urgent action to protect the health and safety of Service Users,

we may, unless such breach is due to an Uncontrollable Event:

- c. Withhold some or all of our payments to you in accordance with clause A6 until you have remedied the breach or until we are satisfied on reasonable grounds that you have taken appropriate steps to ensure that a breach of that nature will not happen again; and
- d. Ourselves take action to remedy the breach, and recover the reasonable costs (including reasonable legal expenses if any) from you, including by deducting such costs and expenses from payments due under this Agreement in accordance with clause A6.1.

A23.2 You may initiate dispute resolution under clause A25 in respect of any action taken by us under this clause A23, but we are not required to delay or suspend any such action while dispute resolution is proceeding.

A24 PUBLIC STATEMENTS, ISSUES AND ADVERTISING

A24.1 Neither of us may directly or indirectly criticise the other publicly, without first discussing the matters of concern with the other.

A24.2 The discussion referred to in clause A24.1 must be carried out in good faith and in a co-operative and constructive manner.

A24.3 Nothing in this clause A24 prevents either of us from discussing any matters of concern with our respective staff, subcontractors, agents, advisers or persons to whom we are responsible.

A24.4 Neither of us may use the name or logo of the other without the prior written consent of the other.

A24.5 The provisions of this clause A24 will remain in force after the Agreement ends.

A25 DISPUTE RESOLUTION

A25.1 If either of us has any dispute with the other under this Agreement then:

- a. Both of us will use our best endeavours and act in good faith to settle the dispute by agreement; and
- b. If the dispute is not settled by agreement within 20 Working Days, then, unless both of us agree otherwise, either of us may (by written notice to the other) require that the dispute be submitted for mediation by a single mediator agreed by both of us, or if both of us cannot agree on a mediator, a mediator nominated by LEADR or if LEADR no longer exists or is unable to nominate a mediator, the President for the time being of the New Zealand Law Society. In the event of any such submission to mediation:
 - i. the mediator will not be deemed to be acting as an expert or an arbitrator;
 - ii. the mediator will determine the procedure and timetable for the mediation;
 - iii. the cost of the mediation will be shared equally between both of us (unless otherwise agreed).

- c. Subject to clause A25.3 if the dispute is not settled by mediation in accordance with clause A25.1(b), then either of us may initiate proceedings in the District Court.
- A25.2 Neither of us will initiate any court proceedings during this dispute resolution process, unless proceedings are necessary for preserving the party's rights.
- A25.3 Both of us will continue to comply with all our obligations in the Agreement until the dispute is resolved.
- A25.4 Except where expressly provided for, this clause A25 will not apply to any dispute concerning:
- a. any variation or review of any part of this Agreement; or
 - b. whether or not any Person is an Eligible Person.

A26 NOTICE OF FUTURE INTENTIONS

- A26.1 Before the End Date of any Service Schedule if:
- a. one of us does not wish to enter into a new Service Schedule for those Services when the Service Schedule ends; or
 - b. one of us wishes to enter into a new Service Schedule for those Services when the Service Schedule ends but on materially different terms,

that party must give a minimum of 6 months notice. Provided that if Management of Change Protocols apply in these circumstances and such protocols specify a different period, the notice period in any event shall not be less than 6 months.

- A26.2 This clause does not mean either of us must enter into a contract with the other when the Agreement ends.

A27 TERMINATION OF THIS AGREEMENT

- A27.1 We may terminate this Agreement by giving you notice in writing if any of the following events occur:
- a. You are convicted of any dishonesty offence relating to any claim for payment from any party (not limited to us or our predecessors) whether claimed pursuant to this Agreement or otherwise; or
 - b. You have failed to carry out any of your obligations under this Agreement and the failure is material; or
 - c. You have failed to carry out any of your obligations under this Agreement, other than in relation to the completion of compliance requirements, and you do not remedy the failure within 20 Working Days of receiving notice of default from us; or
 - d. Clause A12.3(c) applies (which relates to non completion of compliance requirements); or
 - e. Clause A12.4 applies (which relates to material or repeated failure); or
 - f. You are placed in liquidation or a receiver is appointed.

- A27.2 For the purposes of clause A27.1(b), a material failure includes, but is not limited to, a breach of any of the following clauses:
- a. Clause A11.2 (Access for Quality Audit); or
 - b. Clause A11.6 (Quality Audit Process).
- A27.3 Termination under clause A27.1 takes effect on the day that we give you notice under that clause, or any later date specified in that notice.
- A27.4 Either of us may terminate this Agreement by giving 12 weeks notice in writing to the other, unless a shorter notice period is agreed by both of us.
- A27.5 If we default in any of our obligations and we fail to remedy the default within 20 Working Days of your giving us written notice of the default you may do any one or more of the following:
- a. seek specific performance of the Agreement; or
 - b. seek damages from us; or
 - c. seek default interest (calculated at the bill rate plus 2 percent per annum. The bill rate means the average rate per annum (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page displaying substantially the same information) under the heading "FRA" for bank accepted bills having a term of three months as fixed at 10.45 am on the date the default interest under this clause A27.5 is first payable).
- A27.6 Nothing in clause A27.5 above affects any other rights you may have against us in law or equity.

A28 EFFECT OF TERMINATING THE AGREEMENT

- A28.1 Immediately following termination of the Agreement:
- a. We will:
 - i. continue making further payments to you under this Agreement in relation to services provided under clause A28.1(b)(i), except where you do not comply with your obligations under clause A28.1(b)(ii), but otherwise we will cease making payments to you under this Agreement;
 - ii. inform the affected Service Users and, as far as practicable, each affected Service User's family of the termination of this Agreement;
 - iii. where necessary, make alternative arrangements with another provider or providers to commence the provision of Services to Service Users as soon as practicable; and
 - b. You will:
 - i. continue to provide Services to each affected Service User under the terms and conditions of this Agreement until such times as the alternative arrangements we have made with another provider or providers for the provision of Services to Service Users commence;
 - ii. co-operate with us and our agents accordingly, including allowing us to access your Records, communicate with Service Users and, as far as practicable, supplying us with contact details for such Service Users' families.

A28.2 Where either of us has given notice in writing under clause A27.4, both of us will use our best endeavours to ensure that, where necessary, both of us have facilitated the smooth transition of Services to Service Users in accordance with clause A28.1(a)(ii) prior to the expiry of the 12 week period specified in the notice or as otherwise agreed between both of us.

A28.3 Any termination of this Agreement will not affect:

- a. The rights or obligations of either of us that arose before this Agreement was terminated; or
- b. The operation of any clauses in this Agreement that are expressed or implied to have effect after this Agreement ends.

A29 CONFIDENTIALITY

- a. Except as otherwise provided in the Agreement, neither of us may disclose any Confidential Information to any other person.
- b. Both of us acknowledge that the Agreement, but not any Confidential Information, may be publicly released by us through any media including electronically via the Internet.
- c. Neither of us will disclose to any third party, information which will identify any individual (as defined in the Privacy Act 1993):
 - i. without that person's informed consent; or
 - ii. unless authorised by statute, or by a Code of Practice under the Privacy Act 1993 covering Health Information held by Health Agencies.
- d. This clause does not apply:
 - i. to Confidential Information which is or becomes generally available to the public except as the result of a breach of this clause; or
 - ii. to Confidential Information which either of us considers, in good faith it is required by law to supply to any person but only to the extent so required; or
 - iii. to Confidential Information disclosed to the professional advisers of either of us, or to those involved in a Service User's clinical or care management where disclosure is reasonably necessary for that clinical or care management; or
 - iv. to information which either of us are required by the Agreement to disclose or forward to any person.
 - v. to any terms or information, which we disclose in accordance with any Services Agreement, or Crown Direction.
- e. Each of us will ensure all Confidential Information is kept secure and is subject to appropriate security and user authorisation procedures and audits.

A30 MISCELLANEOUS

A30.1 Entire Agreement

The Agreement sets out the entire agreement and understanding between us and supersedes all prior oral or written agreements or arrangements relating to its subject matter.

A30.2 Governing Law

New Zealand law governs the Agreement.

A30.3 Contracts (Privity) Act 1982

No non-party may enforce any of the provisions in the Agreement.

A30.4 Waiver

- a. Any waiver by either of us must be in writing duly signed. Each waiver may only be relied on for the specific purpose for which it is given.
- b. A failure of either one of us to exercise, or a delay by either one of us in exercising, any right given to it under the Agreement does not of itself mean that the right has been waived.

A30.5 Enforceability of the Agreement, and its component parts

If any provision in any of the documents listed in the Agreement Summary is lawfully held to be illegal, unenforceable or invalid, the determination will not affect the remainder of the relevant document or the Agreement, which will remain in force.

If an entire document listed in the Agreement Summary is lawfully held to be illegal, unenforceable or invalid, the determination will not affect any other documents listed in the summary or the Agreement, which will remain in force.

If any provision in any of the documents or an entire document listed in the Agreement Summary is held to be illegal, unenforceable or invalid, then we agree to take such reasonable steps or make such reasonable modifications to the provision or document as are necessary to ensure that it is made legal, enforceable or valid.

The above provisions with respect to illegality, unenforceability or invalidity are not to affect any rights validly to terminate any of the documents in the above schedule or the Agreement as a whole in accordance with the terms of the Agreement or otherwise.

A30.6 Notices

Any notice must be in writing and may be served personally or sent by security or registered mail or by facsimile transmission. All notices are to have endorsed on them the agreement reference number given to the Agreement.

A30.7 Notices given:

- a. personally are served upon delivery;
- b. by fastpost (other than airmail) are served three days after posting;
- c. by airmail are served two days after posting;
- d. by facsimile are served upon receipt of the correct answer back or receipt code.

A30.8 A notice may be given by an authorised officer, employee or agent of the party giving the notice.

A30.9 The address and facsimile number for each of us shall be as specified in the Agreement or such other address or number as is from time to time notified in writing to the other party.

A30.10 Relationship of Both of Us

Nothing in the Agreement constitutes a partnership or joint venture between both of us or makes you an employee, agent or trustee of ourselves.

A30.11 Construction

In the Agreement:

- a. “we”, “us” and “our”, “MoH” means HER MAJESTY THE QUEEN IN RIGHT OF HER GOVERNMENT IN NEW ZEALAND (acting by and through the Ministry of Health) including its permitted consultants, subcontractors, agents, employees and assignees (as the context permits).
- b. “you” and “your” means the provider named in this agreement, including its permitted subcontractors, agents, employees and assignees (as the context permits).
- c. “both of us”, “each of us”, “either of us” and “neither of us” refers to the parties.
- d. a reference to a person includes any other entity or association recognised by law and the reverse;
- e. words referring to the singular include the plural and the reverse;
- f. any reference to any of the parties includes that party's executors, administrators or permitted assigns, or if a company, its successors or permitted assigns or both;
- g. every thing expressed or implied in the Agreement which involves more than one person binds and benefits those people jointly and severally;
- h. clause headings are for reference purposes only;
- i. a reference to a statute includes:
 - all regulations under that statute; and
 - all amendments to that statute; and
 - any statute substituting for it which incorporates any of its provisions
- j. all periods of time or notice exclude the days on which they are given and include the days on which they expire;
- k. Working Days – Anything required by the Agreement to be done on a day which is not a Working Day may be done on the next Working Day.

A30.12 Definitions

In this Agreement the following expressions shall have the following meanings:

<u>Expression</u>	<u>Meaning</u>
Act	The New Zealand Public Health and Disability Act 2000 .
Agreement	This Agreement including Part 1 between both of us for the provision of any Services and each schedule to that agreement or arrangement.
Agreement Summary	The summary table set out at the front of the Agreement.
Audit Protocols	Protocols that may be agreed between both of us in relation to audit of the quality of Services.
Bill Rate	The average rate per annum (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page

	displaying substantially the same information) under the heading "FRA" for bank accepted bills having a term of three months as fixed at 10.45 am on the date Default Interest is first payable.
Commencement Date	The date the Agreement or the respective parts thereof commence as set out in the Agreement Summary.
Commissioner	Any commissioner or ombudsman appointed by statute and having authority to deal with any complaints arising from this Agreement.
Complaints Body	Any organisation appointed: a. under the Agreement; or b. by both of us by mutual agreement; or c. by a Health Professional Authority; or d. by law to deal with complaints relating to the Services.
Confidential Information	Any information, data or know-how disclosed by us to you or vice versa, either before or during the course of the Agreement, or arising out of the operation of the Agreement: a. that is agreed by both of us as being confidential; or b. that may reasonably be considered to be confidential taking into account all the circumstances, including without limitation, the manner of and circumstances in which disclosure occurred. but excluding the terms of the Agreement.
Consult	means to comply with the following: a. Each of us must state our proposals and views to the other and carefully consider each response to them. b. Each of us must act in good faith and not predetermine any matter. c. Each of us must give the other adequate opportunity to consult any other interested party. d. The obligation of either of us to Consult will be discharged if the other refuses or fails to participate in the consultation in accordance with these requirements. e. Such consultation must take place within a reasonable time frame.
Crown	The meaning given in the Act.
Crown Direction	means any direction given under sections 32 or 33 of the Act or any regulations made thereunder.
Default Interest	means interest calculated at the Bill Rate plus two per cent per annum.
DHB	Means a District Health Board established under section 19 of the Act.

Eligible Person	<p>Any individual who:</p> <ol style="list-style-type: none">a. is in need of the Services as determined by a DHB or DHB/Ministry of Health authorised Needs Assessment Co-ordination Service; andb. meets the essential eligibility criteria and other criteria, terms or conditions which, in accordance with the Health and Disability Services Eligibility Direction current at any time, or any other Crown Direction must be satisfied before that individual may receive any Services purchased by us. <p>The Minister will determine whether an individual is an Eligible Person if there is any dispute.</p> <p>“Eligible People” has a corresponding meaning.</p>
End Date	means the date on which a Service Schedule ends as set out in the Agreement Summary.
GST	Goods and Services Tax under the Goods and Services Tax Act 1985.
Ministry of Health	Includes any of its legal successors.
Health Professional Authority	Any authority or body that is empowered under and by virtue of any enactment of law, or the rules of any body or organisation, to exercise disciplinary powers in respect of any person who is involved in the supply of Health or Disability Services, or both.
Management of Change Protocols	Such protocols as may be agreed between us relating to the management of change.
Maori Participation	Includes the development of a relationship with local tangata whenua and if appropriate, regional tangata whenua, Maori staff, Maori providers, and Maori community organisations to achieve the required Maori input.
Minister	The Minister of Health.
Ministry	The Ministry of Health (by whatever name known) and any successor department of state and includes the Minister of Health and the Director-General of Health and any delegates of such person.
Part of a Service	means the part of a service defined by a purchase unit, or a number of purchase units, and the associated volume of services that we purchase from you, where the part of a service is substantively less than the whole service.
Part of Part 1	means other than the whole or substantively the whole of Part 1 of the Agreement.
Our Objectives	<p>Include:</p> <ol style="list-style-type: none">a. The objectives specified in the New Zealand Disability Strategyb. To promote:<ol style="list-style-type: none">i. the personal health of Eligible Persons; andii. the care or support for those Eligible Persons who are in need of personal health

	services or disability support services (each as defined by the Act); and
	iii. the independence of those Eligible Persons with disabilities.
	c. To meet the relevant health strategy, disability strategy and any strategy for the development and use of nationally consistent standards, quality assurance programmes and performance monitoring determined by the Minister under section 8 or section 9 of the Act.
Person	Includes a corporation, incorporated society or other body corporate, firm, government authority, partnership, trust, joint venture, association, state or agency of a state, department or Ministry of Government and a body or other organisation, in each case whether or not having a separate legal identity.
Population Served	Means communities or targeted populations of Eligible People, for whom Services are or may be provided.
Quality Audit	Audit, inspection, investigation, evaluation or review of: a. quality, b. service delivery, c. performance requirements, d. organisational quality standards, e. information standards f. organisational reporting requirements g. safety standards h. clinical standards i. standard of care Service Users receive j. compliance with any of your obligations in relation to the provision of the Services by you.
Quality Auditor	Means any person appointed by us in accordance with clause A11.5 and includes a. any person appointed by us to carry out a Quality Audit. b. any person appointed by us to investigate complaints relating to the quality of care Service Users are receiving.
Records	a. all written and electronically stored material; and b. all records and information held by you or on your behalf or by your employees, subcontractors, or agents, which are relevant to the provision of the Services.

Service Agreement	The relevant agreement within the meaning of section 25 of the Act, entered into by us.
Services	The services defined by each of the service specifications in Part 2 of this Agreement.
Service Schedules	The schedules to this Agreement.
Service Users	Users of any of the Services.
Site Visit	Attendance by a Quality Auditor at your premises.
Uncontrollable Event	An event, which is beyond the reasonable control of one of us but does not include: <ul style="list-style-type: none">a. any risk or event which the person claiming could have prevented or overcome by taking reasonable care including having in place a reasonable risk management process; orb. a lack of funds for any reason (other than where we have failed to make due payment).
User Part Charges	The user part charges as set out in the Service Agreement.
Variation Event	An event as set out in clause A20.1.
Washup	A funding adjustment made in terms of this Agreement, as a result of reconciliation between what is contracted for in this Agreement and what is actually provided.
Whole Service or Whole of a Service	means the whole or substantively the whole of a Service defined in each Service Schedule.
Working Day	In respect of payment due by us, means a day on which our Bank at our principal office of payment is open for business but otherwise any day other than Saturday and Sunday or a public holiday where that public holiday is relevant to the application of the particular notice or other action required.

SECTION B: PROVIDER QUALITY SPECIFICATIONS

B1 PROVIDER QUALITY SPECIFICATIONS APPLY TO ALL SERVICES

B1.1 All Services provided by you must comply with:

- a. requirements of MoH Maori Health Policy and Strategies
- b. identified needs of consumers, carers and families
- c. service goals and objectives
- d. parameters of activities
- e. management of risks
- f. any good practice guidelines endorsed by the MoH
- g. professional standards and codes relevant to your service

B1.2 Non-compliance with PQS

- a. If you are unable to provide any Services in accordance with these PQS you must notify us and identify the reasons for this non-compliance.
- b. We may allow you to provide any Services to differing standards proposed by you where you can provide evidence to show that the safety and treatment of consumers, visitors and staff will not be materially adversely affected or materially compromised by the application of such different standards.
- c. In permitting you to provide any Services in accordance with different standards, you must embark on a programme which will ensure that you comply with the PQS within a reasonable timeframe set by us.

B2 WRITTEN POLICY, PROCEDURES, PROGRAMME, PROTOCOL, GUIDELINE, INFORMATION, SYSTEM OR PLAN

Where you are required to develop a written policy, procedure, programme, protocol, guideline, information, system or plan in order to meet any specification under the Agreement, you will:

- a. develop such a document
- b. demonstrate systems for reviewing and updating all such documents regularly and as required by current performance or risks
- c. demonstrate implementation, through documentation supported as requested through interviews with staff, consumers, and Maori
- d. demonstrate that staff are adequately informed of the content and the intent of these written documents
- e. provide us with a copy of the document on request.

Any reference to written policies and procedures throughout the rest of these Provider Quality Specifications shall include the above.

B3 ALL STAFF INFORMED

You will ensure that:

- a. these PQS are attached to each and every service specification contracted by us and delivered by you

- b. employees and sub-contractors are aware of your and their responsibilities for these PQS and relevant Service Specifications as they relate to services provided.

B4 QUALITY REQUIREMENTS FOR MAORI

B4.1 Maori Participation

To enable your Services to meet the diverse need of Maori, you must ensure that Maori participate in decision making at governance, management and service delivery levels and that such participation will be integrated at all levels of strategic and service planning, development and implementation within your organisation.

This will include:

- a. consultation with, and involvement of, Maori in your strategic, operational and service processes
- b. development of a monitoring strategy in partnership with Maori that reviews and evaluates whether Maori needs are being met by your organisation, including:
 - i. removal of barriers to accessing your services,
 - ii. facilitation of the involvement of whanau and others,
 - iii. integration of Maori values and beliefs, and cultural practices,
 - iv. availability of Maori staff to reflect the consumer population,
 - v. existence, knowledge and use of referral protocols with Maori service providers in your locality
 - vi. education and training of staff in the requirements of the MoH Maori Health Policy and Strategies. Implementation of their expectations could be stated in employment contracts.
 - vii. education and training of staff in Maori values and beliefs and cultural practices.
 - viii. support and development of a Maori workforce.

B5 QUALITY MANAGEMENT

You are required to develop, document, implement and evaluate a transparent system for managing and improving the quality of services to achieve the best outcomes for consumers.

B5.1 Quality Plan

You will have a written, implemented and at least annually reviewed Quality Plan designed to improve outcomes for consumers. This plan may be integrated into your business plan. The plan will outline a clear quality strategy and will identify the organisational arrangements to implement it. The plan will be of a size and scope appropriate to the size of your organisation and Services, and will at least include:

- a. an explicit quality philosophy
- b. clear quality objectives
- c. quality improvement and risk management systems
- d. systems for monitoring and Quality Audit compliance
- e. designated organisational and staff responsibilities
- f. consumer input into services and into development of the Quality Plan

- g. how you will address Maori issues including recognition of:
 - i. Maori participation with Strategic, Governance, Management and Service Delivery planning, implementation and review functions
 - ii. Maori as a Government Health Gain priority area
 - iii. Maori Health priority areas
 - iv. The MoH Maori Health Policy and Strategies, and the Maori Health Clause in the Standard Terms & Conditions
 - v. Maori specific quality specifications, monitoring requirements and service specific requirements

B5.2 Employees Registration, Education and Training

- a. Employees will be, where relevant, registered with the appropriate statutory body, and will hold a current statutory certificate.
- b. Employees will have access to continuing education to support maintenance of professional registration and enhancement of service delivery/clinical practice, and to ensure practice is safe and reflects knowledge of recent developments in service delivery.
- c. Your employment policies and practices will support professional career pathway development for Maori health workers; Maori service advisory positions; Maori change management positions, and the recruitment and retention of Maori employees at all levels of the organisation to reflect the consumer population

B5.3 Training and Supervision of Assistants and Volunteers

Assistants, volunteers and other relevant support employees will receive training to enable them to provide services safely, and will work only under the supervision and direction of appropriately qualified staff.

B5.4 Supervision of Trainees

Trainees will be identified and will provide services only under the supervision and direction of appropriately qualified staff.

B5.5 Service Audit

You will have in place service audit/peer review processes that incorporate input from relevant peers from similar services.

B5.6 Access

All eligible people will have fair, reasonable and timely access to effective Services within the terms of the Agreement. You will define and apply criteria for providing Services, including any priority or eligibility criteria agreed between us. You will manage access to services within available resources and according to those criteria. You will maintain records of people who receive services and those who do not, and the criteria by which these decisions are made.

B5.7 Service Information

Potential and current consumers, and referrers, will have access to appropriately presented information in order for eligible people to access your services. This information must be

made available before any person is offered the option of private treatment. Service information may be in the form of a brochure and will include at least the following:

- a. the services you offer
- b. the location of those services
- c. the hours the service is available
- d. when the service may be available to the person
- e. how to access the service (e.g. whether a referral is required)
- f. consumer rights and responsibilities including copy of H&DC Code of Rights, and Complaints Procedure
- g. availability of cultural support
- h. after hours or emergency contact if necessary or appropriate
- i. any other important information in order for people to access your services.

This information will be presented in a manner appropriate to the communication needs of consumers and communities.

B5.8 Support for Maori

You will facilitate support from whanau/hapu/iwi; kuia/kaumatua; rongoa practitioners; spiritual advisors; Maori staff and others as appropriate for Maori accessing your service.

B6 ACCEPTABILITY

B6.1 Cultural Values

You will deliver services in a culturally appropriate and competent manner, ensuring that the integrity of each consumer's culture is acknowledged and respected. You will take account of the particular needs within the community served in order that there are no barriers to access or communication, and that your services are safe for all people. You will include significant local or service specific ethnic and other cultural groups in assessing satisfaction with services. You will incorporate Maori principles/tikanga into your organisation. These are explained further in B10.

B6.2 Services to People from Pacific Islands.

Services to people from Pacific Islands are to recognise differences especially as they relate to linguistic, cultural, social and religious practices. You must develop and maintain linkages with such key groups in your locality in order to facilitate consultation and involvement of them in planning, implementation and monitoring and review services.

B6.3 Consumer Advocates

You will inform consumers, in a manner appropriate to their communication needs, of their right to have an advocate, including to support the resolution of any complaint. You will allow advocates reasonable access to facilities, consumers, employees and information to enable them to carry out their role as an advocate. You will know of and be able to facilitate access to a Maori advocate for consumers who require this service.

B6.4 Consumer/Family/Whanau and Referrer Input

- a. You will regularly offer consumers/families/whanau and referrers the opportunity to provide feedback as a means of improving the outcomes for consumers. When you

obtain feedback from consumers by means of written surveys, you will comply with the MoH Guidelines for Consumer Surveys. When requested you will make available to us the results of such surveys.

- b. Consumer input will be reflected in the maintenance and improvement of quality of service, both for the individual consumer and across the service as a whole. You will actively seek feedback from Maori by appropriate methods to improve organisation responsiveness to Maori.

B6.5 Consumer rights

You will comply with all aspects of the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996 and will:

- a. ensure that each consumer will receive services in a manner that complies with the code
- b. make the code known and available to consumers and visitors to the Service
- c. ensure staff are familiar with and observe their obligations under this Code.

B6.6 Complaints Procedure

You will enable consumers/families/whanau and other people to make complaints through a procedure for the identification and management of complaints. This procedure will meet the Health and Disability Commissioner's Code requirements and will also ensure that:

- a. the complaints procedure itself is made known to and easily understandable by consumers/families/whanau
- b. all parties have the right to be heard
- c. the person handling the complaint is impartial and acts fairly
- d. complaints are handled at the level appropriate to the complexity or gravity of the complaint
- e. any corrective action required following a complaint is undertaken
- f. it sets out the various Complaints Bodies to whom complaints may be made including the Complaints Body referred to in the Agreement, and the process for doing so. Consumers/families/whanau will further be advised of their right to direct their complaint to the H&D Commissioner and to the MoH, particularly in the event of non-resolution of a complaint
- g. complaints are handled sensitively with due consideration of cultural or other values
- h. Maori consumers and their whanau will have access to a Maori advocate to support them during the complaints process
- i. consumers who complain, or on whose behalf families/whanau complain, shall continue to receive services which meet all contractual requirements
- j. complaints are regularly monitored by the management of the service and trends identified in order to improve service delivery
- k. it is consistent with any MoH complaints policy as notified from time to time.

B6.7 Personnel identification

Employees, volunteers, students or sub-contractors undertaking or observing service delivery will identify themselves to all consumers and family/whanau.

B6.8 Ethical Review

- a. You will obtain ethical review as necessary. If you conduct research and innovative procedures or treatments you will have written and implemented policies and procedures for seeking ethical review and advice from an accredited Ethics Committee in accordance with the current “National Standard for Ethics Committees”.
- b. You will consult with and receive approval from Maori for any research or innovative procedures or treatments that will impact on Maori.

B7 SAFETY AND EFFICIENCY

B7.1 General Safety Obligation

You will protect consumers, visitors and staff from exposure to avoidable/preventable risk and harm.

B7.2 Risk Management

- a. You will have policies, processes and procedures for:
 - i. identifying key risks including risks to health and safety
 - ii. evaluating and prioritising those risks based on their severity, the effectiveness of any controls you have and the probability of occurrence,
 - iii. dealing with those risks and where possible reducing them.
 - iv. minimising the adverse impact of internal emergencies and external or environmental disasters on your consumers, staff and visitors.
 - v. working with the organisations who have responsibility for co-ordinating internal and external (environmental) disaster services..
 - vi. accident and hazard management that safeguard consumers, staff and visitors from avoidable incidents, accidents and hazards.
- b. These will include definitions of incidents and accidents and will clearly outline the responsibilities of all employees, including:
 - i. taking immediate action
 - ii. reporting, monitoring and corrective action to minimise incidents, accidents and hazards, and improve safety.
 - iii. debriefing and staff support as necessary.

B7.3 Equipment Maintained

You will ensure that equipment used is safe and maintained to comply with safety and use standards.

B7.4 Infection Control/Environmental and Hygiene Management

You will safeguard consumers, staff and visitors from infection. You will have environmental and hygiene management/infection control policies and procedures which minimise the likelihood of adverse health outcomes arising from infection for consumers, staff and visitors. These will meet any relevant profession-specific requirements and the requirements of Standard Universal Precautions Guidelines. They will include definitions and will clearly outline the responsibilities of all employees, including immediate action, reporting, monitoring, corrective action, and staff training to meet these responsibilities.

B7.5 Security

You will safeguard consumers, employees and visitors from intrusion and associated risks. You will have written, implemented and reviewed policies and practices relating to security to ensure that buildings, equipment and drugs are secure.

B7.6 Prevention of Abuse and/or Neglect

- a. You will safeguard consumers, staff and visitors from abuse, including physical, mental, emotional, financial and sexual maltreatment or neglect. You will have policies and procedures on preventing, detecting and removing abuse and/or neglect. These will include definitions of abuse and neglect and will clearly outline the responsibilities of all staff who suspect actual or potential abuse, including immediate action, reporting, monitoring and corrective action. These procedures will also include reference to the Complaints Procedure.
- b. You will ensure that relevant employees are able to participate in family, inter-agency or court proceedings to address specific cases of abuse and neglect.

B8 EFFECTIVENESS

B8.1 Entry to service

You will manage consumer entry to your service in a timely, equitable and efficient manner, to meet assessed need.

B8.2 Care/Lifestyle Plan

You will develop for each consumer a written, up to date plan of care/lifestyle plan and/or record of treatment which:

- a. is based on assessment of his/her individual needs, including cultural needs
- b. includes consultation with the consumer, and,
- c. where appropriate, and with the consent of the consumer, includes consultation with the consumer's family/whanau and/or caregivers
- d. contains detail appropriate to the impact of the service on the consumer
- e. facilitates the achievement of appropriate outcomes as defined with the consumer
- f. includes plans for discharge/transfer
- g. provides for referral to and co-ordination with other medical services and links with community, iwi, Maori and other services as necessary.

B8.3 Service Provision

You will deliver to consumers services that meet their individual assessed needs, reflect current good practice, and are co-ordinated to minimise potentially harmful breaks in provision.

B8.4 Planning Discharge from the Service OR Transfer between Services

- a. You will collaborate with other services to ensure consumers access all necessary services. When a consumer is transferred or discharged from your services and accesses other appropriate services they will do so without avoidable delay or interruption.

- b. You will have policies and procedures for planning discharge/exit/transfer from your services. These will facilitate appropriate outcomes as defined with the consumer. The policies and procedures will include:
- i. defined employees' responsibilities for discharge planning
 - ii. incorporating discharge planning into the consumer's plan of care/service plan, where appropriate from or before admission
 - iii. full involvement of the consumer in planning discharge
 - iv. involvement of family/whanau, including advising them of discharge, as appropriate
 - v. assessment and management of any risks associated with the discharge
 - vi. informing the consumer on their condition, possible future course of this, any risks, emergency contacts, and how to access future treatment, care or support services
 - vii. where appropriate involving the original referrer and the health professional having ongoing responsibility for the consumer in planning discharge and informing them of confirmed discharge arrangements
 - viii. a process for monitoring that discharge planning does take place, which includes assessment of the effectiveness of the discharge planning programme.

B8.5 Where services are declined

You will have policies and procedures to manage the immediate safety of the consumer for whom entry to the service is declined and, where necessary, the safety of their immediate family/whanau and the wider community. These include:

- a. applying agreed criteria for providing services
- b. ensuring all diagnostic steps have been taken to identify serious problems which may require your service
- c. advising the consumer and/or their family/whanau of appropriate alternative services
- d. where appropriate advising the family/whanau or other current services that you have declined service
- e. recording that entry has been declined, giving reasons and other relevant information
- f. having in place processes for providing this information to us.

B8.6 Death/Tangihanga

You will have policies and procedures to follow in the event of a death including:

- a. immediate action
- b. appropriate and culturally sensitive procedures for notification of next of kin
- c. any necessary certification and documentation
- d. appropriate and culturally competent arrangements, particularly to meet the special needs of Maori, are taken into account in the care of the deceased, until responsibility is accepted by the family or a duly authorised person.

B8.7 Health Education, Disease Prevention and health advice/counselling

You will incorporate within your services, where appropriate, an emphasis on health education, disease prevention and health advice/counselling, and support the goals of The Ministry of Health Strategy “Strengthening Public Health Action” June 1997 or subsequent publications.

B9 FACILITIES

B9.1 Accessible

You will support consumers in accessing your services by the physical design of your facilities. You will make specific provision for consumers with a mobility, sensory or communication disability available and known to consumer. You will make services available to deaf people through the provision of interpreters and devices to assist communication.

B9.2 Facilities, Maintained

You will provide services from safe, well-designed, well-equipped, hygienic and well-maintained premises.

B10 EXPLANATION OF MAORI PRINCIPLES / TIKANGA

<i>Wairua</i>	Spirit or spirituality	A recognition that the Maori view of spirituality is inextricably related to the wellbeing of the Maori consumer
<i>Aroha</i>	Compassionate love	The unconditional acceptance which is the heart of care and support
<i>Turangawaewae</i>	A place to stand	The place the person calls home, where their origins are. Must be identified for all Maori consumers who wish it
<i>Whanaungatanga</i>	The extended family	Which takes responsibility for its members and must be informed of where its member is
<i>Tapu/Noa</i>	Sacred/profane	The recognition of the cultural means of social control envisaged in tapu and noa including its implications for practices in working with Maori consumers
<i>Mana</i>	Authority, standing	Services must recognise the mana of Maori consumers
<i>Manaaki</i>	To care for and show respect to	Services show respect for Maori values, traditions and aspirations
<i>Kawa</i>	Protocol of the marae, land, iwi	Determines how things are done in various circumstances. Respect for kawa is very important. If the kawa is not known the tangata whenua should be consulted

SECTION C: INFORMATION AND REPORTING STANDARDS

C1 FORWARDING YOUR COMPLETED REPORT

C1.1 You will forward all reports as required by us under this agreement to:

The Agreement Administration Team
HealthPAC Dunedin
Ministry of Health
Private Bag 1942
DUNEDIN

Ph: 03-474 8040
Fax: 03-474 8582

C2 QUALITY OF INFORMATION

You must put in place adequate numbers of trained personnel and sufficient information technology resources to meet the following quality standards with regards to the provisioning of information under this agreement.

C3 ACCURACY, CONSISTENCY AND COMPLETENESS

C3.1 The information you provide should, in all cases, be an accurate, consistent and complete representation of the facts. The information will identify any material inaccuracies or inconsistencies you know about.

C4 INFORMATION ACTION PLANS

C4.1 You will develop an agreed information action plan for your services. The information action plan will include your plans for achieving any information requirements as set out in the Service Schedules. The information action plan may be included as part of your quality plan, as required in your quality specification.

C4.2 The information action plan will include the key targets outlined below, and will also establish its own targets. The key targets to be included in the information action plan are:

- a. recording of Services/treatment by NHI/ethnicity;
- b. information required as a result of ACC legislation.

C4.3 You will assess your performance against the key targets and against your action plan, and report your progress to us at appropriate intervals.

C5 TIMELINESS

C5.1 Unless stated otherwise in the Service Schedule, information to be provided to us is to be provided at three monthly intervals in accordance with the timetable below.

<u>Quarters for Reporting</u>	<u>Due Date for reports</u>
1 January to 31 March	20 April
1 April to 30 June	20 July
1 July to 30 September	20 October
1 October to 31 December	20 January

C5.2 Where the Agreement begins or ends part way through a quarter, the report will be for that part of the quarter which falls within the term of the Agreement.

C5.3 Any delays will be notified to us.

C6 READABILITY AND AVAILABILITY

C6.1 The information you provide must be made available to us in a readable format. With each information requirement for a specific piece of information, we will provide you with a template, which describes the method, medium and format must comply with.

C6.2 If no specific template is supplied by us, you will provide the information on paper as typed text or in an electronic format using file formats supported by the Microsoft Office (Word, Excel, Access) suite of desktop tools.

C6.3 Both of us may mutually agree to alternative solutions during the term of this Agreement. Such an agreement will be confirmed in writing at least one month before the alternative arrangement is implemented.

C7 DOCUMENTATION OR AUDITABILITY

C7.1 Information you provide to us must be auditable. All information you provide to us or other agencies under this agreement, must therefore be produced through a documented (information) process. This documentation will include:

- a. Definition of data needed to provide information.
- b. Source of the data needed to provide information.
- c. Person(s) responsible for the capture of this data.
- d. Description of manual and automated procedures and processes used to transform this data into the information the Provider provides.
- e. Procedures that describe how the Provider accurately records client ethnicity.
- f. Procedures that describe how the Provider ensures the security of information according to the Privacy Act 1993 and The Health Information Privacy Code.

C7.2 You must provide us with access to this documentation, if so requested by us.

C8 AUTHENTICITY

You must provide sufficient identification with the information sent to us, to satisfy us, or other agency receiving information from you under the Agreement, that the information received was sent by you. Unless stated differently in this agreement, this identification should as a minimum include:

- a. Agreement number of the agreement the information relates to.
- b. Service specification the information relates to (if applicable).
- c. Identification details of the Provider contracted to provide this information.
- d. Date or period the information relates to.
- e. Date the information was provided.
- f. Size (number of records or number of pages) of the complete report including headers and title pages.

C9 AGGREGATION

The Information you provide should comply with the detail (aggregation) requirements as specified in the service specifications. Unless agreed differently in the Agreement, we will require transaction details, that are event based. Each event will be represented by a combination of:

- a. Date of the event
- b. Subject (or patient) of the event
- c. Health care provider involved in the event
- d. Type of event

C10 CONTINUITY

You must take all due care to ensure that in the event of ceasing to provide the Services, your records are properly preserved and accessible by us.

C10.1 The Costs Associated with the Provision of Information

The costs associated with the provision of information under the Agreement are to be paid for by you. Unless agreed differently in the Agreement, reimbursement for these costs by us to the you is deemed to be included in the Service pricing as agreed under the Agreement.

C10.2 Ad-hoc Information requirements

- a. We may request additional information from you in relation to you in general or the Services specified in the Agreement. In the request, we will detail the reasons for the request and the intended usage of the required information.
- b. You will endeavour to provide us with every reasonable assistance in obtaining the required information. Both of us will agree to conditions and specifications of Ad-hoc Information Requirements in writing.

PART 2 SERVICE SCHEDULES

This Part 2 contains each of the Service Schedules listed in the Head Agreement (Agreement Summary).

Each of the Service Schedules in Part 2 form part of the Agreement between us, as defined in the Head Agreement or in a subsequent Variation to the Head Agreement, as applicable.

Each Service Schedule contains DSS Service Type Terms and Conditions, Service Specifications, and Provider Specific Terms and Conditions associated with the Service.

The DSS Service Type Terms and Conditions set out the terms and conditions not outlined in Part 1 of the Agreement that apply to the specific type of service being purchased.

Service Specifications describe the Service, and set out quality and information reporting requirements additional to those specified in Part 1 (the Head Agreement). Note that nationally standard service descriptions may contain details (particularly Purchase Units and Reporting Requirements) which do not apply to all agreements.

The Provider Specific Terms and Conditions detail those elements of the Agreement that are unique to you. These include payment terms, term of the Service Schedule, any details which differ from Part 2 (the General Terms) and/or standard Service Specification/s (including detailed clarification of any parts of the nationally standard service description that do not apply to your agreement and a full list of relevant purchase units, volumes, prices, and reporting requirements).

Contents of each Service Schedule within Part 2

Section A DSS Service Type Terms and Conditions

Section B. Provider Specific Terms and Conditions

- B.1 Introduction
- B.2 Standard Documentation
- B.3 Purchase Units
- B.4 Payment Details.

Section C. Service Specifications

- Standard national specifications
- Additional specifications (if appropriate)

SECTION A: DSS SERVICE TYPE TERMS AND CONDITIONS

Nil.

SECTION B: PROVIDER SPECIFIC TERMS & CONDITIONS

B1 SERVICE DETAILS

B1.1 It is agreed that the following details apply to this Service Schedule.

Legal Entity Name	«PROVIDER_NAME»
Legal Entity Number	«PROVIDER_NUMBER»
Agreement Number	«CONTRACT_CONTRACTID»/«CONTRACT_VERSION»
Agreement Commencement Date	«CONTRACT_STARTDATE»
Agreement End Date	«CONTRACT_ENDDATE»

B2 STANDARD DOCUMENTATION

B2.1 It is agreed that the Service Schedule includes the standard documentation in Part 2 (the General Terms), and the standard service specifications included in this Service Schedule, as amended by any changes (if any) identified below.

B2.2 It is agreed that the services will be paid for in accordance with the details given in the Payment Details below.

B3 DETAILS OF ALL PURCHASE UNITS WHICH APPLY TO THIS SERVICE SCHEDULE

Purchase Unit (reference number)	Volume	Unit Price (excl. GST)	Total Price (GST excl.)	GST Rate %	Payment Type
Total					

B4 PAYMENT DETAILS (CCPS)

B4.1 Prices

The price we will pay for the services you provide is specified in the Purchase List.

B4.2 Monthly Payments

We will pay you monthly. We will provide you with a proposed payment schedule (PPS) for each month of service, at least 2 days before the end of the month of service. The PPS for the period of service will specify those residents we expect to pay at the agreed price per unit based on the last invoice and any known adjustments we make.

You are required to check and amend the PPS where necessary. Once you have signed the verification that the services have been supplied to the residents and complied with all the instructions on the PPS, the verified proposed payment schedule (VPPS) is to be returned to us by no later than the first working day following the 9th day of the payment month.

If we do not send you a PPS at least 2 days before the end of the month of service, you are to advise us by the last working day of the month of service. We will issue a PPS within 1 working day of your notification.

B4.3 Invoicing

We will issue a Buyer Created Tax Invoice (BCTI) based on the VPPS and pay you for the services you provide in each month so long as we receive the VPPS from you by the first working day following the 9th day of the payment month. Where a resident's eligibility has not been established we will not be able to process changes you note on the VPPS until we receive notification from the needs assessment service and approve a residential support subsidy.

If we do not receive the VPPS from you by the first working day after the 9th day of the payment month, then we will pay you on the scheduled payment day in the following month, provided we have received the VPPS within the timeframe

B5 PAYMENT DETAILS (CMS)

B5.1 Price

The price we will pay for the Service you provide is specified above. Note that all prices are exclusive of GST.

B5.2 Invoicing

We will pay you on the dates set out in the Payment Schedule below for the services you provide in each invoice period so long as we receive a valid GST tax invoice from you. The invoice must meet all legal requirements and must contain the following information:

- a. provider name (legal entity name)
- b. provider number (legal entity number)
- c. provider invoice number
- d. agreement number
- e. purchase unit number or a description of the service being provided
- f. date the invoice is due to be paid/date payment expected
- g. dollar amount to be paid
- h. period the service was provided
- i. volume, if applicable
- j. GST rate
- k. GST number

If we do not receive an invoice from you by the date specified in the payment schedule below, then we will pay you within 20 days after we receive the invoice.

B5.3 Payment Schedule

#PAYMENTSSCHEDULE#

- B6** All Eligible Persons and Clients aged 64 years and under except those aged 50-64 who have been assessed by a District Health Board or needs assessor as "close in interest" to persons aged 65 years and over.

SECTION C: SERVICE SPECIFICATION