



(Insert date)

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between

**THE KENT COUNTY COUNCIL**

and

**(Insert Host name)**

Supply of services agreement in relation to the

**SHARED LIVES HOST SERVICE**

Kent Legal Services  
Kent County Council  
Sessions House  
Maidstone  
Kent  
ME14 1XQ

Ref: LS/22/108003/399  
Engrossment Date:

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**THIS AGREEMENT** is dated (insert date).

**Parties**

- (1) **THE KENT COUNTY COUNCIL** of Sessions House, County Hall, Maidstone, Kent ME14 1XQ (the "Council") and;
- (2) **(FULL Individual Host/s name)** of (include full address of Host) ("Shared Lives Host").

**Background**

This agreement is between the Council and the person/people named in this agreement who is/are undergoing the application process to become an approved and registered Shared Lives Host

**1. DEFINITIONS AND INTERPRETATION**

<b>Agreement</b>	Means this Host Agreement between the Council and the Shared Lives Host for the Provision of Services to the Individual.
<b>Applicable Laws</b>	Means any laws applicable to the provision of the Services
<b>Care Manager</b>	The practitioner who usually assesses the needs of Individuals and arranges provision of the Services to them and whose work is controlled by the Council.
<b>Care and Support Plan</b>	The plan the Care Manager produces to describe the needs of an individual and the service response that is in their interests. which will be provided by the Care Manager as set out in Schedule 3
<b>Continuing Breach</b>	A breach of the Agreement as a result of repeated failures to remedy non-performance or to sustain performance over a reasonable period of time not amounting to a Serious Breach which the Council has requested (in writing) the Shared Lives Host to remedy.
<b>Contract Price</b>	The fees payable to the Shared Lives Host by the Council for the provision of the Service as set out in Gross Fee Letter.
<b>Care Quality Commission</b>	Organisation which monitors, inspects and regulates the Shared Lives Service and make sure it meets fundamental standards of quality and safety published

on the commissions website.

<b>Data Controller</b>	Shall have the same meaning as set out in the Data Protection Act 1998 as amended;
<b>Data Processor</b>	Shall have the same meaning as set out in the Data Protection Act 1998 as amended;
<b>Data Protection Legislation</b>	The Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner, all as amended;
<b>Data Protection Requirements</b>	Means the requirements contained in the Data Protection Act 1998 and Directive 95/46/EC and any regulations implementing it;
<b>Data Subject</b>	Shall have the same meaning as set out in the Data Protection Act 1998 as amended;
<b>Disclosure and Barring service (DBS) Check</b>	Has the meaning given in clause 36;
<b>DPA</b>	Means the Data Protection Act 1998 as amended and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;
<b>Emergency</b>	Means any event or circumstance including (without limitation) natural disasters which result in it being unsafe for the Individual to remain within the Shared Lives Host's Home.
<b>Environmental Information</b>	Means the Environmental Information Regulations 2004 (SI 2004\3391) together with any guidance and/or

**Regulations** codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;

**Financial Advice Notification (FAN)** The form which is generated by the Council's information system when a Care Manager arranges a placement with a Shared Lives Host. It activates the Council's first payment, confirms the Contract Price and period of the initial payment and provides information to facilitate future invoicing.

**Force Majeure:** Any cause affecting the performance by a party of its obligations under this agreement arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Shared Lives Host, the Shared Lives Host's personnel or any other failure in the Shared Lives Host's supply chain.

**FOIA:** The Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

**Gross Fee letter** The letter from the Council to the Shared Lives Host which communicates the acceptance of their offer to provide the Service which is sent to them at the commencement of the placement which includes the start date and gross fees to be paid. As set out in Schedule 2

**Host Handbook** Means the handbook provided by the Council or the Registered Provider to the Shared Lives Host which sets out the policies and procedures which are required to be followed by the Shared Lives Host under this Agreement;

**Health and Safety Policy:** The Shared Lives Health and Safety policy as detailed on the resource page in schedule 4 (link to website included).

<b>Individual/Individuals</b>	An adult/individual who has been assessed by the Council as needing the Services in the Shared Lives Host's Home and for whom an Order has been placed with the Shared Lives Host
<b>Information:</b>	Has the meaning given under section 84 of FOIA.
<b>Information Commissioner</b>	Shall have the same meaning as set out in the Data Protection Act 1998 as amended;
<b>Information Governance</b>	Means the way in which Shared Lives Hosts 'process' or handle information relating to the individual requiring a service from the Shared Lives Host
<b>Long Term Shared Lives Host Agreement</b>	The agreement that is entered into by the Council with an approved Shared Lives Host for the placement of the individual on a long term basis.
<b>Order</b>	The FAN and the Care and Support Plan constitute the Council's order for service under the Agreement for an individual.
<b>Party/ Parties</b>	Means one or both of the parties to this Agreement.
<b>Personal Data</b>	Shall have the same meaning as set out in the Data Protection Act 1998 as amended
<b>Placement Agreement</b>	The agreement entered into by the individual, Shared Lives Host, the Council and Care Manager in accordance with regulation 3 of the Care Quality Commission Regulations (England) 2010
<b>Processing and Process</b>	Has the meaning given to it under the Data Protection Legislation and for the purposes of this Agreement, it shall include both manual and automated processing
<b>Prohibited Act</b>	<p>the following constitute Prohibited Acts:</p> <ul style="list-style-type: none"> <li>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: <ul style="list-style-type: none"> <li>(i) induce that person to perform improperly</li> </ul> </li> </ul>

a relevant function or activity; or

- (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- (c) committing any offence:
  - (i) under the Bribery Act;
  - (ii) under legislation creating offences concerning fraudulent acts;
  - (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or
  - (iv) defrauding, attempting to defraud or conspiring to defraud the Council.

**Registered Provider** Means any organisation (which may also be the Council) with responsibility for administering Shared Lives.

**Request for Information:** A request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations

**Serious Breach** Means a serious breach of the Shared Lives Host's obligations under this Agreement as set out in clause 16.5. which entitles the Council to terminate this Agreement forthwith by notice in writing.

**Services** The provision of Long term, Short term accommodation and support by the Shared Lives Host to 1-3 adults placed through Shared Lives in the family home of a Shared Lives Host in accordance with the specification and Order in Schedule 1 and with this Agreement



**Shared Lives Host** A person who is approved by Shared Lives and matched with an Individual and supported by Shared Lives, who is to provide the Services to the Individual in accordance with the terms of this Agreement.

**Shared Lives Host's Home** The Shared Lives Host's home as set out in Schedule 1 of the Agreement.

**Shared Lives** A service managed by the Council, and regulated under the Health and Social Care Act 2012 and Care Quality Commission Regulations 2010, in which the Council is responsible for recruiting, assessing, training and supporting Shared Lives Hosts and for taking referrals, matching and placing Individuals with Shared Lives Hosts and for supporting and monitoring the placements.

**Working Day(s)** Means Monday, Tuesday, Wednesday, Thursday and Friday between the hours of 0900 and 1700, except when these days are recognised Bank Holidays.

- (a) clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- (b) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (c) the schedules (if any) form part of this agreement and shall have effect as if set out in full in the body of this agreement and any reference to this agreement includes the schedules.
- (d) a reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- (e) words in the singular shall include the plural and vice versa.
- (f) a reference to one gender shall include a reference to the other genders.
- (g) a reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment,

extension, or re- enactment and includes any subordinate legislation for the time being in force made under it.

- (h) a reference to writing or written does not include faxes and e-mail.

## **2. START DATE AND PERIOD OF AGREEMENT**

This Agreement will commence on (insert date) and shall continue until it is terminated in accordance with the provisions of this Agreement or by operation of Law

## **3. COMPLETE AGREEMENT**

- 3.1 In signing the Agreement, the Shared Lives Host is agreeing to provide the Service in accordance with this Agreement including (for the avoidance of doubt) the (Shared Lives Management Guidelines) the guidelines which govern the Shared Lives scheme which is set out in Schedule 4.

## **4. BASIS OF CONTRACT**

- 4.1 These terms and conditions are the Council's standard terms and conditions and they shall govern this agreement between the Shared Lives Host and the Council to the entire exclusion of all other terms and conditions

## **5. SUPPLY OF SERVICES**

- 5.1 The Shared Lives Host shall provide the Services to the Council with due skill, care and diligence throughout the duration of the Agreement.

- 5.2 Without prejudice to clause 3, the Shared Live Host shall provide the Services, :

- 5.2.1 with reasonable skill and care and in accordance with the best practice prevailing in the industry from time to time;

- 5.2.2 promptly in compliance with such timescales (if any) as have been agreed between the parties.

- 5.2.3 in all respects in accordance with any of Council's policies that have been notified to the Shared Lives Host; and

- 5.2.4 in accordance with all Applicable Laws.

- 5.3 In the event that the Council notifies the Shared Lives Host of the Council's reasonably held opinion that any part of the Services do not meet the requirements of the Agreement or differ in any way from those requirements, and this is other than as a result of default or negligence on the part of the Council, the Shared Lives Host and the Council shall agree what measures need to be

taken to meet the requirements of the Agreement and the Shared Lives Host shall take the required and necessary measures to carry out the Services in accordance with the agreed requirements within such reasonable time as may be specified by the Council.

## **6. NATURE OF SERVICE**

- 6.1 The Shared Lives Host will carry out the Service in accordance with the specification and Order set out in Schedule 1
- 6.2 Upon admission an Individual will be accommodated by the Shared Lives Host in a room within the Shared Lives Host's Home by agreement with the Care Manager. The Individual will not be moved to another room without the prior consent of Individual and their Care Manager (Long Term only).
- 6.3 Throughout the duration of this Agreement, the Shared Lives Host shall, keep up to date accounts of the Individuals money and shall formally account to the Individual or his or her representative for any of his or her money handled. The Shared Lives Host shall ensure that the Individual's financial records shall be available for scrutiny by the Council at any time during this Agreement and for a period of 6 (Six) years after the termination or expiry of this Agreement. The Parties agree to treat any information gained in accordance with the provision for confidentiality in clause 34
- 6.4 The Individual will have absolute discretion in spending his or her money belonging to him or her. The Shared Lives Host must inform the Care Manager without delay if an Individual becomes incapable of handling his or her money.

## **7. REPORTING MEETINGS AND AUTHORISED REPRESENTATIVES**

- 7.1 The Shared Lives Host shall (at no additional cost to the Council) attend such monitoring meetings and otherwise provide such reports on the delivery of the Services as the Council may reasonably require. The Shared Lives Host agrees to participate in any meetings with the Care Quality Commission inspectors that are part of the Council's registration and inspection process.
- 7.2 The Council shall notify the Shared Lives Host of the person they have appointed to act as their authorised representative (Council's Authorised Representative).
- 7.3 The Shared Lives Hosts agrees to allow any person authorised by the Care Quality Commission and the Council's Authorised Representative to interview them and visit and inspect their home at any reasonable time.
- 7.4 The Shared Lives Host shall comply with any reasonable instruction given by the Council's Authorised Representative in connection with the Services to the extent they are consistent with this Agreement.
- 7.5 The Council's Authorised Representative may, provided he has given notice in writing to the other party, delegate his functions as authorised representative to any other officer or employee of the Council.

## **8. CONTACTS**

- 8.1 For the purposes of the Agreement, the Shared Lives Host's contact for the Council will be the Head of Strategic Commissioning and the Council's Authorised Representative and the Council's contact for the Shared Lives Host will be the signatory to the Agreement or such other person as is notified in writing by the Shared Lives Host to the Head of Strategic Commissioning
- 8.2 For the purpose of the Order, the Shared Lives Host's contact for the Council will be the Care Manager named on the FAN.

## **9. REVIEW**

- 9.1 The Parties agree to review the Agreement at any time of legislative change which may have a fundamental effect on the Service and the Shared Lives Host shall not unreasonably refuse to agree any variation to the Agreement which is required to comply with any new legislation.
- 9.2 The Council will carry out a fundamental review of the Agreement every subsequent five year period.
- 9.3 The Parties will review the Order at least once a year and shall also carry out a review at the reasonable request of any Party to it.

## **10. PAYMENT**

- 10.1 In consideration of the provision of the Services by the Shared Live Host in accordance with the terms and conditions of this Agreement, the Council shall pay the Shared Live Host the Contract Price as set out in the Gross Fee Letter

## **11. PAYMENT ARRANGEMENTS – LONG TERM/SHORT TERM BREAKS**

- 11.1 The Shared Lives service will manage Host payments by preparing an invoice on behalf of the Shared Lives Hosts and submitting an invoice to the Council for the Contract Price every four weeks, two weeks in advance and two weeks in arrears (long term placements only).
- 11.2 Subject to the provisions of clause 12.4 to 12.9, the Council shall pay the Contract Price which have become payable to the Shared Lives Host within [28] days of receipt of an undisputed invoice. Payment shall be made by BACs

## **12. PAYMENT ARRANGEMENT – DAY SUPPORT (CARE)**

- 12.1 Upon allocation of an Individual by the Council , the Council will also issue a service delivery order (SDO) to the Shared Lives Host
- 12.2 At the end of each four week period the Shared Lives Host will inform the Council of day support activity by email or telephone call within 5 working days
- 12.3 The Council shall pay the Contract Price which have become payable to the Shared Lives Host within [28] days of receipt of an undisputed invoice. Payment shall be made by BACs

- 12.4 Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with clause 14 Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until the earlier of 21 days after resolution of the dispute between the parties.
- 12.5 Subject to clause 12.4 Interest shall be payable on the late payment of any undisputed Contract Price properly invoiced under this Agreement at the rate of 3% above the prevailing base rate of the Bank of England Base Rate from time to time in force from time to time. (which the parties agree constitutes a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998). The Shared Lives Host shall not suspend the supply of the Services if any payment is overdue.
- 12.6 The Contract Price are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Council following delivery of a valid VAT invoice. The Shared Lives Host shall indemnify the Council against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Council at any time in respect of the Shared Lives Host's failure to account for, or to pay, any VAT relating to payments made to the Shared Lives Host under this Agreement.
- 12.7 The Shared Lives Host shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Council pursuant to this Agreement. Such records shall be retained for inspection by the Council for 6 (Six) years from the end of the contract year to which the records relate.
- 12.8 The Council may retain or set off any sums owed to it by the Shared Lives Host which have fallen due and payable against any sums due to the Shared Lives Host under this Agreement, or any other agreement pursuant to which the Shared Lives Host provides goods or services to the Council.
- 12.9 The Shared Lives Host shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Shared Lives Host has a valid court order requiring an amount equal to such deduction to be paid by the Council to the Shared Lives Host .

### **13. MONITORING PERFORMANCE**

- 13.1 The Shared Lives Host will comply with the monitoring and evaluation arrangements set out in the Order and/or Placement Agreement and guidelines contained in Schedule 1 of this Agreement
- 13.2 The Shared Lives Host will keep records for a period of 6 (Six) years from the termination or expiry of this Agreement which ensure that the Council can assess its performance against the Agreement. The records will clarify resource inputs, organisational processes and outcomes related to the Service and/or support and Individuals.
- 13.3 The Council reserves the right to visit the Shared Lives Host's Home and/or an Individual at any reasonable time without giving notice and without prejudice to the Individual's privacy.

- 13.4 The Council reserves the right to directly elicit the views of consenting Individuals in the Shared Lives Host's Home having regard to their privacy.
- 13.5 The Council reserves the right to request details of the financial standing of the Shared Lives Host at any time during the life of the Agreement. This right will not be exercised unreasonably by the Council and it will treat any information gained in accordance with the provisions for confidentiality at clause 34

#### **14. DISPUTES**

- 14.1 The Council and the Shared Lives Host will make every reasonable effort to resolve by agreement any dispute between them about any issue relating to this Agreement. Any disputes between the parties shall be dealt with in accordance with the Dispute Resolution Procedure outlined in clause 14.2 below.
- 14.2 If a mutually satisfactory agreement cannot be reached by the parties when the issue arises, the following will happen:
- 14.2.1 the issue will be discussed by the Shared Lives Host's representative and the Head of Strategic Commissioning within 10 Working Days.
  - 14.2.2 if the dispute is not resolved within 20 Working Days after their discussion, the issue will be referred to senior managers of the Council and the Shared Lives Host.
  - 14.2.3 if they fail to resolve the dispute after 20 Working Days of its referral to the senior offices as set out in clause 14.2.3, the parties may agree to refer the issue for mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure to a mediator who is acceptable to both parties.
  - 14.2.4 if in accordance with the CEDR Model Mediation Procedure if the parties cannot agree to the identity of the mediator then either party may ask CEDR to appoint one.
  - 14.2.5 The decision of the Mediator (including as to costs) will be final and binding on the Council and the Shared Lives Host and the mediator's costs will be borne in equal shares.
- 14.3 Use of the disputes procedure will neither delay nor take precedence over any use of the default or termination procedures.

#### **15. DEFAULT**

- 15.1 If either party considers that the other is in default of its particular obligations under the Agreement or the Order, it will notify the other party in writing of the default and specify a reasonable time in which to remedy the alleged default.
- 15.2 Where the matter remains unresolved after the specified time then it may be referred to the disputes procedure contained in clause 14 of the Agreement or the termination procedures contained in clause 16 of the Agreement.

## 16. TERMINATION OF THE AGREEMENT

- 16.1 The Shared Lives Host shall notify the Council without delay if it cannot meet its commitments under this Agreement for a temporary period due to personal circumstances or circumstances beyond his/her control. In this circumstance and without prejudice to the continuation of this Agreement, The Council may in its sole discretion provide reasonable assistance to the Shared Lives Host to ensure the continuity of the Service which may include moving a person, additional hours, more respite, more day activity and such assistance shall be in line with the personal needs of the Individual.
- 16.2 This Agreement may be terminated by the Shared Lives Host by giving 60 Working Days written notice to the Council. Notice may normally only be given if the Shared Lives Host has no Individuals currently in place. Any such notice will state the reasons for termination.
- 16.3 The Council may end the Agreement by giving 20 working days written notice to the Shared Lives Host stating the reason. The Shared Lives Host may appeal against this as detailed in the Kent Shared Lives Statement of Purpose, section 4 Placement Terms and Conditions, available on [kent.gov's website](http://kent.gov.uk).
- 16.4 The Council may terminate this Agreement with immediate effect upon giving notice in writing to the Shared Lives Host if the Shared Lives Host:
- 16.4.1 commits a Serious Breach of the Agreement in accordance with clause 16.5 below;
  - 16.4.2 fails to remedy a Continuing Breach of the Agreement following its second or subsequent occurrence to the satisfaction of the Council within 15 Working Days of receipt of a notice in writing requiring that such Continuing Breach be remedied;
  - 16.4.3 fails to satisfy a DBS Check undertaken by the Council in accordance with clause 36
  - 16.4.4 sells or otherwise disposes of the Shared Lives Host's Home from where the Service is provided;
  - 16.4.5 becomes bankrupt or is the subject of any application or arrangement under the provisions of the Insolvency Act 1986 (as amended);
  - 16.4.6 has a winding-up order made (except for the purposes of amalgamation or reconstruction) or a resolution of a voluntary winding-up is made;
  - 16.4.7 has a provisional liquidator, receiver or manager of its business or undertaking duly appointed;
  - 16.4.8 has an administrative receiver as defined in the Insolvency Act 1986 (as amended) appointed
  - 16.4.9 is in circumstances which entitle the court or a creditor to appoint, or have appointed, a receiver, a manager or an administrative receiver, or which entitle the court to make a winding-up order commits any act or behaviour

16.4.10 is subject to any allegation such that the Council (acting reasonably and in good faith) considers that the Agreement should be terminated to protect the interests and safety of an Individual; or

16.4.11 is not fit to be a Shared Lives Host in accordance with regulation 22 of the Health and Social Care Act 2012

In the event that the Council terminates this Agreement as a result of a Serious Breach as set out in clause 16.4.1 above the Council shall be entitled to recover from the Shared Lives Host the amount of any loss or damage (including the cost of arranging alternative accommodation for the Individual) sustained by the Council as a consequence of the Serious Breach.

16.5 For the purposes of clause 16.4.1 the Shared Lives Host will have committed a Serious Breach of the Agreement where he or she:

16.5.1 is convicted of an offence under the provisions of the Health and Social Care Act 2012 and regulations thereto and any subsequent amendments;

16.5.2 takes financial advantage of an Individual;

16.5.3 assaults, intimidates or threatens the safety and wellbeing of an Individual;

16.5.4 inappropriately solicits money from an Individual or his representative or otherwise attempts to take financial advantage of an Individual;

16.5.5 commits a Prohibited Act

16.6 Subject to clause 16.4, the Shared Lives Host will be entitled to any of the payments due to it on the date of such termination

## **17. HOST BREAKS**

17.1 The Shared Lives Hosts are entitled to a break from providing the Service, referred to as "Host Breaks". All Host Breaks arrangements must be approved by the Council and will be up to a maximum of 28 nights per year. The Shared Lives Hosts shall contact the Council when considering taking a Host Break.

## **18. TEMPORARY ABSENCE OF THE INDIVIDUAL FROM HOME**

18.1 The Order may be reviewed by the Council where an Individual becomes absent from the Shared Lives Host's home for a continuous period of more than 20 Working Days

18.2 The Council shall pay the Contract Price to the Shared Lives Host for up to a maximum of 20 Working Days from the start date of an Individual's absence from the Shared Lives Host's home due to hospitalisation EXCEPT THAT if the event of hospitalisation exceeds 20 Working Day the Council shall cease payments of the Contract Price. The Council shall resume payments of the Contract Price to the Shared Lives Host as set out in the Order from the date when the Individual returns to the Shared Lives Host Home



18.3 In the event that the Individual is absent from the Shared Lives Host's Home on a permanent basis due to hospitalisation and will not be returning to the Shared Lives Host's Home the Council shall pay the Contract Price to the Shared Lives Host for up to a maximum of 20 Working Days from the start date of the Individual's absence from the Shared Lives Host's Home after which such payments shall cease

18.4 The Shared Lives Host shall not let or otherwise use the Individual's allocated room during any absence without the prior written consent of the Individual or, his or her representative and the Council.

## **19. DEATH OR DISCHARGE OF AN INDIVIDUAL**

19.1 The Shared Lives Host shall notify the Council (Care Manager and the Authorised Representative) without delay if the Individual either dies or discharges himself or herself from the Shared Lives Host's home.

19.2 If an Individual dies, the Order will expire 7 days after his or her death (counting from the first day after the day of death).

19.3 The Shared Lives Host will be responsible for informing and requesting the Individual's next of kin or where appropriate the responsible public authority to make necessary arrangements, including a funeral, upon the death of an Individual.

19.4 In the event that an Individual discharges himself or herself from the Shared Lives Host's home, the date of discharge will be deemed as the start of the period of notice from the Shared Lives Host pursuant to clause 19.1, unless notice was previously served by either of the parties.

## **20. EMERGENCY**

20.1 In the event of an Emergency, the Shared Lives Host will move the Individual to a safe and appropriate place as soon as reasonably practicable. The Shared Lives Host will inform the Care Manager and the Council's Authorised Representative as soon as is reasonably possible.

## **21. PREVENTION OF BRIBERY**

21.1 The Shared Lives Host:

21.1.1 shall not commit a Prohibited Act, and shall ensure that all Shared Lives Host personnel shall not in connection with this Agreement commit a Prohibited Act;

21.1.2 warrants, represents and undertakes that it is not aware of any financial or other advantage being given to member of the Council or any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.

21.2 If any breach of clause 21.1 is suspected or known, the Shared Lives Host must notify the Council immediately and failure to do so will amount to a material breach of this agreement.

- 21.3 If the Shared Lives Host notifies the Council that it suspects or knows that there may be a breach of clause 21.1 the Shared Lives Host must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation.
- 21.3.1 the Council may terminate this Agreement by written notice with immediate effect if the Shared Lives Host, or Shared Lives Host Personnel (in all cases whether or not acting with the Shared Lives Host's knowledge) breaches clause 21.1.
- 21.4 Any notice of termination under clause 21.1 must specify:
- 21.4.1 the nature of the Prohibited Act;
- 21.4.2 the identity of the party whom the Council believes has committed the Prohibited Act; and
- 21.4.3 the date on which this Agreement will terminate.
- 21.5 Notwithstanding anything to the contrary in this agreement any dispute relating to:
- 21.5.1 the interpretation of clause 21.1; or
- 21.5.2 the amount or value of any gift, consideration or commission, shall be determined by the Council and its decision shall be final and conclusive.
- 21.6 Any termination under clause 21.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

## **22. INSURANCE AND INDEMNITIES**

- 22.1 The Shared Lives Host is not an employee of the Council and shall be required to fulfil all of his or her statutory duties as a self-employed person including and not limited to the payment of tax and national insurance contributions.
- 22.2 The Shared Lives Host shall fully indemnify the Council against all actions, claims demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Shared Lives Host of this clause 22.
- 22.3 The onus is on the Shared Lives Host to ensure that its insurance policies are adequate to cover eventualities pertaining to its business.
- 22.4 The Shared Lives Host shall maintain the following minimum insurance cover:
- 22.4.1 public liability insurance with a limit of indemnity of not less than £5 Million in relation to any one claim or series of claims
- 22.4.2 adequate level of insurance cover to cover such incidences where the Shared Lives Host needs to use alternative accommodation for the provision of the Services either due to damage to the Shared Hosts Home or any other reason.

22.4.3 adequate Motor Vehicle Insurance which includes cover for business use.

22.5 The Shared Lives Host will procure and maintain the above mentioned insurances with a reputable company or companies.

22.6 The Shared Lives Host will provide to the Council on request such information as the Council may reasonably require to confirm that the insurances referred to above have been effected and are adequate and in force at all times.

22.7 Neither Party excludes or limits liability to the other Party for death or personal injury caused by its negligence or for any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982 or fraud or fraudulent misrepresentation.

22.8 The Shared Lives Host shall indemnify and keep indemnified the Council fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever (including liability to any third parties) arising out of, in respect of or in connection with this Agreement including in respect of any death or personal injury, loss of or damage to property, or any other loss which is caused directly or indirectly by any act or omission of the Shared Lives Host For the purposes of this Clause 22, references to the Shared Lives Host shall include the Shared Lives Host's personnel

## **23. VARIATION**

23.1 The Council reserves the right to vary any part of this Agreement at any time as a result of an Act of Parliament or direction of Central Government or outcome of review or audit by or for the Council provided that the variation:

23.1.1 fits within the scope of the Service and

23.1.2 is to be effected in accordance with any statutory timetable that prevails or any other period that is agreed between the parties and then notified in writing by the Council to the Shared Lives Host

23.1.3 and the Shared Lives Host shall not unreasonably refuse any such amendment.

23.2 Any non-statutory variation to this Agreement will only be effective when it is in writing and consented to by the parties.

## **24. OMBUDSMAN**

24.1 Under the Local Government Act 1974, the Ombudsman may investigate a complaint about an action taken by the Shared Lives Host on behalf of the Council.

24.2 The Shared Lives Host will co-operate fully with any such investigation and will reimburse to the Council any payment made to any complainant where a finding of maladministration causing injustice is made as a result of fault by the Shared Lives Host.

24.3 The Shared Lives Host may complain to the Ombudsman about maladministration by the Council which caused injustice to the Shared Lives Host only after the Council has been given an opportunity to consider the complaint. The Council will co-operate fully with any such

investigation and will reimburse to the Shared Lives Host any payment made to any complainant where a finding of maladministration causing injustice is made as a result of fault by the Council

**25. ASSIGNMENT AND SUB-CONTRACTING**

25.1 This Agreement is personal to the Shared Lives Host who may not assign it.

**26. CHANGE OF LEGAL STATUS**

26.1 If there is a change affecting the legal status of the Shared Lives Host, the Shared Lives Host shall inform the Council without delay.

**27. PARTNERSHIP AND AGENCY**

27.1 The Council and the Shared Lives Host expressly agree that nothing in this Agreement in any way creates a legal partnership between them.

27.2 The Shared Lives Host will not hold itself to be the agent of the Council or try to bind the Council to any undertaking.

**28. PROBITY**

28.1 The Shared Lives Host will immediately inform the Head of Strategic Commissioning or a representative of Shared Lives of any conflict of interest that has arisen or is likely to arise as a result of the Shared Lives Host undertaking work for or providing the Service to a third party other than an Individual.

28.2 The Council shall seek an alternative service for all of the Service if it has reasonable grounds for believing that such a conflict has arisen or is likely to arise as a result of information received from the Shared Lives Host or otherwise.

**29. DECLARATION OF INTERESTS**

The Shared Lives Host will inform the Council in writing if any officer/staff member or elected member of the Council has or acquires any interest in the Shared Lives Host's business at any time during the duration of this Agreement.

**30. NO WAIVER**

If either party fails to insist on the other party upholding any part of this Agreement, it does not mean the provision in question no longer applies and it affects neither the validity of this Agreement nor the right of either party to enforce any provision in accordance with its terms.

**31. HEALTH AND SAFETY**

31.1 The Shared Lives Host shall promptly notify the Council of any health and safety hazards, which may arise in connection with the performance of the Agreement.

- 31.2 The Shared Lives Host shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and all other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Shared Live Hosts personnel and other persons working on the Council's premises and in relation to the Shared Lives Hosts home in the performance of the Agreement.
- 31.3 The Shared Lives Host shall ensure that it is aware of its obligation under the Health and Safety Policy

**32. FREEDOM OF INFORMATION**

- 32.1 The Shared Lives Host acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the Council (at the Shared Lives Host's expense) to enable the Council to comply with these information disclosure requirements.
- 32.2 The Shared Lives Host shall and shall procure that its sub-contractors shall:
  - 32.2.1 transfer the Request for Information to the Council as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;
  - 32.2.2 provide the Council with a copy of all Information in its possession or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council requesting that Information; and
  - 32.2.3 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 32.3 The Council shall be responsible for determining at its absolute discretion whether any Information:
  - 32.3.1 is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations; and/or
  - 32.3.2 is to be disclosed in response to a Request for Information.
- 32.4 In no event shall the Shared Lives Host respond directly to a Request for Information unless expressly authorised to do so by the Council.

**33. DATA PROTECTION**

- 33.1 The Shared Lives Host shall (and shall procure that any of its Shared Lives Host's personnel involved in the provision of the agreement shall) comply with any notification requirements under the Data Protection Act 1998 (DPA) and both Parties shall duly observe all their obligations under the DPA, which arise in connection with the agreement.

- 33.2 Notwithstanding the general obligation in clause 33.1, where the Shared Lives Host is processing Personal Data as a Data Processor for the Council, the Shared Lives Host shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA; and
- 33.2.1 provide the Council with such information as the Council may reasonably require to satisfy itself that the Shared Lives Host is complying with its obligations under the DPA;
- 33.2.2 promptly notify the Council of any breach of the security measures required to be put in place pursuant to clause 33.2; and
- 33.2.3 ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the DPA.
- 33.3 The provisions of this clause shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

#### **34. CONFIDENTIALITY**

- 34.1 Subject to clause 34.2, the parties shall keep confidential all matters relating to this agreement and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.
- 34.2 Clause 34.1 shall not apply to any disclosure of information:
- 34.2.1 required by any applicable law, provided that clause 34.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;
- 34.2.2 that is reasonably required by persons engaged by a party in the performance of such party's obligations under this agreement;
- 34.2.3 where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 34.1;
- 34.2.4 by the Council of any document to which it is a party and which the parties to this agreement have agreed contains no commercially sensitive information;
- 34.2.5 to enable a determination to be made under clause 14;
- 34.2.6 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- 34.2.7 by the Council to any other department, office or agency of the Government; and
- 34.2.8 by the Council relating to this agreement and in respect of which the Shared Lives Host has given its prior written consent to disclosure.

34.3 On or before the expiry or termination date of this Agreement the Shared Lives Host shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Individuals, are delivered up to the Council or securely destroyed.

34.4 The provisions of this clause shall apply during the continuance of the agreement and indefinitely after its expiry or termination

## **35. EQUALITIES**

35.1 The Shared Lives Host as a provider of the Service shall take all reasonable steps to ensure elimination of all forms of discrimination in relation to gender, religion, race, disability, age and sexual orientation in both its employment practice and in its delivery of the Service in accordance with an established equal opportunities policy, which policy shall include effective monitoring.

35.2 In complying with its obligations under clause 35.1, the Shared Lives Host shall have due regard to the Council's Equalities Scheme, a copy of which can be made available on request, and the Shared Lives Host shall ensure compliance with its obligation under:

- The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000;
- The Sex Discrimination Act 1975 as amended;
- The Disability Discrimination Gender Re-Assignment Regulations 1999;
- The Employment Equality (Sexual Orientation) Regulations 2003;
- The Employment Equality (Religion and Belief) Regulations 2003;
- The Employment Equality (Age) Regulations 2006
- The Equality Act 2010;
- The commission for Race Equality's Statutory Code of Practice on Race Equality in Employment

And all amendments, re-enactments, or any subsidiary legislation and any other equal opportunities legislation, regulations, acts, codes of practice or guidance issued or in force during the period of this Agreement.

## **36. DISCLOSURE AND BARRING SERVICE**

36.1 It is a condition of this Agreement that the Shared Lives Host consents to the Council carrying out Disclosure and Barring Service (DBS Checks) in respect of the Shared Lives Host and any other person (except for other Individuals) aged 18 years or over who is ordinarily resident within the Shared Lives Host's home prior to the commencement of the Service and who participates in the provision of care from time to time as often as the Council considers reasonably necessary.

36.2 DBS Checks will be carried out by requesting a search of the most extensive available kind made with the Criminal Records Bureau in accordance with Part V of the Police Act 1997 in respect of the persons described in clause 36.1.

36.3 The Shared Lives Host warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is resident in the Shared Lives Host's House or will be employed or engaged by the Shared Lives Host's in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time and shall inform the Council as soon as it becomes aware that any said person (s) are barred from such activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 or if its becomes aware that such person has harmed or poses a risk of harm to the Individuals

### **37. NOTICES**

Notices shall be in writing, and shall be sent to the other party marked for the attention of the person at the address set out for such party in this agreement. Notices may be sent by first-class mail or facsimile transmission provided that facsimile transmissions are confirmed within 24 hours by first-class mailed confirmation of a copy. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 72 hours after posting and correctly directed facsimile transmissions shall be deemed to have been received instantaneously on transmission provided that they are confirmed as set out above.

### **38. ENTIRE AGREEMENT**

This agreement, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

### **39. GOVERNING LAW AND JURISDICTION**

39.1 This Agreement and any dispute or claim arising out of or in connections with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.

### **40. HUMAN RIGHTS**

40.1 The Shared Lives Host shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement.

40.2 The Shared Lives Host shall undertake, or refrain from undertaking, such acts as the Council requests so as to enable the Council to comply with its obligations under the Human Rights Act 1998.



**41. ELECTRONIC BUSINESS**

The Parties agree to co-operate with each other in order to make the most of information and communication technology as it applies to the provision of the Service and/or otherwise to this Agreement.

**42. BEST VALUE**

The Shared Lives Host acknowledges that the Council is subject to a best value duty imposed on the Council by Part 1 of the Local Government Act 1999 (“the Best Value Duty”) and the Shared Lives Host shall throughout the Contract assist the Council (at no additional expense to the Council) to secure continuous improvement in the way in which the Services are provided, having regard to a combination of economy, efficiency and effectiveness.

**43. LIAISONS AND COMMUNICATION**

43.1 The Council and the Shared Lives Host shall co-operate with each other to such extent as is reasonably necessary to facilitate the proper and timely performance of the Services under this Agreement.

43.2 The Council/ Shared Lives shall provide such reasonable advice, support and information to the Shared Lives Host as would be appropriate to any Shared Lives Host providing Services under this Contract.

43.3 The Shared Lives Host shall provide the Council with such reasonable information and advice on all matters relating to the Service provided under this Agreement. This shall include disclosure of any serious incident or information, which may adversely affect the health and safety of Individuals, staff or the reputation of the Shared Lives Host and/or the Council.

**44. FORCE MAJEURE**

44.1 Neither party to this Contract shall be liable for failure to perform its obligations under this Contract if and to the extent such failure is due to Force Majeure provided that:

44.2 Each party gives to the other Written Notice within 7 days describing the circumstances for the Force Majeure, including the nature, expected duration and the particular obligations affected by it and where reasonably practicable, provides regular reports with respect thereto during the period of Force Majeure.

44.3 Any failure to meet the stated obligations is of no greater scope and of no longer duration that is justified by the circumstances of Force Majeure.

44.4 Any failure to meet the stated obligations, which arose before the Force Majeure, shall not be excused by the Force Majeure.

44.5 Having regard to the nature of the Force Majeure each party shall use all reasonable efforts to mitigate the effects to take appropriate remedial action in order to meet the stated obligations and undertake to provide the other party with written notice immediately it is known that the stated obligations shall be met in full.

44.6 Where an event of Force Majeure continues for a period exceeding 90 calendar days either party may terminate the Contract.

IN WITNESS whereof the parties have entered into this Agreement on the day and year first written above

Signed by Shared Live Host

**(Name of person)** .....

(Signature) .....


Signed by Shared Live Host

**(Name of person)** .....

(Signature) .....

FOR and on behalf of THE KENT COUNTY COUNCIL

Signed

A handwritten signature in black ink, appearing to read 'R Smith', is written on a white rectangular background.

Richard Smith, Corporate Director, Adult Social Care and Health

## SCHEDULE 1

### SERVICE SPECIFICATION

#### The Shared Lives host(s) agrees:

<b>National &amp; Kent standards</b>	<ul style="list-style-type: none"> <li>• To work in accordance with the key principles of the Care Act 2014 and Care Quality Commission regulations, helping the person placed with them to live a normal life in the community, to share their family life, to ensure wellbeing.</li> <li>• To treat the person placed with them with respect and dignity and support them to express their views and make choices and decisions.</li> <li>• To work to the health &amp; care professions council standards (HCPC) of conduct, performance and ethics.</li> <li>• To participate positively in any meetings with Care Quality Commission inspectors that are part of Shared Lives registration and inspection process and, in particular, allow a person authorised by the commission to interview them and visit their home at any reasonable time.</li> </ul>
<b>Policy and procedure</b>	<ul style="list-style-type: none"> <li>• To work in accordance with the aims and objectives of the Shared Lives and the Shared Lives' policies and procedures as described in the Shared Lives handbook.</li> <li>• To ensure that any information relating to adult placed, his/her family or any other person, which has been given to them in confidence in connection with a placement, is kept confidential and is not disclosed to any person without the consent of the local authority.</li> <li>• To ensure the health, safety and wellbeing of themselves, their household and any person placed with them.</li> <li>• To follow government guidance on restrictive physical restraint. The Shared Lives host must not subject someone placed with them to any physical restraint unless that restraint is the only practical way to safeguard the person or another individual. The Shared Lives host must follow the risk management procedures written into the care and support Plan, which may include guidance on physical intervention. The Shared Lives host must inform the Shared Lives manager of any incident where they have used physical restraint while supporting the placed adult.</li> <li>• To follow the Shared Lives' policy and procedure on the administration and handling of medication and the guidelines set out in the care and support plan with regard to circumstances under which they may administer or assist in the administration of the placed adults' medication.</li> <li>• To follow the procedure set out in the Shared Lives handbook where there has been an allegation of abuse, neglect or other harm to the person placed with them.</li> <li>• To keep any records that are required by Shared Lives in line with statutory requirements and the data protection act 1998.</li> <li>• To inform Kent County Council through the Shared Lives if they have</li> </ul>

	<p>cause for concern about the wellbeing of any person in the care of Shared Lives in accordance with the social care, health and wellbeing whistle blowing policy and procedure.</p>
<p><b>Individual</b></p>	<ul style="list-style-type: none"> <li>• To receive referrals only through Shared Lives and to co-operate with the Shared Lives procedure for matching and introductions.</li> <li>• To accept a placement only where they have been given a comprehensive written needs assessment and believes that they can meet the assessed needs.</li> <li>• To work with the person placed with them in accordance with the placement agreement and care and support Plan.</li> <li>• To take full account of any written risk assessment, inform the Shared Lives worker of any additional identified risks for the person placed with them and work with Shared Lives and others to develop strategies to manage those risks.</li> <li>• To identify any change in the needs of the person placed with them and bring those changes to the attention of Shared Lives and other relevant professionals.</li> <li>• To discuss with and obtain agreement from Shared Lives for any arrangements for the involvement of support hosts to assist the Shared Lives host in providing support for the people placed. These arrangements will be recorded on the placement agreement. Shared Lives hosts are not able to directly employ staff to provide care to the person placed with them.</li> <li>• To consider the best interest of the placed adult when arranging holidays</li> <li>• If possible to identify a support host who is willing to be assessed to care for the placed adult while the primary host is having a break to enable the adult to remain in their home when the Shared Lives host is away.</li> <li>• To work positively and co-operatively with professionals and other people involved in the life of the person placed with them.</li> <li>• To facilitate visits to the placed adult by the care/case manager or any other person on behalf of the Kent County Council.</li> <li>• To facilitate arrangements for the placed adult to enjoy appropriate contact with their relatives, friends and representatives as agreed and recorded within the placement agreement or care and support plan.</li> <li>• To co-operate with the care and support plan and arrangements for the adult.</li> <li>• To participate positively in placement and Shared Lives host reviews.</li> <li>• To inform the person placed with them about planned visits by the care/case manager and Shared Lives worker and, where appropriate, the Care Quality Commission inspector</li> </ul>
<p><b>Supervision, monitoring and support</b></p>	<ul style="list-style-type: none"> <li>• To engage positively with the regular support and monitoring visits by the Shared Lives worker, allowing access to their homes at all reasonable times.</li> <li>• To attend and contribute to Shared Lives groups as often as possible.</li> </ul>

<b>Training and development</b>	<ul style="list-style-type: none"> <li>• To attend mandatory training as required by Shared Lives</li> <li>• To give evidence of professional development by engaging in other training or learning provided by Shared Lives designed to meet identified training needs</li> </ul>
<b>Accident or incident</b>	<ul style="list-style-type: none"> <li>• To inform the Shared Lives service within 24 hours of the occurrence of any serious accident or incident including:</li> <li>• Death of the person placed</li> <li>• The outbreak of any serious infectious disease in the Shared Lives host's home</li> <li>• Any serious injury or illness of the person placed</li> <li>• Any event that may have an adverse effect on the person placed</li> <li>• Any theft or burglary in the Shared Lives host's home</li> <li>• Any incident involving the person placed and which is reported to or investigated by the police</li> <li>• Any allegation made by the person placed against the Shared Lives host or a member of their household</li> <li>• Any unexplained absence for more than 12 hours of the person placed from the Shared Lives host's home.</li> <li>• Any serious illness of the person</li> </ul>
<b>Host breaks</b>	<ul style="list-style-type: none"> <li>• To ensure that any breaks are taken within the agreed Shared Lives framework.</li> </ul>
<b>Complaints</b>	<ul style="list-style-type: none"> <li>• To use the councils complaints procedure if they believe the service has breached any of its responsibilities.</li> </ul>

## **SCHEDULE 2**

### **PAYMENT/GROSS FEE LETTER**

This will be sent under separate cover by the Shared Lives team and will include the Gross weekly fee and start date of the placement.

**SCHEDULE 3**  
**CARE AND SUPPORT PLAN**

The Care and Support Plan will be provided by the Care Manager.



## SCHEDULE 4

Please refer to the [Shared Lives Handbook and Statement of Purpose](#).

## SCHEDULE 5

### GENERAL DATA PROTECTION REGULATION SCHEDULE ("THE GDPR SCHEDULE")

#### IN RELATION TO THE SHARED LIVES HOST SERVICE AGREEMENT ("THE CONTRACT")

#### PARTIES

The Kent County Council      Data Controller

**[ENTER HOST NAME]**      Data Processor

The Parties agree that the Contract is varied to include the GDPR Schedule and its Annex 1.

#### STANDARD DEFINITIONS

**Party:** a Party to this Contract;

**Law:** means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply;

**Processor Personnel:** means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Contractor engaged in the performance of its obligations under this Contract.

#### GDPR CLAUSE DEFINITIONS:

**Data Protection Legislation:** (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

**Data Protection Impact Assessment:** an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;

**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer:** take the meaning given in the GDPR;

**Data Loss Event:** any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;

**Data Subject Access Request:** a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

**DPA 2018:** Data Protection Act 2018;

**GDPR:** the General Data Protection Regulation (Regulation (EU) 2016/679);

**LED:** Law Enforcement Directive (Directive (EU) 2016/680).

**Protective Measures:** appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;

**Sub-processor:** any third Party appointed to process Personal Data on behalf of the Processor related to this Contract

## 1. DATA PROTECTION

- 1.1 This GDPR Schedule includes Annex 1 (Schedule of Processing, Personal Data and Data. Annex 1 must be completed for this Schedule to be valid.
- 1.2 In the event of a conflict between this Schedule and other Clauses of the Contract pertaining to data protection, the Clauses within this Schedule shall apply.
- 1.3 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Controller and the Processor are as described at the start of this Schedule. The only processing that the Processor is authorised to do is listed in Annex 1 to this Schedule by the Controller and may not be determined by the Processor.
- 1.4 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 1.5 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
  - 1.5.1 a systematic description of the envisaged processing operations and the purpose of the processing;
  - 1.5.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - 1.5.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 1.5.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

- 1.6 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
- 1.6.1 process that Personal Data only in accordance with Annex 1 to this Schedule, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
  - 1.6.2 ensure that it has in place Protective Measures, which have been reviewed and approved by the Controller as appropriate to protect against a Data Loss Event having taken account of the:
    - a. nature of the data to be protected;
    - b. harm that might result from a Data Loss Event;
    - c. state of technological development; and
    - d. cost of implementing any measures;
  - 1.6.3 ensure that:
    - a. the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Annex 1 to this Schedule);
    - b. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - i. are aware of and comply with the Processors duties under this Clause;
      - ii. are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
      - iii. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
      - iv. have undergone adequate training.
  - 1.6.4 not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
    - a. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;

- b. the Data Subject has enforceable rights and effective legal remedies;
  - c. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
  - d. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- 1.6.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
- 1.7 Subject to Clause 1.8, the Processor shall notify the Controller immediately if it:
- 1.7.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 1.7.2 receives a request to rectify, block or erase any Personal Data;
  - 1.7.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 1.7.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
  - 1.7.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
- or
- 1.7.6 becomes aware of a Data Loss Event.
- 1.8 The Processor's obligation to notify under Clause 1.7 shall include the provision of further information to the Controller in phases, as details become available.
- 1.9 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 1.7 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- 1.9.1 the Controller with full details and copies of the complaint, communication or request;
  - 1.9.2 such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

- 1.9.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 1.9.4 assistance as requested by the Controller following any Data Loss Event;
  - 1.9.5 assistance as requested by the Controller with respect to any request from the Information Commissioners Office or any consultation by the Controller with the Information Commissioner's Office.
- 1.10 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 1.
- 1.11 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controllers designated auditor.
- 1.12 The Processor shall designate a data protection officer if required by the Data Protection Legislation.
- 1.13 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:
- 1.13.1 notify the Controller in writing of the intended Sub-processor and processing;
  - 1.13.2 obtain the written consent of the Controller;
  - 1.13.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this GDPR Schedule such that they apply to the Sub-processor; and
  - 1.13.4 provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 1.14 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
- 1.15 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' Notice to the Processor amend this Contract to ensure that it complies with any Guidance issued by the Information Commissioner's Office.

## **GENERAL DATA PROTECTION REGULATION (GDPR)**

### **ANNEX 1**

#### **Schedule of Processing, Personal Data and Data Subjects**

**Host:** **[ENTER HOST NAME]**

**Contract: SHARED LIVES HOST SERVICE AGREEMENT**

1. The Processor shall comply with any further written instructions with respect to processing by the Controller.
2. Any such further instructions shall be incorporated into this Schedule.
3. Part A and/or Part B, as appropriate, describe the Data relationship(s) between the Parties. Only completed Part(s) apply and an uncompleted Part indicates that the Data relationship pertaining to that Part does not exist within the Contract. At least one Part must be completed and apply and both Parts may be completed and apply but the latter can only apply to different Data within the Contract.

**PART A**

**The Kent County Council**                      Data Controller  
**[ENTER HOST NAME]**                              Data Processor

Description	Details
<b>Subject matter of the Processing</b>	<p>Processing of personal or sensitive data in relation to the provision of Adult Social Care service provision</p> <p>All Hosts delivering a service on behalf of Kent County Council are obliged to manage personal or sensitive data to enable the delivery of the service commissioned.</p> <p>Personal or sensitive data includes that of the person receiving the service, as commissioned or purchased on behalf of Kent County Council.</p>
<b>Duration of the Processing</b>	<p>The Terms and Conditions of the Agreement state the duration of Processing throughout the duration of the agreement and held for the agreed period of time after agreement expires.</p> <p>The information is required to be held in accordance with the subject matters use, in line with the record retention policy or governing body / legislation whichever is the greatest.</p> <p>On early termination of Agreement, refer to the particulars as detailed in the Terms and Conditions of the Agreement.</p>

**Nature and purposes of the Processing**

In the delivery of this service Kent County Council are the Data Controllers for information provided on service users referred to the service. The Provider is the Data Processor for the personal and sensitive information relating to this contract. .

[Where the Provider collects data in excess of the requirements of this Contract, the Provider will be the Data Controller of that data.]

Due to the nature of the service provided, the high-risk area of information will be that which is collected manually and storage of the information. The information will either be transferred to a computerised system with paper records filed in locked cabinets.

Computerised records would need to be backed up with up to date security software. Email need to be enabled to use secure email to and from KCC and other necessary organisations.

Information that is portable and used in the community, for instance service delivery that requires a visit to hospital, GP or for an outing must be kept to a minimum with key relevant information being transported. This information has to be kept secure in a folder in a closed bag, preferably with a lock. If information is left unattended in a car for a short period, this must be locked in the boot out of sight.

The nature of the Processing under this Agreement will cover the following: receiving, collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.

Information must be Processed and reported according to:

Data Protection Act Information Governance – general responsibilities section of this Agreement (Terms and



	<p>Conditions) and Schedule - General Data Protection Regulation (GDPR)</p> <p>The purpose of the Processing are as follows:</p> <ul style="list-style-type: none"> <li>• To measure and accept suitability of care packages,</li> <li>• To liaise with Kent County Council Case/Care Managers</li> <li>• To inform staff of service to be delivered and escalation routes.</li> <li>• To deliver services to Specification according to need.</li> <li>• To manage unforeseen situations, and emergencies</li> <li>• To invoice KCC according to the individual's details.</li> <li>• To analyse current and future service provision via any KPI data</li> <li>• To ensure safe working practice via monitoring of training, DBS collection, registration and insurances.</li> </ul> <p>Information will be shared with the Commissioner, the Regulator, the NHS/CCG and Ambulance Trust where and when necessary in a timely and legitimate manner, obtaining consent where required.</p> <p>Due to the nature of the data collected GDPR compliance will also be appended to any monitoring</p>
<p><b>Type of Personal Data</b></p>	<p>Personal and sensitive data required includes:</p> <p>Information on Service recipients: name, address, date of birth, NHS details, social care identification number, NI number, telephone number, medical conditions and assistance needs, key safe information as needed, next of kin information, risk assessment information.</p>

<b>Categories of Data Subject</b>	<p>Service users/Individuals/Residents/Clients – the person using the service</p> <p>Next of Kin to the person using the service.</p> <p>Witness and Investigation information in relation to complaint, safeguarding and criminal investigations (may include photographic evidence)</p>
<b>Plan for return and destruction of the Data once the Processing is complete UNLESS requirement under union or member state law to preserve that type of Data</b>	<p>Retention of data as per 'Agreement particulars' in the Terms and Conditions</p> <p>Or Retention as required by legislation or governing bodies such as CQC.</p> <p>whatever period is the greatest.</p> <p>Storage, Transfer and Destruction of data as per Data Protection Act Information Governance – general responsibilities section of the Agreement Terms and Conditions</p> <p>On early termination of the Agreement all data to be returned to Kent County Council as per section 'recovery upon termination' within the Agreement Terms and Conditions.</p>

**PART B**

**The Kent County Council**  
**[ENTER HOST NAME]**

Data Processor  
Data Controller

Description	Details
<b>Subject matter of the Processing</b>	<p>Additional information received relating to the individual using the service and shared with the Council</p>
<b>Duration of the Processing</b>	<p>For the duration of the Service and Agreement – refer to the Terms and Conditions of the Agreement or Safeguarding and other Legislation</p>

<p><b>Nature and purposes of the Processing</b></p>	<p>The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</p>
<p><b>Type of Personal Data</b></p>	<p>Staff/Volunteers. professional registrations, insurances, proof of ID, NI details, Bank details, training details, DBS information</p> <p>Additional Personal or Sensitive information collated in relation to a Service recipient in order to deliver the Service</p>
<p><b>Categories of Data Subject</b></p>	<p>Service users/Individuals/Residents/Clients – the person using the service</p> <p>Next of Kin to the person using the service.</p> <p>Staff (including volunteers, agents, and temporary workers)</p> <p>Suppliers/third parties in the delivery of the service, including trainers</p> <p>Witness and Investigation information in relation to complaint, safeguarding and criminal investigations (may include photographic evidence)</p>
<p><b>Plan for return and destruction of the Data once the Processing is complete UNLESS requirement under union or member state law to</b></p>	<p>Retention of data as per 'Agreement particulars' in the Terms and Conditions</p> <p>Or Retention as required by legislation or governing bodies such as CQC.</p> <p>whatever period is the greatest.</p> <p>Storage, Transfer and Destruction of data as per data protection act information governance – general responsibilities section of the Agreement Terms and Conditions</p>

<p><b>preserve that type of</b></p> <p><b>Data</b></p>	<p>On early termination of agreement all data to be returned to Kent County Council as per section 'recovery upon termination' within the Contract Terms and Conditions.</p>
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