

THIS AGREEMENT is made on the _____ day of _____ 2000

BETWEEN NORTHERN SYDNEY REGIONAL COMMUNITY FORUM as
incorporated under the NSW ASSOCIATION ACT 1984 through
NORTHERN SYDNEY CARER RESPITE CENTRE (“**the Centre**”)
of 1-3 Gilroy Road Turramurra

AND _____ (“**the Contractor**”)
of _____

WHEREAS

- A. The Centre provides respite support services to carers of frail elderly people, people with disabilities and people with chronic illness.
- B. The Centre has agreed to purchase the services and the Contractor has agreed to provide the services on the terms and conditions set out in this Agreement.

1. DEFINITIONS

1.1 In this Agreement, except in so far as the context or subject matter otherwise provides:

“**Centre**” means the party named in the First Schedule.

“**Clients**” mean the clients of the Centre who are the Primary Carers for chronically ill, disabled or elderly persons and who have requested the Centre to arrange Respite Service for the chronically ill, disabled or elderly persons.

“**Contract Price**” means the amount agreed between the Centre and the Contractor for the Service Assignment.

“**Contractor**” means the party named in the First Schedule.

“**Notice**” means a notice in writing given to a party in accordance with this Agreement to the address specified in the First Schedule.

“**Respite Service**” means the service or services provided by the Contractor pursuant to this Agreement.

“**Service Assignments**” means a particular requirement for the Contractor to provide certain services to clients as set out in the Form of Purchase for Service.

1.2 In this Agreement unless the context otherwise requires:

- reference to a person includes, but is not limited to, an individual, corporation, partnership, body corporate, registered association and statutory authority;
- words importing the singular number include the plural number and vice versa;
- words importing one gender include every gender;
- every agreement or undertaking expressed or implied by which more than one person agrees or undertakes any obligation or derives any benefit binds or enures for the benefit of those persons jointly; and
- reference to a Schedule is a reference to a Schedule attached to this Agreement.

2. REQUEST FOR RESPITE SERVICE

The Contractor agrees to provide respite services and the Centre agrees to purchase these services subject to the terms and conditions of this Agreement.

3. DURATION OF AGREEMENT

This Agreement will commence on the date hereof and will continue until terminated by either party in accordance with Clause 15.

4. PROVISION OF RESPITE SERVICES

4.1 The Contractor must perform the Respite Service in a conscientious, expeditious and professional manner.

4.2 The Contractor warrants that it and its staff have the necessary skills, competency and resources to perform the Respite Service.

4.3 The Contractor may employ new staff to provide Respite Service for the Centre, with the permission of the Centre and in doing so the Contractor must:

4.3.1 check appropriate references of all new staff;

4.3.2 request a criminal record check to be carried out within one month of employment of staff and be satisfied as to the outcome;

4.3.3 orientate and appropriately train all staff including on-site training and

- supervision where necessary;
- 4.3.4 employ staff who are competent and hold appropriate qualifications;
- 4.3.5 immediately replace staff who are incompatible or unacceptable to any client;
- 4.3.6 remunerate staff in accordance with any relevant award;
- 4.3.7 ensure that staff comply with any directive or guideline imposed by the Centre.
- 4.4 Any breach of any terms of this Agreement by a member of staff of the Contractor is deemed to be a breach by the Contractor giving the Centre the right to terminate this Agreement in accordance with Clause 15.2.
- 4.5 The Contractor undertakes to:
- 4.5.1 notify the Association of any accidents or significant incidents (eg marked changes in the client's health, temporary absences from the residence) relating to the Clients.
- 4.5.2 instruct its staff who are providing support to the Clients as follows:
- to resolve questions regarding the job as far as possible before beginning work for the Client;
 - to respect the privacy of the person they are assisting, maintain confidentiality and behave in a professional manner at all times;
 - to at all times practise universal principles of infection control to prevent the transmission of blood-borne or other infections;
 - to arrive at the scheduled time ready for work;
 - to notify the Client if they are going to be late for any reason;
 - to complete the duties as well as possible within the rostered time;
 - to be open and honest in all communications with and give constructive feedback to the Client;
 - to give regular feedback to the Contractor on matters concerning the Service, health and welfare of the Client;
 - to give immediate feedback to the Contractor in relation to any identified Occupational Health & Safety issues;
 - to comply with the confidentiality requirements set out in this Agreement;
 - to dress neatly and appropriately and be well-groomed;
 - NOT to smoke on the Client's premises, even if the Client permits this;

- **NOT** to cut nails. Nail/toe care is limited to the use of cotton buds to cuticle areas and emery boards for trimming of nails;
- **NOT** to impose their religious or political beliefs or ethical values on the Clients;
- **NOT** to sell any products to Clients (eg vitamins, cosmetics, mail-order items); and
- **NOT** to accept or solicit any gifts from Clients.

5. SERVICE ASSIGNMENTS

5.1 The Contractor must provide the services to Clients as and whenever required by the Centre as notified under this clause.

5.2 The Centre will notify the Contractor either orally or in writing of Service Assignments. Each Service Assignment will specify the Services to be provided and the Clients to whom the Services are to be provided. The Centre will use its best endeavours to give the Contractor reasonable notice of each Service Assignment and to provide a Form for Purchase of Service with the relevant details of the Service Assignment.

5.3 The Contractor may accept the Centre's request for a Service Assignment orally or by giving the Centre written confirmation.

5.4 On receipt by the Centre of the Contractor's acceptance of the Service Assignment referred to in Clause 5.3, the Contractor will be bound by the terms and conditions of this Agreement in respect of the Service Assignment.

5.5 The Centre does not warrant or guarantee the number or regularity of the Service Assignments.

5.6 The Service Assignments may be cancelled by either party giving Notice to the other party provided that:

5.6.1 in the event that the Centre provides less than four (4) hours Notice, then the Centre must pay the Contractor the cancellation fee which is an amount equivalent to the cost of service for one (1) hour.

5.6.2 in the event that the Contractor fails to give Notice by 4.30 p.m. on the day

preceding the day of the Service Assignment or at least four (4) business hours prior to the appointed time for the Service Assignment that it is unable to provide or fulfil any Service Assignment, then the Centre will be entitled to charge the Contractor the cancellation fee which is an amount equivalent to the cost of service for one (1) hour by way of a deduction from payments due or falling due to the Contractor.

- 5.7 The Contractor must also notify the Centre immediately if the Client or person being cared for is not at the appointed place at the appointed time for the Service Assignment or if the arrangements regarding the Service Assignment are altered in any way from that arranged between the Contractor and the Centre. Unless the altered arrangements are approved by the Centre the Centre will not be responsible for payment of the service.

6. COSTS AND EXPENSES IN THE PROVISION OF SERVICES

- 6.1 The Contractor must, at its own expense, provide itself and its employees with all necessary materials, clothing or equipment for the purpose of carrying out its obligations under this Agreement.
- 6.2 The Contractor will be responsible for any other charge or expense incurred in connection with the provision of Respite Service under this Agreement unless the Centre agrees in writing to be responsible for the charge or expense.

7. PAYMENT FOR SERVICE

The Centre will pay the Contractor for the Service, subject to satisfactory progress and performance, within fourteen (14) days from the receipt by the Centre of the Contractor's invoice for the services.

8. INSURANCE

- 8.1 The Contractor must take out and maintain for the duration of this Agreement with a reputable insurance company:

- 8.1.1 a comprehensive policy of public liability insurance providing a minimum cover of at least ten million dollars (\$10,000,000.00) in respect of the Respite Service; and
- 8.1.2 a comprehensive policy of insurance that provides protection to the Contractor's staff engaged in the provision of the Respite Service and in particular insurances required under Worker's Compensation legislation.
- 8.2 The Contractor must provide the Centre with copies of the insurance policies and receipts evidencing payment of premiums at the commencement of this Agreement or whenever requested by the Centre.

9. INDEMNITY

The Contractor will be solely liable for and indemnify and hold harmless the Centre, its officers, employees and agents against all liability, damage, loss, expense, costs and proceedings of any nature whatsoever arising out of or in connection with the services, duties and other obligations as a result of or arising from negligence, breach of duty or breach of statute by the Contractor, its officers, employees, agents or otherwise

10. STATUS OF CONTRACTOR

The Contractor acknowledges that it is an independent contractor and will not under any circumstances by virtue of this Agreement or otherwise be deemed to be or hold itself out as a partner, employee or agent of the Centre.

11. NO ASSIGNMENT BY CONTRACTOR

- 11.1 The Contractor is not entitled to assign the benefit of this Agreement.
- 11.2 The Centre may assign the benefit of this Agreement. Upon such assignment the Contractor must continue to observe and perform all its obligations under this Agreement and, as soon as practicable, enter into an Agreement with the assignee in the form prescribed by the Centre.
- 11.3 On assignment of this Agreement, the Centre will, subject to payment of amounts

outstanding to the Contractor for invoices rendered, be released from any liability under this Agreement.

12. COMPLIANCE WITH STATUTORY AND OTHER REQUIREMENTS

- 12.1 The Contractor must at all times comply with all relevant statutes and governmental authorities regarding the performance of the Service and indemnify the Centre against all costs and liabilities in this regard.
- 12.2 The Contractor must in respect of itself and its staff pay all money due and payable as a result of the provision of the Service and/or any payment made by the Centre under this Agreement, including but not limited to payroll tax, PAYG tax deductions under Federal or State Income Tax Legislation, or Federal Superannuation Guarantee Levies.
- 12.3 The Contractor must at all times bear responsibility for money payable to the Contractor's employees, agents and contractors in respect of annual leave, long service leave, parent leave or other leave entitlements.

13. TAXATION

The Contractor, in respect of itself and its employees, agrees to pay and comply with all taxes due and payable in respect of any payments received under this Agreement including but not limited to payroll tax, PAYG tax deductions or excise duties.

14. CONFIDENTIALITY AND TRADE RESTRAINTS

- 14.1 The Contractor acknowledges and agrees that all information supplied to it by the Centre pursuant to the performance of this Agreement or which may come to the Contractor's knowledge as a consequence of the performance of the Service under this Agreement concerning the business of the Centre (including but not limited to customer lists, names, service procedures of the Centre and all the Centre's forms and other documents) as well as details regarding the Client or person being cared for must be kept strictly confidential and will be used by the Contractor only in connection with the performance of its obligations under this Agreement and must

not be disclosed to any other party during or after the term of this Agreement.

- 14.2 The provisions of Clause 14.1 will not apply in respect of information which:
 - 14.2.1 entered the public domain otherwise than as a result of the breach by the Contractor of the provisions of this clause; or
 - 14.2.2 has otherwise become known to the Contractor; and
 - 14.2.3 in all the circumstances cannot reasonably be considered to be confidential information.
- 14.3 The Contractor must not at any time:
 - 14.3.1 prejudice the Centre's credibility'
 - 14.3.2 in any way disparage the good name of the Centre or the Centre's service; and
 - 14.3.3 in any way do any act or any thing that may prejudicially affect the Centre.
- 14.4 The provisions of Clauses 14.1 and 14.3 will service termination of this Agreement.

15. TERMINATION

- 15.1 Either party may terminate this Agreement by giving thirty (30) days' Notice to the other party of its intention to do so. The termination will be effective thirty (30) days from the date of this Notice.
- 15.2 The Centre may terminate this Agreement by giving seven (7) days' Notice to the Contractor if the Contractor defaults in the performance of any obligation under this Agreement or if the Contractor being a company:
 - 15.2.1 goes into liquidation;
 - 15.2.2 is wound up or dissolve;
 - 15.2.3 enters into a scheme of arrangement with its creditors or any class of creditors;
 - 15.2.4 is placed under official management; or
 - 15.2.5 a receiver, receiver manager, administrator, voluntary administrator, controller, controlling manager or official manager of any of its assets is appointed pursuant to the Corporations Law.
- 15.3 The Centre may terminate this Agreement without Notice if the Contractor is

guilty of gross dereliction in the provision of service or the person being cared for has been subjected to physical or verbal abuse.

16. CONSEQUENCES OF TERMINATION

- 16.1 Termination of this Agreement is without prejudice to any other rights or remedies which the Centre may have in respect of any antecedent breach of any of the terms and conditions of this Agreement.
- 16.2 Upon termination or expiration of this Agreement, the Contractor at its own cost must return or deliver to the Centre all material or property belonging to the Centre including but not limited to: Client lists, names, operating manuals of the Centre and all of the Centre's forms and other documents in the possession or control of the Contractor. The Contractor must not retain any copies or replicas of such material.

17. GOVERNING LAWS

This Agreement is governed by and will be interpreted in accordance with the laws for the time being in force in New South Wales and the parties agree to submit to the jurisdiction of the courts of that State.

18. NOTICES

- 18.1 A notice in connection with this Agreement is to be in writing and may be given to a party or may be sent by prepaid post, ordinary post or facsimile to the address of the party to this Agreement as set out in the First Schedule.
- 18.2 Unless a later time is specified in it and/or in this Agreement, a Notice takes effect from the time it is received, and is taken to be received:
- 18.2.1 if left at the address of the addressee, at the time it is left;
 - 18.2.2 in the case of a posted letter, on the third day after posting; or
 - 18.2.3 in the case of a facsimile transmission on production of a transmission report from the sender's facsimile machine indicating that a full, clear facsimile was sent to the addressee.

19. GENERAL

19.1 If any provision of this Agreement is held invalid by a Court, that provision is deemed modified to eliminate the invalid element and, as so modified, that provision is deemed to be part of this Agreement. The remaining provisions of this Agreement will continue in full force and effect.

19.2 A release or waiver by the Centre of any particular obligation under this Agreement will not prejudice the rights and powers of the Centre under this Agreement other than as to the matter to which the release or waiver relates.

19.3 A release or waiver by the Centre of any particular obligation under this Agreement will only be effective if a Notice is served on the Contractor.

19.4 This Agreement constitutes the entire Agreement between the parties with respect to the matters dealt with in this Agreement and supersedes all or any prior oral or written undertakings, representations or commitments express or implied. The Contractor acknowledges that it has not been induced to enter this Agreement by any prior representation made in respect of this Agreement. No oral or written modification of this document will be of any force or effect unless such modification is in writing and executed by both parties.

FIRST SCHEDULE

“The Centre”

Name: **NORTHERN SYDNEY CARER RESPITE CENTRE**

Address: **1-3 Gilroy Road, Turrumurra. 2074**

Postal Address: **PO Box 698, Turrumurra. 2074**

Telephone: **9983 0733**

Fax: **9983 0774**

“The Contractor”

Name:

Address

.....
Telephone:

Fax:

IN WITNESS whereof the parties have executed this Agreement.

The Common Seal of **NORTHERN SYDNEY**)
REGIONAL COMMUNITY FORUM INC was)
affixed by authority of the Board in the)
presence of)

.....
Committee Member

.....
Manager, Northern Sydney
Carer Respite Centre

Executed by)
)
in accordance with Section 127 of the)
Corporations Law)

.....
Signature of Authorised Person

.....
Signature of Authorised Person

.....
Office Held

.....
Office Held

.....
Name of Authorised Person (Print name)

.....
Name of Authorised Person (Print Name)