

INDEPENDENT LIVING AGREEMENT

THIS AGREEMENT dated this _____ day of _____ 2005.

BETWEEN:

FRASER HEALTH AUTHORITY, a Health Authority created pursuant to the provisions of the *Health Authorities Act* (British Columbia)

(“FH”)

AND

<LEGAL NAME OF INDEPENDENT LIVING PROVIDER>,
a <British Columbia> <society/company>

(“The Independent Living Provider”)

PREAMBLE:

This Agreement will be governed by the following guiding principles:

1. <Name of Building> will be developed, governed and managed by the Independent Living Provider with the financial support of the British Columbia Housing Management Commission and FH.
2. Tenants living at <Name of Building> will be supported to remain for their lifetime, so long as they wish to do so, and can be safely housed and cared for within the Building.
3. The right of Tenants to make individual personal choices will be respected for all individuals who are able to understand the consequences of their decisions. Assistance with complex decision-making will be provided for Tenants when required.
4. The Independent Living Provider will seek opportunities to encourage the community to be active partners and participants in the life at <name of Building> and will encourage Tenants to continue to be active and contributing members of their community.
5. <Name of Building> will be accessible to seniors at all levels of income.
6. <Name of Building> will be developed and operated in a fiscally responsible, cost effective manner that will ensure financial viability over time.

WHEREAS:

A. FH contracts with various organizations and persons to provide personal support and health services to mentally, physically, and cognitively impaired individuals and older adults who need such services;

B. The Independent Living Provider as the operator of <name of Building> located at <address>, wishes to contract with FH to provide funding for personal support services and health services to <number of> individuals within a residential building that provides housing, hospitality and personal support to individuals in an environment that supports the principles of Independent Living;

C. FH and the Independent Living Provider wish to enter into this Agreement in order to document the terms and conditions upon which FH will provide funding for services at <name of Building>.

D. The Independent Living Provider will enter or has entered into an Operating Agreement with British Columbia Housing Management Commission to ensure the availability of < > units in the Building and for the provision of rent supplement assistance to those residents referred by FH who require such assistance.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, FH and the Independent Living Provider agree as follows:

ARTICLE 1

Definitions and Interpretation

1.1 In this Agreement, the following defined terms shall have the meanings indicated below:

- (a) “Agreement” means this agreement including the preamble, the recitals and the Schedules to this agreement, as amended, supplemented or restated from time to time;
- (b) “Assisted Living Level Tenant” means a Tenant that receives Health Services from the Independent Living Provider both at scheduled times and on an unscheduled, as-needed basis;
- (c) “Base Rent” means the amount the Independent Living Provider is entitled to receive for each Tenant for accommodation and Hospitality Services;
- (d) “BC Housing” means the British Columbia Housing Management Commission;
- (e) “Building” means the physical structure known as <name> situated at <address>;
- (f) “Case Manager” means an FH employee responsible for authorizing the provision of Health Services to Tenants of the Independent Living Provider under this Agreement;
- (g) “FH Records” has the meaning set out in section 8.5;
- (h) “Funded Support Plan” means written instructions, prepared by the FH Case Manager after assessment of a Tenant, which define the Health Services required by the Tenant and include:

- (i) needs and goals of intervention;
 - (ii) specific types and frequency of Health Services required;
- (i) “Health Services” means the services funded by FH and provided to Tenants by the Independent Living Provider, including personal support, security, health assessment, medication management and social support, as more particularly identified in Schedule A;
 - (j) “Home Support Level Tenant” means a Tenant that typically receives Health Services from the Independent Living Provider at scheduled times only;
 - (k) “Hospitality Services” means the services not funded by FH and provided by the Independent Living Provider to Tenants including social and recreational programs, meals, laundry, homemaking and related services, as more particularly described in Schedule A, Part 2;
 - (l) “Independent Living” means an approach to providing services similar to those set out in Schedule “A” within a residential building to clients as outlined in Schedule “D”. Independent Living promotes the self-direction, choice, dignity, privacy, and individuality of the client;
 - (m) “Licensed Practical Nurse” means a person, licensed as a Licensed Practical Nurse in British Columbia, employed by the Independent Living Provider to provide Health Services to Tenants including assistance with activities of daily living and nursing support that fall within the scope of practice of a Licensed Practical Nurse;
 - (n) “Ministry” means the Ministry of Health Services and the Ministry of Health Policy and Planning;
 - (o) *“Pre-Occupancy Expenses” means those non-capital expenses such as consulting fees, payroll and non-construction expenses, training labour expenses, operating manuals, forms, office and recreation supplies and other opening cost expenses that are necessarily incurred by the Independent Living Provider for the purpose of commencing operations in the Building and which are not subject to financing through the mortgage proceeds provided by BC Housing;*
 - (p) “record” includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;
 - (q) “Rent” means the amount payable by each Tenant for residential housing and Support Services, as determined under this Agreement;

- (r) “Residency Agreement”, means an agreement to be entered into between the Independent Living Provider and each Tenant who resides in the Building in the form approved by FH from time to time;
 - (s) “*Small Wares*” means those items of dishware, flatware, utensils, small appliances, incidental linens, and related items that are necessary for the operation of the Building and are not subject to financing through the mortgage proceeds provided by BC Housing;
 - (t) “*Startup Contribution*” means the contribution described in section 12.2(b);
 - (u) “Support Services” means Health Services and Hospitality Services;
 - (v) “Tenant” means an individual who resides in the Building who has been approved by FH to receive Health Services under this Agreement;
 - (w) “Tenant Service Plan” means the statement of operational detail developed by the Independent Living Provider for the approval of FH which expands upon the Funded Support Plan with respect to each Tenant; and
 - (x) “Tenant Services Manager” means an individual who is engaged by the Independent Living Provider to manage the operation of the Building and the provision of Support Services to Tenants in accordance with the terms of this Agreement.
- 1.2 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia. The parties agree to submit to the jurisdiction of the Courts of British Columbia.
- 1.3 The parties shall with reasonable diligence take all actions, do all things, attend or cause their representatives to attend all meetings and execute all further documents, agreements and assurances as may be required from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.
- 1.4 All references in this Agreement to dollar amounts shall be in lawful money of Canada.
- 1.5 Each provision of this Agreement is severable. If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction that shall not affect the remaining provisions or the interpretation in any other jurisdiction.
- 1.6 Other than as specifically provided for herein, no amendment, supplement, restatement or termination of any provision of this Agreement is binding unless it is in writing and signed by each party to this Agreement.
- 1.7 This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts with the same effect as if all parties had all signed and delivered the same document and all

counterparts shall be construed together to be an original and shall constitute one and the same agreement.

1.8 No waiver of any provision of this Agreement is binding unless it is in writing and signed by the party waiving the provision. No failure to exercise and no delay in exercising, any right or remedy under this Agreement shall be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

1.9 The following schedules are incorporated into and form part of this Agreement:

Schedule "A" – Support Services

Schedule "B" – FH Funding for Health Services

Schedule "C" – Performance Outcomes

Schedule "D" – Eligibility, Assessment & Approval; Exclusion and Exit Criteria

Schedule "E" – Roles and Responsibilities

Schedule "F" - Protection of Privacy and Personal Information

ARTICLE 2

Services

2.1 The Independent Living Provider shall provide Support Services to Tenants in accordance with the terms of this Agreement. Entrance and exit criteria and approval of Support Services for prospective Tenants and current Tenants are set out in Schedule "D".

2.2 The Independent Living Provider shall provide Support Services:

(a) to Tenants who have been identified by written notice from FH to the Independent Living Provider as eligible and authorized to receive Support Services under this Agreement; and

(b) in accordance with the Funded Support Plan and Tenant Service Plan prepared with respect to each Tenant.

2.3 FH shall not pay the Independent Living Provider for, and the Independent Living Provider will not be obligated to provide any Support Services to, any resident of the Building for whom FH has not provided a written notice in accordance with section 2.2(a).

2.4 Upon FH identifying a prospective Tenant as being eligible to receive Health Services, FH shall prepare a Funded Support Plan with respect to the Tenant and provide a copy to the Independent Living Provider in a timely manner. The Independent Living Provider shall within seven (7) days after receiving the Funded Support Plan prepare and have available to FH for approval a Tenant Service Plan with respect to the Tenant.

- 2.5 The Independent Living Provider shall begin to deliver Health Services to each Tenant within the time period specified by the Case Manager responsible for that Tenant.
- 2.6 If the Independent Living Provider becomes aware of a significant change in a Tenant's mental or physical health, level of activity or living requirements, the Independent Living Provider shall promptly notify the Case Manager responsible for that Tenant. The Case Manager may revise a Tenant's Funded Support Plan from time to time and the Independent Living Provider shall implement any revision to a Tenant's Funded Support Plan upon receiving written or verbal notice of such revision, and incorporate such changes into the Tenant Service Plan for the Tenant. FH will identify in writing the effect of these adjustments on the level of funding provided to the Independent Living Provider and whether the funding adjustment will be immediate or become effective as part of the quarterly review.
- 2.7 The Independent Living Provider shall provide accommodation and Hospitality Services to all Tenants and provide assurance of continued occupancy to all Tenants.
- 2.8 This Agreement shall not prohibit the Independent Living Provider from earning revenue from other sources.
- 2.9 Independent Living Programs in FH are viewed as a housing option for individuals who choose to live in a residential building that provides the availability of 24 hour personal support and a range of safety and service supports.
- 2.10 The Independent Living Provider shall, upon receiving a direct referral in respect of a person who may be eligible to receive Support Services through FH, promptly direct the referral to FH.
- 2.11 The Independent Living Provider shall ensure that personnel are available in the Building to provide Support Services to Tenants on a 24-hour, 7 day per week basis.

ARTICLE 3

Support Service Standards

- 3.1 The Independent Living Provider is responsible and accountable to FH to provide the Support Services in accordance with good professional practice, through the effective and efficient use of available resources, and in compliance with:
 - (a) the terms and conditions of this Agreement;
 - (b) all applicable regulations, quality management requirements, medical and other professional staff governance provisions, and any collective agreements entered into by the Independent Living Provider; and
 - (c) all relevant federal, provincial and municipal laws, by-laws, regulations, orders or Ministry or Health Authority directives.

- 3.2 Health Services provided by the Independent Living Provider shall be provided only by or under the supervision of personnel meeting the professional qualifications of any relevant legislation.
- 3.3 The Independent Living Provider shall ensure that it employs sufficient qualified staff to carry out the roles and responsibilities identified in Schedule "E", within the requirements of the funding levels as identified in Schedule "B".
- 3.4 The Independent Living Provider shall, at its sole expense, obtain all licenses, permits and other authorizations required for it to provide Support Services in accordance with the terms of this Agreement.
- 3.5 The Independent Living Provider shall ensure that the Building is properly registered as an assisted living residence under the *Community Care and Assisted Living Act* as soon as such registration is required, and will maintain such registration at all times in full compliance with such Act.

ARTICLE 4

Personnel

- 4.1 All employees of the Independent Living Provider will be employed by the Independent Living Provider or be independent contractors of the Independent Living Provider. The Independent Living Provider will be responsible for all deductions and remittance of assessments imposed by any government authority with respect to any persons employed by it. FH will have no responsibility for such employees or contractors. All records of the Independent Living Provider containing exclusively personnel information relating to employees of the Independent Living Provider will be owned and controlled by the Independent Living Provider.
- 4.2 The Independent Living Provider shall cause full criminal record checks to be conducted in respect of each individual employed by or contracted by the Independent Living Provider to provide Support Services, prior to the Independent Living Provider hiring or contracting the services of such individual to provide Support Services. The Independent Living Provider shall also cause full criminal record checks to be conducted in respect of the individuals employed by any contractor of the Independent Living Provider, if such individual or individuals may have any contact with a Tenant. The Independent Living Provider shall also obtain written consent from each such employee for FH to view the results of the criminal record checks and the other personnel records of such employee.
- 4.3 Upon request by FH, the Independent Living Provider shall permit designated individuals employed by FH to review true copies of the complete criminal record checks obtained by the Independent Living Provider pursuant to section 4.2 and other personnel records, to the extent requested by FH.

- 4.4 The Independent Living Provider shall, within the time period specified in a written request by FH, conduct complete criminal record checks in respect of any individuals named in FH's written request.
- 4.5 The Independent Living Provider shall be required to obtain the prior written consent of FH before continuing to employ an individual who may come into contact with any Tenant if it knows that such individual employed by or contracted by the Independent Living Provider to provide Support Services:
- (a) has been convicted of a criminal offence; or
 - (b) is under investigation by the police or licensing authorities following allegations of criminal misconduct until:
 - (i) the police investigation ends without charges being laid against the individual;
 - (ii) if the individual is charged with a criminal offence, the criminal charges are withdrawn or stayed without further criminal charges being brought against the individual; or
 - (iii) if the individual is charged with a criminal offence, the individual is acquitted of the offence.
- 4.6 The foregoing shall apply only in such instances in which the charge or offence, if proven, could constitute a risk, or creates a reasonable apprehension of risk, to the health, safety, welfare or security of any Tenant or bears some reasonable relationship to the ability of the Independent Living Provider and its employees to provide a healthy, safe and secure environment for every Tenant.

ARTICLE 5

Performance Review and Evaluation

- 5.1 FH may from time to time enter into or appoint a designate to enter into the Building to review and evaluate:
- (a) the Building;
 - (b) the Independent Living Provider's method of operation; or
 - (c) the Support Services provided by the Independent Living Provider to Tenants,
- and the Independent Living Provider will, upon request of FH, provide FH's representatives with full access to the Independent Living Provider's facilities, staff, Tenants, financial and personnel records and the FH Records for such purpose. If requested by the Independent Living Provider, any representative of FH who attends at the Building to visit a Tenant or conduct an inspection in accordance with this section 5.1

shall enter his or her name and the date of attendance at the Building in a logbook maintained by the Independent Living Provider for that purpose.

- 5.2 Following a review and evaluation, FH will prepare and provide the Independent Living Provider with a report providing recommendations to the Independent Living Provider in respect of the Building, the Independent Living Provider's method of operation and the Support Services provided by the Independent Living Provider to Tenants. The Independent Living Provider shall cooperate with FH or its designate in the evaluation conducted in accordance with sections 5.1 and 5.2.
- 5.3 The Independent Living Provider shall implement the recommendations made by FH or its designate in accordance with sections 5.1 and 5.2 of this Agreement within a reasonable period of time after receiving the recommendations and shall provide FH with a report detailing the Independent Living Provider's efforts and results in implementing the recommendations.
- 5.4 FH may, from time to time, with reasonable notice to the Independent Living Provider, survey Tenants, Tenants' family members, Tenants' guardians and other parties with regard to their satisfaction with the Support Services provided by the Independent Living Provider.
- 5.5 The Independent Living Provider shall cooperate with FH or its designate in preparing and implementing the results of quality improvement strategies and Tenant satisfaction surveys conducted by FH.
- 5.6 The Independent Living Provider shall comply with the procedures and guidelines relating to Performance Outcomes and Quality Assurance provided for in Schedule "C" hereto and in relevant Ministry and FH policies.

ARTICLE 6

Rent

- 6.1 The Independent Living Provider will determine Rent for each prospective Tenant and recalculate the amount for each Tenant whose income changes. Rent will be determined in accordance with the policies of the Ministry, in particular the Home and Community Care Manual, Policy 8L, Client Rates (as amended or substituted from time to time). The Independent Living Provider will use the forms and procedures approved by the Ministry and FH to make the appropriate calculations, and will inform the Tenant and FH of the Rent to be paid. The Rent shall include accommodation, utilities (excluding telephone and cable connection), emergency response system, activities programs, weekly housekeeping, laundry of bed linens and towels, and two meals per day.
- 6.2 The Independent Living Provider will ensure that it receives from BC Housing a monthly contribution, as determined from time to time by BC Housing, towards accommodation for each Tenant.

- 6.3 The Base Rent for the Independent Living Provider shall be determined as follows:
- (a) if the Independent Living Provider is a non-profit entity, FH shall, in consultation with the Independent Living Provider and BC Housing, establish the Base Rent for the Independent Living Provider. The Base Rent may be changed by FH in consultation with the Independent Living Provider and BC Housing to respond to changes in the cost of providing accommodation and Hospitality Services to Tenants.
 - (b) if the Independent Living Provider is a for-profit entity, FH and the Independent Living Provider acknowledge that the Base Rent for the Independent Living Provider is \$_____/month.
- 6.4 If the Rent payable by a particular Tenant, plus the monthly contribution payable by BC Housing to the Independent Living Provider, equals less than the Base Rent established for the Independent Living Provider by FH, FH shall pay the difference to the Independent Living Provider monthly as an addition to its funding for the Tenant.
- 6.5 If the Rent payable by a particular Tenant, plus the monthly contribution payable by BC Housing to the Independent Living Provider, equals more than the base rent established for the Independent Living Provider by FH, the Independent Living Provider shall credit FH the difference on a monthly basis, and such amount shall be deducted from FH's funding to the Independent Living Provider each month.
- 6.6 The Independent Living Provider shall, on a quarterly basis, provide FH with an accounting of all shortfalls and credits as to Base Rent.
- 6.7 FH will in accordance with Ministry and FH policies, provide the Independent Living Provider with a contribution for each Tenant receiving BC Disability Benefits (GAIN) and paying the Rent.
- 6.8 Other than as specifically provided for herein, or as otherwise provided for in the Ministry Home and Community Care Policy from time to time, FH will not provide funding for Hospitality Services and other services that it reasonably considers to be part of the normal charges of a residence or normal daily living expenses. Room and board charges will be the responsibility of the Tenant as part of the Rent and shall be documented in the Residency Agreement.
- 6.9 The Independent Living Provider will be responsible for collecting Rent from Tenants.

ARTICLE 7

Funding for Health Services

- 7.1 Subject to the Independent Living Provider complying with its obligations under this Agreement, FH shall pay to the Independent Living Provider, for the Health Services provided by the Independent Living Provider, the fees set forth on Schedule "B".

7.2 FH shall pay the Independent Living Provider on the first business day of each month in advance for Health Services to be provided by the Independent Living Provider in the ensuing month. FH may refuse to pay the fees associated with Health Services that are delivered in a manner that is inconsistent with the terms of this Agreement.

7.3 If the Independent Living Provider reasonably believes that the payment amounts provided for by Schedule "B" are not appropriate to provide the Health Services in accordance with this Agreement, the Independent Living Provider may, from time to time (but no more often than once per year), request a review by FH of the payments provided for by Schedule "B". In conducting any review under this section, FH shall consult with the Independent Living Provider. The Independent Living Provider shall provide such information as FH requests.

In conducting the review, FH shall consider all factors which it reasonably considers relevant. FH shall use reasonable efforts to complete its review and provide a written report to the Independent Living Provider in a timely manner. The report to be provided by FH to the Independent Living Provider shall set out the findings of FH's review and shall include:

- (a) FH's determination as to whether any adjustments should be made to the payments required pursuant to Schedule "B";
- (b) FH's determination as to whether any Tenants should be referred to other service providers;
- (c) any measures that FH identifies which could be taken by the Independent Living Provider to enhance efficiency; and
- (d) any other relevant findings.

7.4 If FH determines through such a review that any adjustment is to be made with respect to the payments required pursuant to Schedule "B", any such adjustment shall be confirmed by way of a written amendment to this Agreement, which shall become effective upon delivery from FH to the Independent Living Provider.

7.5 FH shall, from time to time notify the Independent Living Provider in writing of changes to the funding methodology or funding parameters for the Health Services, including outcomes and consequences affecting Tenants.

7.6 FH may at its option choose to provide funding to the Independent Living Provider prior to the provision of Support Services to Tenants for the purpose of offsetting certain start up expenses incurred by the Independent Living Provider.

7.7 The parties may jointly re-negotiate the number of Tenants, the type of Tenants to whom the Independent Living Provider provides Support Services, the extent and level of Support Services, and the amount payable for the Support Services.

- 7.8 Should adherence to new regulations, legislation or policies enacted by the Ministry or other provincial body or FH materially impact the costs associated with providing the Support Services, FH agrees to consult with the Independent Living Provider and use reasonable efforts to make representation to the Ministry or other provincial body on behalf of the Independent Living Provider requesting an increase in funding to provide for such additional costs.
- 7.9 In accordance with the *Financial Administration Act*, the payment of money by FH to the Independent Living Provider pursuant to this Agreement is subject to funding being available from the Ministry in the fiscal year of FH during which the payment becomes due.
- 7.10 Funding from FH will be directed to the Independent Living Provider and the Independent Living Provider will then be allowed to deploy resources at its discretion within a range of alternatives, provided that the Independent Living Provider will be responsible to ensure that required standards and outcomes are achieved and required accountability criteria are met all as set out in this Agreement.
- 7.11 FH acknowledges that the primary authority regarding capital acquisitions and financial and human resource issues rests with the Independent Living Provider and that the Independent Living Provider has the full rights of an employer.

ARTICLE 8

Records and Reports

- 8.1 To the extent reasonable, the Independent Living Provider shall keep full, accurate and complete financial records and books of account relating to the provision of Support Services in accordance with generally accepted accounting principles, and shall have records available for a period of 7 years following the delivery of such services. The Service Provider will own and control such records.
- 8.2 The Independent Living Provider shall provide FH with its audited financial statements for the fiscal period ended March 31 prepared in accordance with generally accepted accounting principles before June 30 of each year beginning in the fiscal year funding commences.
- 8.3 The Independent Living Provider shall prepare and provide to FH quarterly reports relating to the provision of Support Services for the periods ended June 30, September 30, December 31, and March 31. The format of the quarterly report will be provided by FH from time to time.
- 8.4 FH may from time to time and at its own expense, upon reasonable prior notice to the Independent Living Provider, have the financial records and books of account referred to in this Article 8 reviewed or examined by a representative of FH, a person designated by FH or a duly authorized independent chartered accountant to ascertain the accuracy of the

accounts, records and reports. If a chartered accountant examines the records and books of account, the chartered accountant shall report on the following:

- (a) whether or not the records and books of account were adequate to permit a determination of the amounts payable by FH in accordance with Schedule “B”; and
- (b) the amount payable by FH to the Independent Living Provider and whether any overpayment or underpayment has been made.

Following the report of the chartered accountant, the parties shall promptly make any adjusting payments required.

8.5 In addition to requirements under this Article 8 relating to financial records and books of account, the Independent Living Provider shall keep detailed clinical and informational records for each of the Tenants (including all information and records provided by FH to the Independent Living Provider), and full, accurate and complete records of the Support Services provided to each of the Tenants, together with such similar records as are required by all relevant legislation and regulations. All such records required to be kept under this paragraph, to the extent that they are not personnel records or the financial records required under paragraph 8.1 above, are collectively, the “FH Records” and are:

- (a) the exclusive property of FH;
- (b) to be delivered forthwith by the Independent Living Provider to FH following written notice by FH requesting their delivery, whether such notice is given before, upon after the expiration or sooner termination of this Agreement.

8.6 The Independent Living Provider acknowledges that FH is a public body subject to the provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) (“FOIPPA”), and agrees that at all times during the term of this Agreement, the Independent Living Provider shall comply with all requirements of all applicable laws, and in particular the requirements of FOIPPA, as if it were originally bound by FOIPPA. Without limitation, the Independent Living Provider shall:

- (a) maintain the confidentiality and security of the FH Records as set out in Article 9;
- (b) collect, use, disclose and release FH Records or any personal information contained therein only in accordance with FOIPPA;
- (c) disclose or release any FH Records or any personal information therein to third parties only after first obtaining the written consent of the designated privacy officer at FH, which will only be granted if the request complies with FOIPPA or under the authority of a court order;
- (d) designate and properly train an employee as privacy officer to have responsibility for the compliance of the Independent Living Provider with the terms of this Agreement and of FOIPPA, including to handle requests for disclosure and to

carry out all other duties in connection with handling the FH Records in accordance with FOIPPA;

- (e) handle all requests by Tenants for access to and correction of their personal information in FH Records; and
 - (f) notify FH immediately of any disclosure of the FH Records or the personal information contained therein to anyone not authorized under this Agreement to have access to such records or information, together with full details of such disclosure.
- 8.7 FH shall be entitled to view and take copies of all the FH Records upon reasonable notice to the Independent Living Provider.
- 8.8 FH and the Independent Living Provider will mutually agree upon the format and processes for record keeping, accounting and reporting.
- 8.9 The information collected in Article 8 will be recorded by the Independent Living Provider in an annual report in a format approved by FH.
- 8.10 The Independent Living Provider is responsible for obtaining Tenant consent or the consent of a guardian or other authorized representative, where required, to collect, use, release or disclose personal information pertaining to the Tenant.

ARTICLE 9

Confidentiality

- 9.1 The Independent Living Provider acknowledges that all records and information received from Tenants or FH, including FH Records and the information contained therein, shall only be used by the Independent Living Provider, its servants, employees and agents to perform the Support Services. The Independent Living Provider shall otherwise treat all such records and information as confidential. This provision includes, without limiting the generality of the foregoing, health records, medical reports and information specifically relating to a Tenant. The Independent Living Provider acknowledges that FH is obligated to maintain the confidentiality of such records and information and the Independent Living Provider will not cause FH to breach its obligations.
- 9.2 Without limiting the generality of the foregoing, the Independent Living Provider agrees to comply with the provisions of Schedule "F".

ARTICLE 10

Research

- 10.1 The Independent Living Provider shall not
- (a) conduct surveys or permit others to conduct surveys other than quality or satisfaction surveys;
 - (b) do empirical research; or
 - (c) undertake any other research activity involving the Tenants or the Tenants' families, including common law spouses, without the prior written consent of FH, which consent may be arbitrarily withheld.
- 10.2 The Independent Living Provider shall not directly or indirectly involve any Tenants or FH in any marketing, advertising, political or promotional activities, without the prior written consent of the Tenant or the Tenant's legal guardian and FH.

ARTICLE 11

Liability, Insurance and Indemnity

- 11.1 The Independent Living Provider shall assume and be liable for its own losses, damages and expenses of any nature whatsoever which it may suffer, sustain, pay or incur by reason of any matter or thing arising out of or in any way attributable to this Agreement.
- 11.2 The Independent Living Provider shall indemnify and hold harmless FH, its directors, officers, employees and agents from and against any and all liabilities, claims, suits, actions, costs, damages, and expenses whatsoever, including costs on a solicitor and his own client basis, that may arise out of, directly or indirectly, the performance of this Agreement by the Independent Living Provider (or those for whom the Independent Living Provider is responsible in law). Such indemnification shall survive the termination of this Agreement.
- 11.3 The Independent Living Provider shall, at its own expense insure its operations under a contract of comprehensive general liability insurance, with an insurer licensed in the Province of British Columbia, in an amount of not less than FIVE MILLION (\$5,000,000.00) DOLLARS insuring against bodily injury, personal injury and property damage including loss of use of that property. Such insurance shall be endorsed to provide FH with at least 30-days' advance written notice of cancellation, termination or material change. The Independent Living Provider shall provide FH with true copies of the certificates of insurance, and at the request of FH, certified true copies of the insurance policies.
- 11.4 The Independent Living Provider shall, at its own expense:

- (a) insure for the third party liability the use of all vehicles owned, operated or licensed by the Independent Living Provider in an amount of not less than FIVE MILLION (\$5,000,000.00) DOLLARS per occurrence; and
 - (b) insure the Building under a contract of comprehensive owner's property insurance (all risk) providing comprehensive coverage to the buildings and contents of the Building. The Independent Living Provider shall obtain such riders for the contract of comprehensive owner's insurance as are necessary or appropriate having regard to the business conducted by the Independent Living Provider from the Building pursuant of the terms of this Agreement.
- 11.5 The Independent Living Provider shall provide FH with true copies of the certificates of insurance, and at the request of FH, certified true copies of the insurance policies, including all riders on the contract of comprehensive owner's insurance, obtained by the Independent Living Provider in accordance with this section 10.4. Such insurance shall be endorsed to provide FH with thirty (30) days advance written notice of cancellation, termination or material change.

ARTICLE 12

Term and Termination

- 12.1 The term of this Agreement shall commence < > and shall end < > years thereafter unless earlier terminated under this Agreement.
- 12.2 (a) The Independent Living Provider shall endeavour with all due diligence to ensure that it is fully able to provide Support Services for the anticipated Tenants by the commencement date indicated in Article 12.1.
- (b) On or about the date which is 60 days prior to the expected occupancy date referred to in section 12.1 of this Agreement, FH will pay to the Independent Living Provider a startup contribution ("Startup Contribution") towards Pre-Occupancy Expenses and Small Wares that are not funded through the mortgage financing provided by BC Housing in relation to the Facility. The Startup Contribution is \$XXXX. At the request of FH, the Independent Living Provider will provide evidence supporting the cost of Pre-Occupancy Expenses and Small Wares incurred or to be incurred by the Independent Living Provider.*
- 12.3 The staffing model and operating budget will be reviewed by FH and the Independent Living Provider six months following the commencement of the Support Services, in order to assess the adequacy of the Independent Living Provider's operations. FH shall be entitled to undertake annual reviews thereafter.
- 12.4 This Agreement, or any renewal thereof, may be terminated by either party at any time upon giving 12 months' written notice of such termination to the other party.
- 12.5 If:

- (a) the Independent Living Provider breaches any of its obligations under this Agreement and fails to remedy such breach within a reasonable time and in any event, within 30 days following written notice of the breach;
- (b) the Independent Living Provider breaches any of its obligations under any agreement to an owner of the Building, and by doing so places the continued occupancy of Tenants at risk;
- (c) in FH's reasonable opinion, the well-being and safety of a Tenant residing in the Building is at substantial risk;
- (d) the Independent Living Provider is charged with a criminal offence;
- (e) the Building's registration as an assisted living residence is suspended or cancelled by the Registrar under the *Community Care and Assisted Living Act*;
- (f) the Independent Living Provider becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, assignment or arrangement with its creditors or any steps are taken or proceedings commenced by any person for the dissolution, winding up or termination of the Independent Living Provider's existence or the liquidation of the Independent Living Provider's assets; or
- (g) a trustee, receiver, receiver-manager or like person is appointed with respect to any of the business or assets of the Independent Living Provider;

then, FH may terminate this Agreement immediately (or at any time thereafter while such circumstance exists) by notice in writing to the Independent Living Provider, or suspend payments due to the Independent Living Provider in accordance with the terms of this Agreement.

ARTICLE 13

Building

- 13.1 The Independent Living Provider represents that it is the owner in fee simple of the Building and the lands on which the Building is situate or that it is the sole tenant of the Building and associated lands and has provided the FH with a copy of its title or the current lease, and all amendments thereto and any charges relating thereto including any assignment of rents.
- 13.2 The Independent Living Provider shall obtain the consent of FH, which may not be unreasonably withheld, to any change with respect to its ownership or leasehold interest in the land or Building, including any amendment or renewal of its lease, if any.

ARTICLE 14

Communications

- 14.1 The Independent Living Provider and FH recognize the importance of regular communication between their respective representatives. Both parties will consult with each other prior to implementing any significant changes in its respective programs and policies and will keep the other informed regarding all program development issues.
- 14.2 The Independent Living Provider shall notify FH immediately of any occurrences or events which will or are likely to adversely affect the Building, the Tenants or the ability of the Independent Living Provider to perform its obligations under this Agreement.
- 14.3 FH acknowledges that the Independent Living Provider is expected to communicate with the public on general issues pertaining to any aspect of the services provided by it.
- 14.4 The Independent Living Provider is encouraged to consult with the communication representatives of FH for assistance in communicating with the media regarding unusual occurrences.

ARTICLE 15

Occupational Health and Safety Standards – Workers’ Compensation Board

- 15.1 FH is an advocate for proactive and prevention oriented procedures which create within FH funded operations a safe and healthy environment. It is the present intention of FH, in consultation with the Independent Living Provider, to develop occupational health and safety standards applicable to the Support Services and the Independent Living Provider shall comply with such standards upon receiving notice of them from FH. The Independent Living Provider shall provide to FH upon request from time to time evidence of policies, designation of responsibilities regarding employee safety programs and account activity with Workers’ Compensation Board.

ARTICLE 16

Relationship

- 16.1 Nothing in this Agreement shall be construed as:
 - (a) constituting either party as the agent, employee or representative of the other party; or
 - (b) creating a partnership or imposing upon either party any partnership duty, obligation or liability to the other party.
- 16.2 The Independent Living Provider is an independent contractor of FH.

ARTICLE 17

Entire Agreement

- 17.1 To the extent of any inconsistency, this Agreement supersedes all prior communications, negotiations and agreements, written or oral, concerning the same subject matter. FH's policies and operational manuals related to Independent Living, including the Assisted Living Reference Manual and Operational Protocols document, the Home and Community Care Policy and the Confidentiality and Security of Personal Information Policy, as they may be amended by FH from time to time, are incorporated into this Agreement by reference.
- 17.2 If there is a conflict between any term or condition of this Agreement and any Schedules to this Agreement or the provision of any other agreement or document related to this Agreement including the policies and operations manuals, the terms and conditions of this Agreement shall govern.
- 17.3 If, at any time, the parties wish to enter into additional agreements for the provision of Support Services by the Independent Living Provider and funding by FH, the parties shall, at the request of either party, enter into good faith negotiations with each other with a view to coordinating and rationalizing the Support Services provided by the Independent Living Provider and the funding provided by FH.
- 17.4 The Independent Living Provider must not provide any Support Services in the Building or elsewhere to any person in circumstances which, in a reasonable person's opinion, could give rise to a conflict of interest between the Independent Living Provider's duties to that person and the Independent Living Provider's duties under this Agreement.

ARTICLE 18

Designated Contacts

- 18.1 Each notice to a party must be given in writing. A notice may be given by delivery to an individual and shall be validly given if delivered on a business day to the designated contact for the party. For the purposes of this Agreement the following individuals will be the designated contacts:

TO: Assisted Living and Housing Leader
Fraser Health Authority
33 Blackberry Drive
New Westminster, British Columbia
V3L 5S9
Ph: 604.517.8609
Fax: 604.517.8650
Attention: Keith McBain

TO: Independent Living Provider
< >
Ph: < >
Fax: < >
Attention: < >

Notices sent by pre-paid registered mail shall be deemed to be received by the addressee on the fourth day (excluding Saturdays, Sundays, statutory holidays and any period of postal disruption) following the mailing of the notice. Notices personally served or sent by facsimile transmission shall be deemed received when actually delivered or transmitted, provided such delivery or transmission shall be during normal business hours. Notices sent by fax shall be immediately thereafter followed by the personally served originally executed copy of such notice. Either party may give notice to the other party of any change of its address.

- 18.2 FH may, from time to time, provide the Independent Living Provider with notice identifying the individual responsible for the administration of this Agreement and those notices or other communications that such individual is entitled to provide or receive.

ARTICLE 19

Assignment

- 19.1 The Independent Living Provider shall not:
- (a) assign this Agreement or any part of the Agreement or any rights under this Agreement. Any transfer, issue, cancellation or redemption of shares in the Independent Living Provider which results in a change in the effective voting or other control of the Independent Living Provider shall be treated as an assignment of this Agreement and shall require the consent of FH, which consent may not be unreasonably withheld; or
 - (b) enter into subcontracts with other persons for the performance of all or any portion of the Independent Living Provider's obligations under this Agreement, without the prior written consent of FH, which consent may not be unreasonably withheld. If FH consents to a sub-contract by the Independent Living Provider of part or all of its obligations under this Agreement, such sub-contract will not relieve the Independent Living Provider from any of its obligations under this Agreement nor impose any obligation or liability upon FH to any such sub-contractor.
- 19.2 FH may assign this Agreement or any part of this Agreement or any rights under this Agreement.

ARTICLE 20

Arbitration

20.1 If there is a disagreement between the Independent Living Provider and FH on any matter relating to this Agreement, including without limitation, eligibility of a person to receive Support Services, the Independent Living Provider and FH agree to work towards a resolution thereof in joint meetings between their respective representatives. If this fails to resolve the dispute, then the Independent Living Provider and FH agree that all disputes arising out of or in connection with this agreement, or in respect of any defined legal relationship associated with it or derived from it, must, unless the parties otherwise agree, be referred to and determined by mediation before a single mediator chosen by the parties at their joint cost. Should the parties after mediation in good faith fail to reach a settlement the issue between them shall be finally resolved by arbitration administered by the British Columbia International Commercial Arbitration Centre under its rules.

ARTICLE 21

Enurement

21.1 This Agreement shall enure to the benefit of and be binding upon the parties to this Agreement and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties to this Agreement have executed this Agreement as of the day and year first above written.

FRASER HEALTH AUTHORITY

Per: _____
Name:
Authorized Signatory

Per: _____
Name:
Authorized Signatory

<Name of Independent Living Provider>

Per: _____
Name:
Authorized Signatory

Per: _____
Name:
Authorized Signatory

SCHEDULE “A”

SUPPORT SERVICES

HEALTH SERVICES

Personal support and assistance to Tenants with activities of daily living (ADL) and instrumental activities of daily living (IADL), including but not limited to:

bathing,
dressing,
grooming,
transferring,
skin care,
nail care,
mouth care,
feeding assistance
washroom assistance,
medication reminder,
medication assistance,
incontinence management.

Emotional and social support to Tenants.

Assistance to maintain safety while respecting the terms of negotiated risk agreements.

Emergency response and assistance with scheduled and unscheduled needs by staff 24 hours per day.

Assistance with treatments and medications.

Laundry of personal clothing, if determined by the Case Manager to form part of the Funded Support Plan.

Any other services contemplated by a Funded Support Plan and Tenant Service Plan applying to a Tenant which can be assigned within the scope of the role of the personal support staff or scope of practice of a Licensed Practical Nurse.

HOSPITALITY SERVICES

A meal service that offers Tenants and guests the opportunity for choice of meal times and menu items in accordance to the preferences of the majority. The Independent Living Provider will provide Tenants with 2 meals per day (lunch and dinner) without charge, and will also provide Tenants the opportunity to have a third meal per day, for a fee. The Independent Living Provider will also provide Tenants with snacks and beverages throughout the day.

Weekly laundry for Tenants of bed linens and towels.

Social and leisure opportunities and programs to assist in fulfilling the recreational, intellectual and emotional needs of Tenants.

Housekeeping services within each Tenant's unit.

Security services provided with respect to the appropriate maintenance and operation of the Building.

PROFESSIONAL SERVICES TO BE PROVIDED BY FH

FH will provide certain professional services to Tenants including:

Registered nurse care.

Case management.

Professional assessment of rehabilitation services including occupational therapy and physical therapy.

Clinical dietician.

SCHEDULE "B"

FH FUNDING FOR HEALTH SERVICES

Assisted Living Level Tenants

FH shall provide funding for a minimum of < > Assisted Living Level Tenants at a rate of \$57 per day based upon the projected Tenant needs at 1.9 hours of direct support per Tenant day at a rate of \$30 per hour. Tenants shall be assessed, approved and designated as Independent Living Tenants by a FH Case Manager, using the criteria and definitions as identified in Schedule "D". Hours of direct support will be monitored on a quarterly basis and FH shall annually, based on the fourth quarter reports, adjust the hours of direct support being funded or direct the Independent Living Provider and Case Manager to adjust the hours provided to the funded level.

Home Support Level Tenants

FH shall approve personal support services for a minimum of < > Home Support Level Tenants at a rate of \$25 per hour of personal support identified in the Funded Support Plan, who have been assessed, approved and designated as Home Support Level Tenants by a FH Case Manager, using the criteria and definitions as identified in Schedule "D".

Review and Reclassification

FH Case Manager shall review the Funded Support Plan and requirements for all Tenants quarterly and as needed in collaboration with the Tenant Services Manager. Reassessment of the need for a re-classification of Tenant category (Independent Living or Home Support) shall be conducted when requirements have significantly changed or at the request of the Tenant Services Manager or Case Manager. The Case Manager shall approve a change of Tenant category and funding adjustment in accordance with the definitions and criteria in Schedule "D". Specific protocols for the review and reclassification shall be defined in Fraser Health - Operating Protocols.

Determination of Quarterly Funding for the Subsequent Quarter

The Tenant Services Manager shall submit a quarterly report to FH, by August 15th, November 15th, February 15th and May 15th of each year during the Term of this agreement which documents the number of approved Independent Living Tenants, and total days and total hours of service in the quarter, and the number of Home Support Level Tenants and the total days and total hours of approved service provided for each Tenant in the quarter. The funding for the subsequent quarter shall be determined and paid in advance, beginning in the month following the submission of the quarterly report based on the numbers of Tenants and hours of service identified in the quarterly report. There will be no provision of additional funding in the course of the quarter. Additional funding will only be paid when the predicted services hours exceed a 10% variance.

All quarterly reports will be provided in the approved format identified in Fraser Health - Operating Protocols.

SCHEDULE "C"

PERFORMANCE OUTCOMES

The Independent Living Provider will be accountable for collecting and reporting data related to performance measures. Performance measures will be developed by FH in collaboration with the Independent Living Provider. The performance measures will be defined in the Quality Assurance Protocols.

The primary focus of performance measures will be to demonstrate that the Independent Living environment adds maximum value to Tenants, their families and to the health system. Performance measures will look to measure:

Maintenance of the individual in the community.

Satisfaction levels of:

- Tenants
- Families
- Staff

Cost of providing support in this setting.

Utilization of this alternative support setting.

Community response to the operation of this support setting.

A method of reviewing performance measures, the attainment of the principles of Independent Living and ensuring the ongoing quality improvement of the Independent Living program and all programs in FH will be implemented by the Independent Living Provider and FH.

SCHEDULE "D"

ELIGIBILITY, ASSESSMENT AND APPROVAL; EXCLUSION AND EXIT CRITERIA

Criteria for Tenant Selection

A person can only be selected to move into a Independent Living unit if the person meets all of the following criteria:

- Is a beneficiary (as defined by Ministry policy).
- Requires both hospitality and personal care services.
- Is able to self direct his or her own care as described below.
- Is at significant risk in their current environment.

People who are able to self direct their own care:

- Are cognitively capable of making decisions regarding their own care relevant to the specific task.
- Can communicate effectively, verbally or non-verbally through communication devices, so as to be understood by any authorized caregiver or spouse living with the client.
- Have the ability to make informed, voluntary decisions regarding care requirements.
- Participate in the development of their care plan, or alternatively make their needs known to the person they are living with who then participates in the development of that person's care plan.
- Are able to use the emergency response system and take direction in an emergency situation.

Criteria for Moving a Tenant Out of Independent Living

A tenant is required to move out of Independent Living if the tenant meets one of the following criteria:

- Is no longer able to self direct his or her own care.
- Exhibits behaviors that jeopardized the Tenant's safety and well-being or the safety and well-being of others.
- Is not complying with the terms of his or her Residency Agreement or Managed Risk Agreement.(BC Ministry of Health Services, Home and Community Care Policy, 5.E.3).

Priorities for Approval for Residency

Tenant is at risk in current living situation.

Tenant will benefit from a Building operated with an Independent Living philosophy.

Level of personal support required is appropriate to the available funding.

The Tenant and family relationships will be supported through relief of burden of support and allowing couples to remain together.

Process for Assessment and Approval of Tenants for Residency and Services

All referrals for approval for residency will be assessed for eligibility by an FH Case Manager. Case Managers will make eligible clients aware of Independent Living programs in the area and assist them to make contact with the Independent Living provider of their choice.

When a suite becomes available, the Independent Living Provider and the Case Manager will jointly and collaboratively approve an eligible client to move into the available suite in accordance with the priority criteria in the Operating Agreement between the Independent Living Provider and FH and Ministry policy from time to time. If, after extensive consultation between the Case Manager and the Independent Living Provider, no agreement has been reached on the approval of a prospective tenant for entry to the Building, then the Independent Living Provider's opinion will prevail for Home Support Level Tenants and the Case Manager's opinion will prevail for Assisted Living Level Tenants.

Prevalence of Ministry Policy

This Schedule "D" will be superseded by any relevant change to the Ministry's Home and Community Care Policy from time to time.

SCHEDULE "E"

ROLES AND RESPONSIBILITIES

Independent Living Provider's Roles and Responsibilities

Administrative Duties

- Establishes, implements and monitors all business operating protocols.
- Negotiates and monitors the implementation of this Agreement.
- Ensures that required reporting to FH is complete, timely and accurate.
- Appoints Tenant Services manager and, in collaboration with the Tenant Services Manager, communicates with FH regarding overall operations.
- In collaboration with the Tenant Services Manager, ensures that health and safety protocols and standards for staff and Tenants are established and maintained.

Management Duties (to be performed by the Tenant Services Manager employed by the Independent Living Provider)

- Collaborates with FH staff to develop health and personal support service protocols and standards.
- Develops appropriate methods to secure allied services such as pharmaceuticals, medical services, emergency services, and other services.
- In collaboration with the Case Manager, re-evaluates service levels and resource requirements to meet the collective service needs of the Tenants and requests re-assessment of Tenants when a status change is required.
- Establishes staffing and methods of service delivery.
- Establishes operating standards and monitors service delivery to ensure compliance to established standards.
- Oversees the operation of the Independent Living Provider on a day-to-day basis including all personal and hospitality services for the Tenants.
- Ensures that meal services to Tenants and guests include a choice of time and menu items.
- Is responsible to ensure that the services identified in the Residency Agreement and the individual Tenant Service Plan are provided in accordance with the Funded Support Plan.
- Collaborates and coordinates with the Case Manager regarding all authorized funded services, changes in Tenant status and service needs and management of the applicant pool.
- Recruits, hires and supervises appropriately trained and oriented staff.
- Ensures that staff receives appropriate training and education to perform their duties safely and competently.
- Communicates with Tenants and families continuously to ensure needs are met and services are highly satisfactory.

- Ensures that records are maintained in accordance with the Independent Living Provider and FH and Ministry policy.

Support Duties

The Independent Living Provider will manage its staff of health care professionals including Licensed Practical Nurses and care aides to ensure that all Support Services are provided as required under this Agreement, and will ensure that all such personnel operate in accordance with their professional roles and designations and education.

2. FH Roles and Responsibilities

Administrative Duties

- Negotiates and monitors the implementation of this Agreement.
- Budget Management.
- Determination of FH staff requirements.
- Policy development relative to service delivery.
- Communication with the Independent Living Provider regarding funding and overall operations.
- FH staff scheduling and supervision.

Case Manager

- Assesses Tenants referred for eligibility and sets applicant pool priorities in consultation with the Tenant Services Manager.
- Manages applicant pool in collaboration with the Tenant Services Manager.
- Develops Funded Support Plans with Tenants.
- Communicates with Tenant Services Manager on day to day operational issues.
- Arranges internal and external professional consultations in collaboration with the Tenant Services Manager and Tenant.
- Continuously re-evaluates service levels, the appropriateness of the Funded Support Plan and authorizes changes to Tenant status and funding.
- Performs reassessments when Tenants' needs change and incorporates this information and subsequent changes in services, into the Funded Support Plan.
- According to Tenant and family need, refers Tenant to other programs and liaises with service providers and agencies when necessary.
- Documents Tenant referral, assessment, treatment information, reports, and maintains Tenant records according to FH and Ministry policy.
- Authorizes or arranges for authorization of equipment and supplies.

Registered Nurse

- Completes professional nursing assessments and provides professional nursing services as required.
- Provides or obtains health teaching for Tenant and family as needed.
- Acts as a resource to the Tenant Services Manager or Team Leader on individual Tenant issues or issues of protocol which affect the provision of health services to all Tenants.

SCHEDULE F – PROTECTION OF PRIVACY AND PERSONAL INFORMATION

1. Definitions

In this Schedule:

- 1.1. **“Act”** means the *Freedom of Information and Protection of Privacy Act* (British Columbia) as the same may be amended or supplemented from time to time.
- 1.2. **“Associate”** means “associate” as defined in the Act.
- 1.3. **“Commissioner”** means the BC Information and Privacy Commission appointed under the Act.
- 1.4. **“Contact Information”** means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual, or as otherwise defined in the Act from time to time.
- 1.5. **“Personal Information”** means “personal information” as defined in the Act which is collected, acquired, obtained by the Independent Living Provider or the FH, in relation to providing the Services under this or any previous contract between the FH and the Independent Living Provider dealing with the same subject matter as the Agreement, and includes any information about an identifiable individual other than Contact Information.
- 1.6. **“Information and Privacy Coordinator”** means the Information and Privacy Coordinator appointed by the FH to manage the custody, control and access of Records and Personal Information under the Act.
- 1.7. **“FH”** means the Fraser Health Authority.
- 1.8. **“Records”** means any records containing Personal Information whether created, collected, acquired or obtained by the FH or the Independent Living Provider and includes any books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which Personal Information is recorded or stored by graphic, electronic, mechanical or other means.
- 1.9. **“Independent Living Provider”** means the Independent Living Provider identified in the attached Agreement for Assisted Living services.

2. Purposes

The purpose of this Schedule is to:

- 2.1. ensure that all reasonable measures are in place to protect the security of Personal Information and Records;
- 2.2. enable the FH to comply with its statutory obligations under the Act with respect to personal information; and
- 2.3. ensure that, as a service provider, the Independent Living Provider is aware of and complies with its statutory obligations under the Act with respect to personal information.

3. Application of the Act

- 3.1. The Independent Living Provider acknowledges that the FH is a public body subject to the provisions of the Act, and that, by virtue of this Agreement, the Independent Living Provider is also subject to and bound by the requirements of the Act.
- 3.2. In addition to the other obligations set out in this Schedule and the Agreement, the Independent Living Provider will take all necessary steps to understand and ensure it is fully compliant with its obligations under the Act, as amended from time to time.

4. Ownership, Access and Use

- 4.1. Subject to paragraph 5, all Records, whether or not created by the Independent Living Provider, will be deemed to be the exclusive property of FH. No interest or any right respecting the Personal Information or the Records, other than as expressly set out herein, is granted to the Independent Living Provider under this Agreement, by implication or otherwise.
- 4.2. The Independent Living Provider may collect and use the Personal Information and Records for the sole and express purpose of fulfilling its obligations under this Agreement and for no other use. The Independent Living Provider will ensure that such uses and its methods of collection are authorized by and in compliance with the Act.
- 4.3. The Independent Living Provider must make every reasonable effort to ensure the accuracy and completeness of any Personal Information to be used by the Independent Living Provider or the FH to make a decision that directly affects the individual about whom the information relates, and the Independent Living Provider will make corrections to the Personal Information and Records as required by the Act or by the FH.

5. Excluded Information and Records

For greater clarification, this Schedule F (and specifically the provisions of paragraph 4) does not apply to any information, documents or records that:

- 5.1. do not contain Personal Information;
- 5.2. relate solely to the Independent Living Provider's internal administration, finances, management or internal labour and employment matters, unless they contain Personal Information about an individual other than the Independent Living Provider's own employees, officers, directors, agents, contractors, or affiliates; or
- 5.3. the FH and the Independent Living Provider have expressly agreed in writing fall outside the scope of this Schedule F.

6. Storage and Security

The Independent Living Provider will utilize reasonable security measures to ensure that the Personal Information and Records are secure from unauthorized disclosure, and will ensure that they are not stored, transmitted or transported outside of Canada and cannot be accessed, physically or electronically from any location outside of Canada.

7. Return and Retention of Personal Information and Records

- 7.1. Unless otherwise prohibited by law, the Independent Living Provider will deliver to the FH or destroy promptly, according to the FH's instructions, all Personal Information and Records and will confirm such delivery or destruction to FH in writing. After a request is made under this paragraph, the Independent Living Provider may not, without the prior written consent of FH, retain any copies of the Records that are the subject of such a request.
- 7.2. Unless the Agreement otherwise specifies, the Independent Living Provider must retain the Records until directed by the FH in writing to dispose of it.

8. Disclosure of Personal Information and Records

- 8.1. If the Independent Living Provider receives a request for access to the Records from a person other than the FH, the Independent Living Provider must promptly advise the person to make the request to the FH.
- 8.2. Except to discharge its obligations under this Agreement and only to the extent permitted by the Act, the Independent Living Provider will not disclose and will not allow any of its employees, agents, representatives or associates to disclose in any manner whatsoever any Personal Information or any Records to any person, firm or corporation without the prior written consent of the FH.
- 8.3. If the Independent Living Provider or anyone to whom the Independent Living Provider transmits Personal Information or Records pursuant to this Agreement becomes legally compelled to disclose any of the Personal Information or becomes subject to legal proceedings in which any order of

direction for compelled disclosure is sought by a third party, the Independent Living Provider will provide the Information and Privacy Coordinator with prompt written notice thereof.

- 8.4. Without limiting the foregoing and to the extent required by the Act, if the Independent Living Provider or any of its employees, agents, representatives or associates receives a demand for disclosure which is from, or appears to be from outside Canada, then the Independent Living Provider must immediately notify (and cause its employees, agents, representatives or associates to notify) the Minister of Management Services and the Information and Privacy Coordinator of the FH.

9. Representation

Immediately upon execution of this Agreement, the Independent Living Provider will appoint a representative to be responsible for the Independent Living Provider's compliance with this Schedule to this Agreement and the Act (the "Privacy Representative"). The Independent Living Provider will promptly provide the FH with the name of its Privacy Representative and will promptly notify the FH of any change of its Privacy Representative. The signatory on behalf of the FH, or their successor designated in writing, will be the individual representative of the FH responsible for supervising the Independent Living Provider's compliance with this Schedule to the Agreement.

10. Notice of Breach/Notice of Risk

- 10.1. The Independent Living Provider will notify the FH immediately of any disclosure or any risk of unauthorized access to Records or Personal Information by any person or entity not authorized by this Agreement to have such Records or Personal Information including full details of such disclosure or risk. The Independent Living Provider will co-operate with the FH in avoiding the risk, preventing the recurrence of such disclosure and, to the extent feasible, in recovering the disclosed Records or Personal Information, including any copies.
- 10.2. Any employee, agent or representative of the Independent Living Provider who reports a foreign demand for information shall be subject to the protections set forth in the Act.

11. Employees, Representatives and Associates of the Independent Living Provider

- 11.1. The Independent Living Provider agrees that:
 - 11.1.1. it will only make Personal Information available to its employees, agents, representatives or associates to the extent it is necessary for the purpose of fulfilling the Independent Living Provider's obligations under this Agreement;

- 11.1.2. it will not provide access to the Personal Information to any associate, employee or representative person or entity while that associate is located (whether permanently or temporarily) or resident in a foreign jurisdiction;
- 11.1.3. it will cause each of its employees, agents, representatives or associates providing services on behalf of the Independent Living Provider under this Agreement to enter into a confidentiality agreement, wherein the employee, agent, representative or associate will agree, among other things, to comply with the requirements of all applicable laws including in particular the requirements of the Act as if that person were originally bound by the Act and the Independent Living Provider is granted the right to terminate the employee, agent, representative or associate for breach of that obligation; and
- 11.1.4. the Independent Living Provider will be required to renew and refresh any or all such agreements from time to time at the reasonable request of the FH.
- 11.2. The Independent Living Provider will properly advise each of its employees, agents, representatives and associates providing services under this Agreement of the requirements of the Independent Living Provider under this Agreement and the Act. If requested by the FH, the Independent Living Provider shall provide and conduct specific ongoing training for all such individuals to ensure their compliance with the Act. The Independent Living Provider will, to the extent legally permissible, discipline all employees, agents and representatives who do not comply with the Act and this Schedule.
- 11.3. The Independent Living Provider specifically assumes all responsibility for its employees, agents, representatives and associates and for the breach by any of its employees, agents, representatives or associates of any provision of the Act.

12. Subcontractors

The Independent Living Provider may not subcontract any of its obligations under this Agreement without the prior written consent of the FH and the Independent Living Provider hereby acknowledges that such consent will only be provided if disclosure of Personal Information to such subcontractor is permitted under the Act and if such subcontractor agrees in writing to be bound by the terms of this Schedule F and the Act, on the same basis that the Independent Living Provider is bound.

13. Compliance Audits

In addition to any other rights of inspection FH may have under the Agreement or under law, FH and/or its representatives and agents may conduct periodic audits of the performance by the Independent Living Provider, its employees, agents, representatives, associates and subcontractors, if any, under this Agreement and

compliance under the Act, and, in particular, FH may inspect any Personal Information in the possession of the Independent Living Provider or any of the Independent Living Provider's information management policies or practices relevant to the management of Personal Information or its compliance with this Schedule F and the Act.

14. Default

- 14.1. Notwithstanding anything in this Agreement to the contrary, the Independent Living Provider and the FH hereby agree that a breach by the Independent Living Provider of any Sections of this Schedule or of any provisions of the Act which directly bind the Independent Living Provider, will constitute a material default by the Independent Living Provider and the FH may terminate the Agreement immediately upon written notice to the Independent Living Provider.
- 14.2. Without limiting the generality of the foregoing, the Independent Living Provider agrees that in addition to any other rights or remedies the FH may have for material breach of this Agreement, the FH has the right to an injunction or other equitable relief in any court of competent jurisdiction enjoining a threatened or actual material breach of this Agreement or this Schedule F by the Independent Living Provider.

15. Termination

- 15.1. Upon the expiration or earlier termination of this Agreement, the Independent Living Provider will promptly return to the FH or destroy promptly, according to the FH's instructions, all Records or Personal Information in the Independent Living Provider's possession and will confirm that delivery or destruction to the FH in writing.
- 15.2. If for any reason all Records in the Independent Living Provider's possession are not returned to FH or destroyed, the Independent Living Provider's obligations under this Schedule F with respect to all Records or Personal Information shall continue in force after the Agreement terminates or expires. The Independent Living Provider may not retain any Records or copies of Records for any purpose without the prior written consent of the FH.

16. No Withholding

The Independent Living Provider shall not be entitled to, and hereby waives any and all right to, withhold any Records from the FH to enforce any alleged payment obligation or in connection with any dispute relating to the terms of this Agreement or any other matter between the FH and the Independent Living Provider.

17. Other Privacy Regulation

(a) The Independent Living Provider acknowledges that its compliance with the Act and this Agreement in respect of Personal Information and Records shall be in addition to and shall not otherwise relieve the Independent Living Provider from compliance with privacy laws of general application in the private sector having application to the Independent Living Provider.

(b) The Independent Living Provider must comply with the provisions of this Schedule F despite any conflicting provisions of the Agreement or the laws of any jurisdiction outside Canada. Without limiting the foregoing, the Independent Living Provider and its employees, agents, representatives and associates are not and shall not, in connection with the provision of its services pursuant to this Agreement, be subject to any order, directive, ruling, requirement, judgement, injunction, award or decree, decision, direction, request or other requirement (collective "Directive") issued pursuant to any foreign legislation. The Independent Living Provider shall immediately inform FH if the Independent Living Provider or any of its employees, agents, representatives, or associates receives a Directive and shall comply with FH's direction regarding any response to or defence of any such Directive.