

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**Waterloo Wellington Local Health Integration Network**

**AND**

**Fairview Mennonite Home**

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“**MOU**”) dated the 1<sup>st</sup> day of March 2019

BETWEEN:

**Waterloo Wellington Local Health Integration Network** (the “LHIN”)

- and –

**Fairview Mennonite Home** (“the Provider”)

WHEREAS:

1. The LHIN is a Crown agency within the meaning of the Crown Agency Act, with objects as set out in the Local Health System Integration Act, with a mandate that includes the delivery and management of home and community care services.;
2. The Provider is a Health Care organization providing comprehensive health services for patients that require Personal Support Services and/or Assisted Living Services.
3. The purpose of this Agreement is to clarify the operational, accountability, financial and reporting relationships between the LHIN and *the Provider* with respect to the provision of Services pursuant to this Agreement.

Now therefore in consideration of the mutual covenants and agreement hereinafter set forth, the LHIN and *the Provider* agree as follows:

## ARTICLE 1 - DEFINITIONS AND INTERPRETATION

### 1.1 Defined Terms

(1) In this MOU, the following capitalized terms wherever used have the following meanings:

- (a) **“Applicable Law”** means, with respect to any person, property, transaction, event or other matter, any rule, statute, regulation, by-law, order, judgement, decree, treaty or other requirement having the force of law relating or applicable to such person, property, transaction, event or other matter, and includes, where appropriate, any interpretation of a rule, statute, regulation, order, decree, treaty or other requirement having the force of law by any person having jurisdiction over it, or charged with its administration or interpretation and, for the purpose of clarity, includes a policy or direction of the Ministry of Health and Long-Term Care of the Province of Ontario (or its successor);
- (b) **“Business Day”** is any day between the hours of 8:30am to 8:30pm Monday to Sunday.
- (c) **“Patient Information”** means, with respect to identifiable patients, personal information, in any form, whether recorded or not, including personal health information as defined in the *Personal Health Information Protection Act* (Ontario) with respect to such patients;
- (d) **“Confidential Information”** means any and all material, data, information or any item in any form, including intellectual property rights, relating to,
  - (i) the business or management of either Party, its affiliates
  - (ii) any Patient Information

except any information or data (other than Patient Information) that

- (iii) is or becomes publicly available through no fault of the other Party
  - (iv) is already in the rightful possession of the other Party prior to its receipt from the disclosing Party
  - (v) is independently developed by the other Party
  - (vi) is rightfully obtained by the other Party from a third party without breach of any confidentiality restrictions
- (e) **“Funding”** means the funding received by the LHIN from the Ministry of Health and Long-Term Care to fund the provision of Personal Support Services and Assisted

## Living Services

- (f) **“Patient”** means a patient who is identified as requiring Personal Support Services and/or Assisted Living Services
- (g) **“Losses”** means any and all costs, losses, damages, judgments, claims, demands, suits, actions, causes of action, contracts or other proceedings of any kind or nature, costs and expenses (including reasonable legal fees and disbursements)
- (h) **“Missed Care”** means any scheduled Fixed Period Visit or Hourly Visit to a Patient, authorized by the LHIN as part of the Patient Care Plan, that has been accepted by the Service Provider but that the Service Provider fails to attend and fails to reschedule in accordance with the Patient Care Plan and includes a Fixed Period Visit or Hourly Visit required by the Patient Care Plan that the Service Provider originally accepts and then subsequently informs the LHIN that it is unable to carry out.
- (i) **“Parties”** means each of the LHIN and *the Provider* and “Party” means one of them
- (j) **“Personal Health Information Protection Act”** means the *Ontario Personal Health Information Protection Act 2004*, S.O. 2004, Chapter 3, as amended from time to time
- (k) **“Services”** means Personal Support Services that must be provided in accordance with the patient care plan.

## 1.2 Schedules

- (1) The following Schedules form part of this MOU and are hereby incorporated by reference:
  - (a) Schedule 1 – LHIN Invoicing and Billing Requirements;
  - (b) Schedule 2 – Performance Standards Schedule; and.
  - (c) Schedule 3 – Personal Support Services Schedule (Schedule 3 to LHIN Template Services Agreement).

## ARTICLE 2 - SCOPE

### 2.1 General Scope

The Provider will provide personal support service to patients living within the Fairview Mennonite Community (retirement home, villas and apartments) and provide Assisted Living Services to patients assigned to the Cambridge Integrated Assisted Living Program (IALP), supporting a ‘one team’ approach to care.

Creating one workforce leverages the Provider’s existing health human resources with positive

efficiencies, and most importantly, better outcomes for residents/patients, including:

- improved continuity of care
- reduced number of people and care teams interacting with residents/patients
- reduced incidents of missed care
- improved (reduced) wait times for services
- better understanding of patient needs
- earlier identification of health deficits (e.g., nutrition, continence, social isolation, medication use, etc.)
- improved ability to access additional services
- improved support for aging in place
- improved ability to self-manage chronic illness, with a resultant improvement in quality of life
- improved social engagement / reduced social isolation
- improved resident/patient satisfaction and experience
- increased staff satisfaction, retention, and accountability

Having 'one team' will improve communications between care providers and the Provider, facilitating the team's ability to detect and address changes in health and welfare, sooner. Continuity of care will improve relationship-building between care providers and residents, which is anticipated to have a positive effect on self-care because of consistent, high-quality and trusted care.

Externally, this shift to a Campus of Care model, and one-team approach is expected to:

- help avoid or reduce unplanned hospital visits or re-admits
- reduce hospital overcrowding
- provide an opportunity to redeploy existing contracted service provider's staff to support patients within the larger community
- improve planning for future capacity and care needs

All Fairview Mennonite Home Residents in Villas, Apartments, IALP and RH will have access to:

- Recreation therapy
- Social functions – full range of functions and events offered through Fairview Centre for Community Health & Wellness
- Support with transitions from hospital to home

- Community connections to other services – adult day programs, social functions (supported by the Provider's bus)
- Personal Support Services provided by the Provider as outlined in Schedule 3

All IALP residents will also have access to the following, through the Provider:

- Assessment and reassessment of patient needs/goals
- 24/7 scheduled and unscheduled Personal Support Services
- Community Resource Facilitator to promote Patient wellness, and participation in social and recreation activities, scheduled to work 37.5 hours per week (5 days per week), to:
  - organize social, recreation and education programs;
  - as taught by trained staff, assist patients with basic exercise/activation
  - work with individual patients to promote and facilitate participation in community groups/activities, community support services; and
  - assist Patient with linkages to primary care and other health care services.

Locations included in the scope of this agreement between the Provider and the LHIN:

Cambridge IALP Locations:

- 100 Eagle St N
- 200 Eagle St N
- 339 Bishop St N
- 515 Langs Dr (Assisted Living Residence)
- 515 Langs Dr (Cluster Care Residence)
- 601 Duke St
- 650 Eagle St N
- 770 Concession Rd
- 799 Concession Road
- 824 King St E

The Provider's NON-IALP Personal Support Locations:

- 515 Langs Dr (Assisted Living Residence)
- 515 Langs Dr (Cluster Care Residence)
- 601 Duke St
- 770 Concession Rd
- 799 Concession Road

CAMBRIDGE NON-IALP Personal Support Locations:

- 100 Eagle St N
- 200 Eagle St N
- 650 Eagle St N
- 824 King St E
- 339 Bishop St N

## **2.2 Service Delivery Requirements**

The Provider must:

- (1) Deliver Personal Support Services according to the Patient Care Plan
- (2) receive Service Requests at the following times:
  - a) 0830 to 2030 hours, 7 days weekly, including holidays.
- (3) provide Personal Support and Assisted Living Services 24 hours per day, 7 days per week
- (4) provide all forms of Personal Support Service programs as authorized by the LHIN including PSW General, PSW Respite, PSW Hospice At Home (HAH) and PSW Home First Intensive Services (HFIS). The Provider must comply with any and all LHIN Policies and Procedures relevant to Personal Support service provision as posted and available on the LHIN's Service Provider Portal and as amended over time.

### **ARTICLE 3 - REPORTING AND ACCOUNTABILITY**

#### **3.1 Reporting Requirements**

- (1) See Schedule 2

#### **3.2 Metrics, Monitoring and Evaluation**

Quarterly Reporting on Operational Metrics identified in Schedule 2, as well as Additional Reporting requirements will be required by the Provider to the LHIN using the Reporting templates provided by the LHIN as in Appendix A. Quarterly reports are due 30 days following the end of each Quarter and are entered into the Service Provider Site of the HSSO Members Portal

*Quarterly Reports will be due to the LHIN by the Provider on the following dates:*

*Q1 [April-June] by July 30th*

*Q2 [July-Sept] by October 30th*

*Q3 [October-December] by January 30th*

*Q4 [January-March] by April 30th*

The evaluation, monitoring and reporting is related to the metrics outlined in Schedule 2. If the Provider wishes to gather and collect additional data and indicators, they have the

right to do so.

### **3.3 Dispute Resolution Process**

Interest-based dispute resolution principles shall be used to address and resolve conflicts. As a first step, the parties directly involved will work to resolve the conflict using a non-mediated approach. If this does not resolve the conflict, the participating parties will be asked to help resolve the conflict. If the conflict involves the participating parties, the CEOs of both Parties will be asked to mediate the dispute. If unsuccessful a mutually agreeable third party will, as required, be asked to mediate the dispute. The third party shall be acceptable to both parties. The cost of a mediator will be divided equally between the parties.

### **3.4 Corporate identity and Branding**

The corporate identity and branding standards of each Party will be adhered to in all communications, education, and marketing-related materials. This will be directed by the participating parties and operationally applied through the communications staff of the Parties.

### **3.5 Intellectual property**

Since the parties may engage in activities that result in the creation of intellectual property, the parties agree to acknowledge the contribution and participation of each other in any and all publications or other products. The participating parties shall be responsible for determining whether any one of the parties is the only owner, a primary owner, a secondary owner or not an owner of any given item that is determined to be intellectual property.

### **3.6 Funding**

The Provider shall receive Funding from the LHIN and shall use such Funding solely for the delivery of the Services. The LHIN will provide Funding as per Schedule 1.

### **3.7 Subcontractors**

- (2) The Provider is the prime contractor under this MOU and, as such, assumes full responsibility for the delivery and performance of the Services in accordance with the terms of this MOU, including any Services provided by any Subcontractors engaged by the Provider.
- (3) The Provider shall obtain the prior written approval of the LHIN before replacing or retaining any Subcontractor to perform any Services, such approval not to be unreasonably withheld or delayed. Notwithstanding anything to the contrary contained in this Agreement, any LHIN approval of a Subcontractor shall not relieve the Provider of any of its obligations under this MOU.

- (4) If,
- (a) In the LHIN's sole discretion, the LHIN determines that any Subcontractor of the Provider has committed serious misconduct or has been charged with having committed a criminal action; or
  - (b) The LHIN has reasonable cause to be dissatisfied with the performance of any Subcontractor of the Provider,

then the Provider shall, at the LHIN's written request, which request shall identify the basis for the LHIN's determination or dissatisfaction pursuant to Section 3.7(3)(a) and 3.7(3)(b), remove the Subcontractor immediately and replace it with another Subcontractor of equivalent or better qualifications, to the satisfaction of the LHIN.

- (5) If, pursuant to Section 3.7(3), the Provider is required to provide a replacement Subcontractor, it shall be at no additional cost to the LHIN.

#### **ARTICLE 4 - TERM AND TERMINATION**

##### **4.1 Effectiveness of MOU**

This MOU shall come into force and effect on April 1, 2019, with a staggered implementation plan as shown in Appendix A.

##### **4.2 Expiration of MOU**

This MOU shall end on **March 31, 2020** unless terminated earlier pursuant to this Article.

##### **4.3 Renewal of the MOU**

This MOU may be renewed by mutual agreement of the parties before the expiration of the agreement.

##### **4.4 Termination for Convenience**

Either party, without prejudice to any other rights or remedies it may possess, may terminate this MOU for any reason by giving the other Party a notice of termination for convenience at least 60 days prior to the effective date of termination.

##### **4.5 Termination for *the Provider***

- (1) The LHIN, without prejudice to any other rights or remedies it may possess may terminate the MOU, in whole but not in part, on the occurrence of any of the following circumstances:
- (a) If,

- (i) *the Provider* becomes insolvent or is unable to pay its debts;
  - (ii) *the Provider* enters into or files a petition, arrangement, application, action or other proceeding seeking the appointment of a trustee or liquidator of or a receivership for all or a substantial part of its assets and relief or protection under the bankruptcy laws of Canada or any similar laws of Canada or any province of Canada or any other country;
  - (iii) *The Provider* has proceedings seeking the appointment of a trustee or liquidator of or a receivership for all or a substantial part of its assets under the bankruptcy laws of Canada or any similar laws of Canada or any province of Canada or any other country commenced against it which are not terminated or dismissed within 90 days of such commencement; or
  - (iv) the LHIN receives a notice of requirement to pay from the Canada Customs and Revenue Agency or any other taxation authority; or
- (b) If the *Provider*
- (i) has abandoned the MOU;
  - (ii) uses or expends any monies or Funding given to it by the LHIN for any purpose other than those set out in this MOU as authorized by the LHIN; or
  - (iii) is in material breach or default of any material provision or material obligation of this MOU
- (2) If the LHIN terminates this MOU pursuant to Section 4.4, the LHIN may in addition to all other rights conferred upon it under this MOU or in law or at equity, require *the Provider* to immediately pay to the LHIN an amount equal to the funds used or spent by *the Provider* for the purposes not authorized or agreed to by the LHIN.

#### **4.6 Termination for the LHIN's Default**

The *Provider*, without prejudice to any other rights or remedies it may possess, may terminate the MOU in the following circumstances:

- (a) The LHIN,
  - (i) becomes insolvent or is unable to pay its debts;
  - (ii) enters into or files a petition, arrangement, application, action or other proceeding seeking the appointment of a trustee or liquidator of or a receivership for all or a substantial part of its assets and relief or protection under the bankruptcy laws of Canada or any similar laws of Canada or any

province of Canada or any other country; or

- (iii) has proceedings seeking the appointment of a trustee or liquidator of or a receivership for all or a substantial part of its assets under the bankruptcy laws of Canada or any similar laws of Canada or any province of Canada or any other country commenced against it which are not terminated or dismissed within 90 days of such commencement; or

(b) The LHIN,

- (i) has abandoned the MOU; or
- (ii) is in material breach or default of any material provision or material obligation under the MOU.

## **ARTICLE 5 - LHIN RESPONSIBILITIES**

**5.1** The LHIN will:

- (1) assess the Patient's requirements for LHIN Home and Community Services in accordance with the Home Care and Community Services Act;
- (2) prepare a plan of service for each Patient (the "Patient Care Plan"), which will include:
  - (a) the Patient's name and the identification number used by the LHIN to identify the Patient (the "Patient Identifiers");
  - (b) the starting date of delivery of Personal Support Services;
  - (c) a description of Personal Support Services to be delivered to the, including a specific description of the types of Personal Support Tasks required by the Patient;
  - (d) a description of, and timeframe for, the expected health care outcomes to be achieved by the Patient through the delivery of LHIN Community Services (the "Care Plan Goals");
- (3) The LHIN may, in accordance with the Home Care and Community Services Act, update and revise the Patient Care Plan from time to time, including a change to the number or frequency of Visits, or both.
- (4) The LHIN will provide items outlined in Schedule 1, LHIN Invoice and Billing

Requirements.

## **ARTICLE 6 - PROVIDER RESPONSIBILITIES**

### **6.1** *The Provider shall*

- (a) Complete and return Contractor Screening Tool back to the LHIN prior to entering into this MOU with the LHIN.
- (b) Ensure PSW personnel are employees of the Provider and not independent contractors. To clarify, the Provider is responsible for recruiting, ensuring staff has a vulnerable persons criminal record check, supervising staff and is accountable for the actions of these unregulated staff.
- (c) Ensure Registered Healthcare Professionals (RHP) are employees of the Provider and these RHP's are accountable for teaching, supervising and oversight of personal support provision and delegation of tasks.
- (d) Ensure the resources are fully allocated to support the deliverables stipulated in the MOU.
- (e) Ensure that Funding is not diverted to fund or support other initiatives within the Provider.
- (f) Develop, implement and monitor patient safety, infection control and have a quality assurance program
- (g) Establish monitoring and tracking systems for patient outcomes.

## **ARTICLE 7 - CONFIDENTIALITY AND PRIVACY**

### **7.1 No Disclosure of Confidential Information**

- (1) Except as expressly set out in this MOU, neither Party shall use, disclose, or permit any person to obtain any Confidential Information, in written, tangible or other form, learned from or provided by the other Party, whether directly or indirectly, without the prior consent of the other Party. Each Party shall take all reasonable steps to ensure that any person having access to the other Party's Confidential Information complies with this provision. The Parties acknowledge that disclosure of Confidential Information may cause serious and irreparable harm which cannot be adequately compensated for in damages and accordingly agree that each Party shall be entitled to obtain injunctive relief, in addition to any other appropriate remedy, to prevent such disclosure.
- (2) For clarity, Sections 7.1 and 7.2 shall not apply to any Patient Information disclosed by the LHIN to *the Provider*. *The Provider* shall comply with Section 7.3 with respect to such Patient Information.

## 7.2 Privacy Law

### 7.2.1 Patient Information Privacy, Protection and Management

- (1) If the LHIN provides access or transfers to the Provider any Patient Information in connection with this MOU, or if the Provider otherwise collects, uses, discloses, stores, processes or otherwise handles Patient Information on behalf of the LHIN in connection with this MOU, the Provider shall:
- (a) not use such Patient Information for any purpose other than as necessary for the performance of its obligations under this MOU;
  - (b) not disclose such Patient Information or otherwise permit access to or make such Patient Information available to any person except;
    - i. as expressly permitted or instructed by the LHIN In writing; or,
    - ii. to a health information custodian (within the meaning of the *Personal Health Information and Protection Act*) for the purpose of providing health care or assisting in the provision of health care to a LHIN patient and with the express or implied consent of the LHIN patient in accordance with the Applicable Laws;
    - iii. as required to comply with the Applicable Law, or a valid court order or other binding requirement of a competent governmental authority, provided that in any such case:
      - a. the LHIN is immediately notified in writing of any such requirement (and in any event prior to disclosure of the Patient Information); and,
      - b. the Provider provides all reasonable assistance to the LHIN in any attempt by the LHIN to limit or prevent the disclosure of the Patient Information;
  - (c) so long as the Provider remains in possession, custody or control of such Patient Information, uses reasonable physical, organizational and technological security measures that are appropriate having regard to the sensitivity of the information to protect such Patient Information against loss, theft and unauthorized access, disclosure, copying, use, modification or disposal; and, without limiting the foregoing, the Provider shall:
    - i. restrict technological and physical access to Patient Information to only those authorized personnel of the Provider and subcontractors that require access to such information to fulfil their job requirements and that are subject to binding obligations of confidentiality and data protection no less stringent than those of this MOU;
    - ii. not print, save, copy or store any Patient Information, whether on removable, mobile or other media, in printed, electronic or optical form or otherwise, except temporarily within a secure location within the Provider's facilities and only to the extent necessary in connection with this MOU, and immediately and securely destroy or delete any such temporary copies or saved or stored versions upon conclusion of the activity giving rise to the necessity of saving, copying or storing such Patient Information; and

- iii. not move, remove, relocate or transmit any Patient Information from the Provider's facilities without using appropriately secure encryption technology to protect such information while in transit (e.g. on laptops, removable media, or over the Internet);
- (d) immediately inform the LHIN of any actual or suspected loss, theft or accidental or unauthorized access, disclosure, copying, use, or modification of Patient Information or other breach of the Provider's obligations; and
- (e) ensure at all times that Patient Information and all data, databases or other records containing Patient Information that are stored, handled or processed for the LHIN in connection with this MOU are kept technologically isolated and separate from any information, data, databases or other records stored, handled or processed by the Bloom for itself or for third parties.

#### 7.2.2 Privacy Regulators

- (1) The Provider shall provide, in a timely manner, all necessary and reasonable information and co-operation to the LHIN and to any regulatory or other governmental bodies or authorities with jurisdiction or oversight over applicable privacy laws (each, a "**Privacy Regulator**") in connection with any investigations, audits or inquiries made by any such Privacy Regulator under such legislation. The Provider acknowledges that the LHIN may be required to disclose confidential information of the Provider (including, without limitation, this MOU and any agreement or other documentation relating thereto), without the Provider's consent, to such Privacy Regulators in connection with any investigation, audit or inquiry.

#### 7.2.3 Designated Individual

- (1) The Provider shall designate a Privacy Officer and identify to the LHIN an individual to handle all aspects of the handling of Patient Information.

#### 7.2.4 Third Party Requests for Access to Information, Inquiries and Complaints

- (1) Other than requests for access to or disclosure of Patient Information by a health information custodian (within the meaning of the *Personal Health Information Protection Act*) for the purpose of providing health care or assisting in the provision of health care to a LHIN patient and with the express or implied consent of the LHIN patient in accordance with the Applicable Laws, with respect to any third party seeking access to or disclosure of Patient Information in the possession, custody or control of the Provider to that third party, the Provider shall:
  - (a) immediately refer to the LHIN any individual who contacts the Provider seeking access or correction to or with any inquiries or complaints about his or her Patient Information in connection with or otherwise relating to this MOU;
  - (b) immediately notify the LHIN regarding any such request, inquiry or complaint; and,
  - (c) provide, in a timely manner, all reasonable cooperation, assistance, information and access to Patient Information in its possession, custody or control as is necessary for the LHIN to promptly (and, in any event, within any timeframe required by the Applicable Law) respond to such request, inquiry or complaint.

#### 7.2.5 Patient Records

- (1) The Provider shall create, maintain and retain a record of services delivered to each LHIN patient in accordance with the Applicable Laws, or LHIN policies and procedures

related to Patient Information (a "**Patient Record**"), and shall retain custody and control over all such Patient Records until destroyed or disposed of in accordance with this MOU and the Applicable Law. The Provider shall ensure that all Patient Information used or disclosed in connection with delivery of services is as accurate, up-to-date and complete as is necessary for such purposes.

- (2) The Provider shall not transfer, store, handle or process any Patient Records outside Ontario without the prior written consent of the LHIN.
- (3) The Provider acknowledges that collection, use, disclosure, storage, processing or handling of Patient Records in violation of this Agreement or the Applicable Law may cause serious and irreparable harm to the LHIN which cannot be adequately compensated for in damages and accordingly agrees that the LHIN shall be entitled to obtain injunctive relief, in addition to any other appropriate remedy, to prevent such collection, use, disclosure, storage, processing or handling of Patient Records.

#### 7.2.6 Long Term Retention of Patient Records

- (1) Notwithstanding any termination or expiration of this MOU, the Provider shall retain and store at its own cost and expense, at a site with security, document protection, and controlled access acceptable to the LHIN acting reasonably, all Patient Records for no less that the period required under the Applicable Law. The Provider shall comply with any storage, retention and destruction guidelines or procedures established by the LHIN from time to time.

#### 7.2.7 Return of Patient Information to the LHIN

- (1) In the event that, at any time during the MOU Term or subsequent to the termination or expiration of this MOU,
  - (a) The Provider ceases to carry on business;
  - (b) The Provider materially breaches any provision of this Agreement; or
  - (c) the LHIN, in its sole discretion, it determines that it requires the return of the original Patient Records, the Provider shall, no later than 60 days after receiving a request from the LHIN and subject to the Applicable Law prohibiting or prescribing conditions on such delivery, deliver all Patient Information to the LHIN in a secure manner meeting the requirements of this Agreement and provide to the LHIN an officer's certificate certifying that all Patient Information have been so delivered to the LHIN.
- (2) After delivery of Patient Information to the LHIN in accordance with this Agreement, the Provider shall, subject to the Applicable Law prohibiting or prescribing conditions on such destruction or disposition, destroy or dispose of all remaining copies, whether in physical, electronic or any other form, of all such Patient Information in a secure manner meeting the requirements of this Agreement, and shall provide to the LHIN an officer's certificate certifying that all Patient Information has been so destroyed or disposed of. In the event that the Applicable Law prohibits such destruction or otherwise requires the Provider to retain copies of the Patient Information, the Provider's obligations with respect to the copies of such Patient Information under this Agreement shall continue until such time as the Provider is no longer in possession of the copies of such Patient Information.
- (3) In the event that the Applicable Laws prohibit the return of Patient Information to the LHIN, the Provider or its representative's cost for directions respecting the disposition

of such Patient Information. The LHIN may, in its sole discretion, intervene at its own cost in any such application.

#### 7.2.8 Regulated Health Professionals

- (1) For greater clarity, nothing in this Agreement shall vary or amend, in any manner whatsoever, the obligations of any regulated health professional pursuant to the Applicable Law, including the *Personal Health Information Protection Act*.

### 7.3 **New Releases**

The Provider shall not issue any publicity or news release or otherwise respond to or contact any member of the media pertaining to this MOU or the Services without prior written consent of the LHIN.

### 7.4 **Permitted Disclosures**

- (1) *The Provider* agrees that, the LHIN may disclose the name and address of *the Provider* to other LHINs and the public.
- (2) The LHIN may disclose to the Government of Ontario any information with respect to this MOU.
- (3) The LHIN may disclose any information with respect to *the Provider* and this MOU as required by the Applicable Law.
- (4) *The Provider* agrees that data and statistics in respect of this MOU may be collected by the Local Health Integration Networks in Ontario, or nationally, under the direction of the Ontario Ministry of Health and Long-Term Care or the federal Department of Health, on a no-names basis and *the Provider* consents to the disclosure of such information.

### 6.5 **Privacy Law**

- (1) *The Provider and LHIN* will comply with the *Personal Health Information Protection Act* (Ontario) with respect to all Patient Information disclosed to either Party by the other Party

### 6.6 **FIPPA Records and Compliance**

- (1) The Provider and the LHIN acknowledge and agree that FIPPA applies to and governs all Records and may require the disclosure of such Records to third parties. Furthermore, the Provider agrees:
  - (a) to keep Records secure;
  - (b) to provide Records to the LHIN within seven (7) calendar days of being directed to do so by the LHIN for any reason including an access request or privacy issue;
  - (c) not to access any Personal Information unless the LHIN determines, in its sole discretion, that access is permitted under FIPPA and is necessary in order to provide the Deliverables;
  - (d) not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the LHIN;
  - (e) to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling

- with other records and databases and to implement, use and maintain the most appropriate products, tools, measures and procedures to do so;
- (f) to restrict access to Personal Information to those of the Provider's Personnel who have a need to know it for the purpose of providing the Deliverables and who have been specifically authorized by the LHIN Representative to have such access for the purpose of providing the Deliverables;
  - (g) to implement other specific security measures that in the reasonable opinion of the LHIN would improve the adequacy and effectiveness of the Provider's measures to ensure the security and integrity of Personal Information and Records generally; and
  - (h) that any confidential information supplied to the LHIN may be disclosed by the LHIN where it is obligated to do so under FIPPA, by an order of a court or tribunal or pursuant to a legal proceeding;

and the provisions of this section shall prevail over any inconsistent provisions in the Agreement.

## **ARTICLE 8 - INDEMNITIES, LIMITATION OF LIABILITY AND INSURANCE**

### **8.1 Indemnification**

The Provider hereby agrees to indemnify and hold harmless the LHIN from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant costs), causes of action, actions, claims, demands, lawsuits or other proceedings (collectively, the "Claims"), by whomever made, sustained, brought or prosecuted (including for third party bodily injury (including death), personal injury and property damage), in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Provider or the Provider's Personnel and Volunteers, in the course of the performance of the Provider's obligations under, or otherwise in connection with, this Agreement, unless caused by the negligence or wilful misconduct of any Indemnified Parties.

### **8.2 Insurance**

- (1) Without restricting the generality of any of the Provider's obligations under this Article 8, *the Provider* shall maintain in full force and effect during the term of this MOU, at its own expense, a policy of comprehensive general liability insurance, providing coverage for a limit of not less than \$5,000,000.00 for each occurrence of a claim of bodily injury (including personal injury), death or property damage, including loss of use thereof, that may arise directly or indirectly out of the acts or omissions of *the Provider* under this MOU.
- (2) *The Provider* will also ensure that all employees, consultants, subcontractors or agents performing tasks in connection with this MOU are covered by the Provider's insurance policy or have their own appropriate and equivalent malpractice liability insurance.
- (3) *The Provider* shall provide to the LHIN, from time to time upon request, proof of the insurance coverage required under Section 8.2 (including proof that the LHIN has been

added as an additional insured) in the form of a certificate and such coverage shall be kept current throughout the term of this MOU.

### 8.3 Indirect Damages

- (4) In no event shall the measure of damages payable by either Party include, nor will either Party be liable for, any consequential, indirect, incidental, exemplary or punitive damages, including damages due to business interruption or lost profits, savings, competitive advantage or goodwill arising from or related to this MOU, regardless of the type of claim, whether in contract, tort, negligence, strict liability or other legal or equitable theory, whether or not foreseeable, and regardless of the cause of such damages even if the Party has been advised of the possibility of such damages in advance.

## ARTICLE 9 - GENERAL MATTERS

### 9.1 Notices and Consents

- (1) Any notice, consent, approval, determination, demand or other communication required or permitted to be given or made under this MOU ("**Notice**") by either Party shall be in writing and shall be,
- (a) delivered in person on a Business Day;
  - (b) sent by prepaid courier service; or
  - (c) sent prepaid by e-mail or facsimile transmission or other similar means of electronic communication, which produces a paper record ("**Electronic Transmission**"), during a Business Day and sent subsequently by prepaid first class mail as confirmation,

and sent to the applicable address and identifying the person designated to receive Notices as set out in this Section 9.1.

- (2) Each Notice shall be addressed as follows:

- (a) in the case of the LHIN, to:

Zeynep Danis, VP, Finance & Corporate Services, Waterloo Wellington LHIN  
141 Weber Street South  
Waterloo ON N2J 2A9  
Fax:519 748-2222 ext. 3216

- (b) in the case of Fairview Mennonite Home, to:

Elaine Shantz, Chief Executive Officer  
Fairview Mennonite Home  
515 Langs Drive  
Cambridge, ON N3H 5E4  
Fax: 519-650-1242

- (3) Each Notice sent in accordance with this Section 9.1 shall be deemed to have been received,
  - (a) on the day it was delivered if delivered in person or by prepaid courier service; or
  - (b) on the day that it was sent by Electronic Transmission, or at the start of business on the first Business Day thereafter if the day on which it was sent by Electronic Transmission was not a Business Day.
- (4) Either Party may, from time to time, change its address for Notice by giving Notice to the other Parties as provided in this Section 9.1.

## **9.2 Waiver/No Election**

- (1) A waiver by a Party of any default, breach or non-compliance under this MOU is not effective unless it is in writing, dated, and signed by the Party making such waiver. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other Party. The waiver by a Party of any default, breach or non-compliance under this MOU shall not operate as a waiver of that Party's rights under this MOU in respect to any continuing or subsequent default, breach or non-observance, whether of the same or any other nature.
- (2) Resort to any remedy referred to in this MOU or the exercise of any option in this MOU shall not be construed as an election of remedies or a waiver of any other rights and remedies to which the Party is or may be entitled at law, in equity or otherwise, under this MOU against the Party in breach. The rights of termination shall be cumulative and in addition to, and not in substitution for, any and all rights or remedies available to the non-defaulting Party against the defaulting Party.

## **9.3 Governing Law**

- (1) This MOU shall be governed by and construed in accordance with the laws of Ontario and the laws of Canada applicable in that Province and shall be treated, in all respects, as an Ontario contract.

## **9.4 Attornment to Ontario Courts**

- (1) Each Party agrees that, any action or proceeding relating to this MOU shall be brought in any court of competent jurisdiction in the Province of Ontario and for that purpose

each Party irrevocably and unconditionally attorns and submits to the jurisdiction of that Ontario court; it irrevocably waives any right to, and will not, oppose any Ontario action or proceeding relating to this MOU on any jurisdictional basis, including forum non conveniens; and it will not oppose the enforcement against it, in any other jurisdiction, of any judgment or order duly obtained from an Ontario court as contemplated by this Section 8.4.

## 9.5 Force Majeure

- (1) For the purposes of this MOU, "Force Majeure" means an event that is,
  - (a) beyond the reasonable control of a Party; and
  - (b) makes a Party's performance of its obligations under the MOU impossible or so impractical as reasonably to be considered impossible in the circumstances.
- (2) Force Majeure includes,
  - (a) war, riots and civil disorder;
  - (b) storm, flood, earthquake or other severely adverse weather conditions;
  - (c) confiscation, expropriation or other similar action by a government body; and
  - (d) strikes, lockouts or similar labour actions, provided they are not caused by *the Provider's* unreasonable actions,

if such events meet the test set out in Section 9.5(1).

- (3) Force Majeure shall not include,
  - (a) any event that is caused by the negligence or intentional action of a Party or such Party's subcontractors or agents or employees; or
  - (b) any event that a diligent Party could reasonably have been expected to,
    - (i) take into account at the time of the execution of this MOU; and
    - (ii) avoid or overcome in the carrying out of its obligations under the MOU.
- (4) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.
- (5) The failure of a Party to fulfill any of its obligations under the MOU shall not be considered to be a breach of, or default under, this MOU to the extent that such failure to fulfill the MOU obligation arose from an event of Force Majeure, provided that the

Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this MOU.

- (6) A Party affected by an event of Force Majeure shall take all reasonable measures to fulfill its obligations under the MOU with a minimum of delay. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than 14 days after the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible. The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- (7) If the event of Force Majeure exists for a period of more than 90 days, the LHIN or *the Provider* may terminate the MOU immediately (without notice).

#### **9.6 Assignment**

*The Provider* shall not assign or transfer this MOU, or any of its rights or obligations under this MOU, in whole or in part, without the prior consent of the LHIN, which consent shall not be unreasonably withheld.

#### **9.7 Further Assurances**

The Parties shall promptly do, execute, acknowledge and deliver, or cause to be done, executed acknowledged and delivered, all such further assurances, instruments and documents and do all such other acts as may be necessary or appropriate in order to carry out the intent and purposes of this MOU.

#### **9.8 Counterparts**

This MOU may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. The Parties may execute the counterparts in either original or faxed form and the Parties adopt any signatures received by a receiving fax machine as original signatures of the Parties but any Party providing its signature by fax shall promptly forward to the other Party an original of the signed copy of this MOU that was faxed.

#### **9.9 Enurement**

This MOU shall enure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

#### **9.10 Severability**

Each of the provisions contained in this MOU is distinct and severable and a declaration of invalidity or unenforceability of any provision or part thereof by a court of competent

jurisdiction shall not affect the validity or enforceability of any other provision of this MOU.

#### **9.11 Acknowledgement**

Each Party hereby acknowledges having,

- (a) read this MOU before signing it;
- (b) the authority to sign this MOU; and
- (c) received a copy of this MOU.

**IN WITNESS** whereof the parties have executed this MOU by their duly authorized signing officers as of the date first set forth above.

**Waterloo Wellington Local Health Integration Network**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**Fairview Mennonite Home**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

## Schedule 1 - LHIN Invoicing and Billing Requirements

### The LHIN agrees to pay:

- Non-IALP patients funded @ \$33.15 per hour based on Patient service hours for Personal Support Services identified within the LHIN care plan
- Hourly Rate - Community Resource Facilitator (CRF) is an hourly rate (32.50/hour):

For the purpose of calculation in the application of the Hourly Rate (\$33.15 per hour), hours all billed by supplemental invoice (Non-SAF) each Billing Cycle on the basis of a total of 7.5 hours per day times each 5 days per week for a total of up to 37.5 hours billed per week times the Hourly Rate. In addition to hourly billing for direct care to patients (face to face) the hourly billed time will also include indirect activities as required (e.g. the development and/or delivery of social supports, wellness programs, mentoring, providing education sessions as requested, responding to and taking phone calls from patients who are on IALP service, assisting IALP PSWs where needed etc.).

The Provider shall report in the Non-SAF invoice the actual number of direct time, indirect time and program hours provided to Patients.

- The Multiple Client Rate – Hourly PSW Integrated Assisted Living Program (IALP) is an hourly rate (\$33.15/hour):

For the purpose of calculation in the application of the Hourly Rate, hours are billed on the basis of 1.0 times the Hourly Rate times 7 days for each Patient who is identified, approved and receiving IALP service in that particular Billing Cycle. The minimum number of Patients to be billed in a Billing Cycle is 23 IALP Patients (23X7X1) with a total of 161 hours. When the actual number of Patients on IALP service for a Billing Cycle falls below 23 Patients, the Provider shall invoice the LHIN and be paid as if there were actually 23 Patients (161 hours) on service for that Billing Cycle and the LHIN shall pay the differential from the actual number of Patients in a supplementary invoice.

The Multiple Client Rate – Hourly PSW IALP hourly rate also includes, in addition to direct care to patients (face to face), indirect activities as required (e.g. responding to and taking phone calls from patients who are on service and assisting the Community Resource Facilitator as necessary). The Service Provider shall be responsible for scheduling and providing the actual amounts of hours or part hours, per patient based on the Service Plan and patient need including Unplanned Visits. The Service Provider shall respond to and provide any Unplanned Visits to the patient within 30 minutes of notification by the patient or Caregiver. The Service Provider shall report the actual amounts of hours or part hours provided per patient, reported in minutes, on the SAF in the Service Unit Code column in the SAF Layout.

- The Multiple Client Rate – Hourly PSW Overnight IALP is an hourly rate (\$33.15/hour):

For the purpose of calculation in the application of the Hourly Rate, hours are billed by supplemental invoice (Non-SAF) each Billing Cycle on the basis of a total of 4 hours per night, however actual hours of overnight IALP service delivery, provided by the Provider, to occur daily from 11:00 pm to 7:00 am, 7 days per week for a total of 24 hours billed per week times the Hourly Rate (\$33.15).

The Multiple Client Rate – Hourly PSW Overnight IALP hourly rate also includes, in addition to direct care to patients (face to face), indirect activities as required (e.g. responding to and taking phone calls from patients who are on service and assisting the Community Resource Facilitator with preparatory work as necessary). The Service Provider shall be responsible for scheduling and providing the actual amounts of hours or part hours, per patient based on the Service Plan and patient need including Unplanned Visits. The Provider shall respond to and provide any Unplanned Visits to the patient within 30 minutes of notification by the patient or Caregiver.

The Provider shall report in the Non-SAF invoice the actual number of direct time hours provided to patients.

- Reimbursement of the following ongoing overhead expenses:
  - Office space; includes utilities and housekeeping: \$1,000 per month
  - Leasing of call system: \$500 per month
  - Personal emergency response systems for IALP Patients residing at 100 Eagle St N, 200 Eagle St N, 650 Eagle St N, 824 King St E, 339 Bishop St N Cambridge and do not have access to the Providers call system or equivalent
  - Telephony/computer: \$200 per month

**The Provider agrees to the following:**

- To provide the number of hours of Personal Support service for each patient in accordance with the LHIN care plan;
- To receive and accept service offers from the LHIN through Health Partner Gateway (“HPG”) Monday to Sunday between 8:30 to 20:30;
- The Provider shall notify the LHIN if a Service Request is accepted or refused no later than 30 minutes after the provider’s receipt of the Service Request, with the exception of Home First and Respite Service Requests, which shall be accepted or refused no later than 60 minutes after the provider’s receipt of the Service Request. The LHIN shall use phone, facsimile or an electronic (HPG or equivalent) means of sending Service Requests.
- To submit, through HPG, a request for payment weekly (“Request for Payment”), no later than seven days after the last day of each Billing Cycle and each Request for Payment must include all claims for payment with respect to all Services carried out during the immediately previous Billing Cycle.
- The Provider shall submit a supplementary invoice (Non-SAF) monthly for the following expenses:
  - Office Space costs - \$1000/month;
  - Leasing of Call System - \$500/month;
  - Telephone/Computer - \$200/month
- In LHIN deemed shared care buildings (where a multiple of patients are seen) billing per patient will be in 15 minute increments (the rate will be billed as .25 times the hourly rate) for Personal Support Services. Note; all buildings/address’ identified in this agreement are considered LHIN deemed shared care buildings.

- The Provider's Hourly Service Rate is an all-inclusive rate and is the only rate paid to the Provider for work assigned under this agreement. The Hourly Service Rate includes all costs and expenses associated with both actual face-to-face visits with the Patient or Caregiver and all preparation, consultation, reporting and travel time. *To clarify, premium rates for Statutory Holidays will not be paid over and above the Hourly Service Rate outlined above.*
- The WWLHIN will not pay for any HST attached to the invoice from the provider.
- To pay each Personal Support Worker a minimum base wage of \$16.50 per hour for care provided to LHIN patients eligible for Personal Support Service.
- For IALP neighbourhoods, the Provider shall provide a base office for IALP staff to work from which shall include but not be limited to the following: desk, chairs, filing cabinet, fax/printer, phone, computer/monitor, cell phones as needed for IALP staff, and key lock boxes for Patients, computer software and operating system, any additional office and/or infection control/personal protective equipment and supplies.
- The Provider will be responsible for Insuring the Unit and content insurance for equipment and furnishings.

## Schedule 2 – Performance Standards Schedule

### ARTICLE 1 - PERFORMANCE STANDARDS

#### 1.1 General provider Performance Obligations

- (1) The Provider shall, at all times, carry out the Services, to the level of performance specified as the Quality Operating Standard (the “**Performance Standards**”).
- (2) “Quality Operating Standard” means a standard of performance which,
  - (a) is duly diligent, competent, efficient, economical, timely and in accordance with the prevailing best practices in the community health care industry;
  - (b) is in accordance with all standards, guidelines, procedures, policies, manuals and any other documentation produced and endorsed pursuant to the applicable College Standards and Guidelines;
  - (c) is in accordance with Applicable Law;
  - (d) is in accordance with the Bill of Rights as set out in Part III of the Home Care and Community Services Act, as amended from time to time;
  - (e) protects the privacy of the Patient and the confidentiality of Patient Information;
  - (f) is in accordance with sound management, financial and commercial practices;
  - (g) uses appropriate technology;
  - (h) uses safe and effective equipment, supplies and methods;
  - (i) protects the interests of the LHIN;
  - (j) is in accordance with the plans, programs and reports developed and implemented in accordance with the Services Schedule;
  - (k) provides reports to the LHIN regarding Risk Events according to Section 5.5 of Schedule 3- PSW Services Schedule; and
  - (l) is in accordance with standard health protection and infection control procedures.
- (3) The Provider shall notify the LHIN if a Service Request is accepted or refused no later than 30 minutes after the provider’s receipt of the Service Request, with the exception of Home First and Respite Service Requests, which shall be accepted or refused no later than 60 minutes after the provider’s receipt of the Service Request. The LHIN shall use phone, facsimile or an electronic (HPG or equivalent) means of sending Service Requests.
- (4) The Provider will be subject to the following Performance Standards in accordance with the table below:

Description	Method of Calculation	Reporting Frequency	Performance Standard
Referral Acceptance	$\frac{\text{\# of referrals accepted in a month/}}{\text{\# of referrals for patients in the same month}} \times 100$	Monthly within WWLHIN Matrix Report  Quarterly (with information broken down on a monthly basis)	100%
Missed Care	$\frac{\text{\# of events of Missed Care (Hourly Visits) in a month/}}{\text{\# of delivered Hourly Visits plus \# of events of Missed Care (Hourly Visits) in that month}} \times 100$	Weekly within WWLHIN PSW Weekly Missed Care Report  Monthly within WWLHIN Monthly Missed Care Report  Quarterly (with information broken down on a monthly basis)	0.05-0.04% or lower each month
5 Day Wait Time	$\frac{\text{\# of Complex Patients who receive their first Hourly Visit of Personal Support Services for the Referral for Personal Support Services no later than 5 days following the LHIN Service Authorization Date in a month/}}{\text{\# of Complex Patients for whom a first Referral for Personal Support Services is made in the same month}} \times 100$	Quarterly	95% or higher each month
Detailed description of the types of Personal Support Service provided and number of patients receiving these services		Quarterly	Baseline

### **Schedule 3 – Personal Support Services Schedule**

*Schedule 3 Services Schedule Personal Support and Homemaking– See attached.*

*Note: All references to CCAC shall be replaced with LHIN.*

#### **Services Schedule Section 3.3.1 – Personal Support and Homemaking Tasks**

The Service Provider shall comply with any and all LHIN Policies and Procedures relevant to Personal Support service provision as posted and available on the LHIN's Service Provider Portal and as amended over time.

#### **Services Schedule Section 5.5(7) – Risk Event Reporting**

The following items are deleted from SS Section 5.5:

“(7) If specified by the LHIN, the Service Provider may submit a Risk Report for any instance of Missed Care verbally, provided that,

- (a) the LHIN has a verbal or voicemail system for the purpose of such reporting; and
- (b) the Missed Care has not given rise, nor can it be expected to give rise to, danger, loss or injury to the Patient or the Caregiver” and replace with:

“(7) The Service Provider must complete a Risk Event Report in the LHIN Incident Management System if the Missed Care is related to:

- (a) Actual or potential harm to the Patient as the result of the Missed Care
- (b) A Patient with ERL Code of,
  - i) Level 1 and 2
  - ii) Level 3 if 3 or more Missed Care in a 30 day period
- (c) A palliative Patient
- (d) A pediatric Patient

(8) The Service Provider must submit a weekly Risk Report for any instance of Missed Care utilizing a spreadsheet, provided that,

- (a) the LHIN has developed a spreadsheet for the purpose of such reporting which includes:
  - i) Patient BRN
  - ii) Event Date
  - iii) Service Provider discipline
  - iv) Geographic location
  - v) # of Missed Care visits per Patient BRN on the event date
  - vi) # of hours contained in the Missed Care visits (applicable to PSW and Shift Nursing ONLY)
  - vii) Missed Care reason
  - viii) Name of Retirement Home (if the Missed Care occurred in a RH)
  - ix) Risk Event Report # for a Missed Care as set out in SS Section 5.5 (7)(a) to (d)”

## Appendix A

### Implementation Plan

Implementation Date	Description
June 17, 2019	<ul style="list-style-type: none"> <li>• Start gradual transition of PSW services for non-IALP patients residing in Provider buildings, starting with Retirement Home and then Preston Apartments, Courts and Fairview Apartments.</li> </ul>
September 9, 2019	<ul style="list-style-type: none"> <li>• The Provider start accepting new IALP PSW referrals and 24/7 on call for existing patients; opportunity to explore staggered transition of all existing IALP patients (FMH and surrounding IALP neighbourhood).</li> </ul>
November 4, 2019	<ul style="list-style-type: none"> <li>• Start gradual transition of PSW services for Cambridge non-IALP patients residing in the other Cambridge IALP buildings.</li> </ul>
January 31, 2020	<ul style="list-style-type: none"> <li>• Interim evaluation and data collection of Phase 1; LHIN and the Provider to jointly consider adding the Care Coordinator role within the Provider team; funding model (e.g. move from fee for service to annual funding under M-SAA); and explore expansion of services and geographical scope for potential implementation in FY 2020/2021.</li> </ul>
May 31, 2020	<ul style="list-style-type: none"> <li>• Final Evaluation of Phase 1</li> </ul>

## **Appendix B**

### **Rental Space Terms and Conditions**

The LHIN agrees to reimburse the Provider for the rental of the Base Office used to conduct the Integrated Assisted Living Program (IALP) services.

1. The Provider agrees to provide an Apartment #117 (the "Unit") to be used solely as office space at the agreed upon monthly rental fee for the unit outlined in Schedule 1 and the provision of the IALP services. The monthly rental fee will include municipal taxes, water, electricity, local phone line, internet services, access to Call System, weekly housekeeping and maintenance service for said apartment, parking for staff. Any change in Apartment would be through mutual agreement and a 90 day notice.