

CUMBERNAULD HOSPITAL

LANARKSHIRE HEALTH BOARD

CONTRACT

WITH

SCOTCARE GROUP LIMITED

JUNE 1996

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1 DEFINITIONS

1.1 In this Agreement the following expressions shall unless the context otherwise requires have the following meanings:

- (a) "The Agreement" means this Agreement and Schedule hereto;
- (b) "Clause" means a clause of this Agreement;
- (c) "The Schedule" means the Schedule annexed and signed as relative hereto;
- (d) "The Health Board" means the Lanarkshire Health Board;
- (e) "The Operator" means Scotcare Group Limited a company registered under the Companies Act (Registration Number 95794) and having its Registered Office at Murdostoun Castle, Bonkle, Newmains, Wishaw ML2 7BY;
- (f) "The Nursing Home" means the Nursing Home to be constructed by the Operator upon the subjects at Eastfield Road, Cumbernauld including the fixtures, fittings furniture and equipment therein and the curtilage thereof;
- (g) "The Day Unit" means the Day Unit (forming part of the Nursing Home) to be constructed by the Operator upon the subjects at Eastfield Road, Cumbernauld including the fixtures, fittings furniture and equipment therein and the curtilage thereof;
- (h) "Medical Consultant" means such Medical Consultant *as* the Health Board may designate from time to time;
- (i) "Patients" means National Health Service patients admitted to the Nursing Home by the direction of the Health Board and occupying Beds contracted to the Health Board in terms of the Agreement.
- (j) "Day Places" means National Health Service patients admitted to the Day Unit by the direction of the Health Board and occupying places contracted to the Health Board in terms of the Agreement (each being referred to as "Day Place Patients").
- (k) "Beds" means Beds and associated rooms contracted to the Health Board by this Agreement (Subject to Clause 4.1) for the exclusive use of NHS patients;

- (l) "The 1938 Act" means the Nursing Home Registration (Scotland) Act 1938 as amended and the Regulations made thereunder;
- (m) "The Certificate of Registration" means the Certificate of Registration document issued by the Health Board in terms of the 1938 Act;
- (n) "The Matron" means the Matron (a female) or the Principal Nursing Officer (if male) in charge of the Nursing Home. Any notice, information or communication given or made to the Matron shall be deemed to have been made or given to the Operator;
- (o) The Day Unit Manager means the person in charge of the Day Unit. Any notice, information or communication given or made to the Day Unit Manager shall be deemed to have been made or given to the Operator;
- (p) "Authorised Officer" means the person designated by the Health Board as its duly authorised representative. Any notice, information or communication given or made to the Authorised Officer shall be deemed to have been given or made to the Health Board;
- (q) "The Commencement Date" means a date following not later than seven days after the date of issue of the Certificate of Registration which is agreed between the parties or failing agreement, the date seven days after the said date of issue of the Certificate of Registration; Declaring that said date shall not in any event be later than 1 April 1997 except from delay arising from Registration issues;
- (r) "Insured Risks" means such of the following risks, namely:
 - (i) Loss or damage by fire, lightning, explosion, aircraft or other aerial devices (other than such aircraft or other aerial devices as are hostile) or articles dropped therefrom, earthquake, riot and civil commotion and malicious damage, storm or tempest, bursting or overflowing of water, apparatus or pipes, flood and impact by road vehicles;
 - (ii) Employers' liability;
 - (iii) Public liability;
 - (iv) Contents insurance which shall include not only the Operators' fixtures and fittings within the Nursing Home and Day Unit but also all items of Patients' personal property up to a maximum cover in each case of £500 per bed for Patients Effects, as defined in the Operator's policy of insurance and a further £500 per person in respect of valuables, again as defined in the said insurance policy, and other such risks as are from time to time included in any policy of insurance affected as a consequence of the Agreement;

- (s) "The Insurers" means such UK insurance office or underwriter of repute as is nominated or approved of in writing by the Health Board;
- (t) "Reinstatement Value" means the cost which would be incurred (including fees and the cost of shoring up, demolition and site clearance) in reinstating the Nursing Home and Day Unit in accordance with the requirements of the Agreement as reasonably determined in the first instance by the Operator or such greater amount as the Health Board may reasonably require (up to a maximum in any event of £1,750,000.00) to be reviewed annually;
- (u) "The Contract Price" means the total amount payable exclusive of Value Added Tax by the Health Board to the Operator in terms of Clause 30 hereof;
- (v) "The Retail Price Index" means the General Index of Retail Prices published monthly by the General Statistical Office of Great Britain.
- (w) "The Services" means the Services which the Operator requires to provide to the Patients either directly or indirectly to fulfill the obligations incumbent upon the operator in terms of the Agreement.
- (y) "Staffing Levels" means the staffing levels specified in Part 1 of the Schedule and
- (z) "Quality of Care" means the quality or standard of care specified in Part 11 of the Schedule.
- (aa) "Clinical Designation of Beds" means the clinical designations specified in Part 111 of the Schedule.

2 INTERPRETATION

2.1 In the Agreement unless there is something in the subjects or context inconsistent therein:

- (a) words importing the masculine include the feminine and words importing the neuter include the masculine and feminine;
- (b) words importing the singular include the plural and vice versa;
- (c) any reference to an Act of Parliament includes any modification, extension or re-enactment thereof for the time being in force and all future instruments, and all instruments orders, regulations, permissions and directions for the time being made or given thereunder or deriving validity therefrom;

- (d) any covenant by the Operator whether positive or negative shall be deemed to extend to an obligation to ensure that *its* employees, agents and sub-contractors comply therewith;
- (e) reference to the Health Board and the Operator shall where appropriate include their respective successors in title;
- (f) reference to Registration of the Nursing Home in terms of the 1938 Act shall be deemed to include conditional and provisional registration in terms of the 1938 Act.

3 CONTRACT PERIOD

This Agreement shall, unless previously terminated by one or more of the events set out in Clause 29, be for a fixed period of ten (10) years from the Commencement Date and shall continue thereafter unless and until terminated by either party giving to the other not less than one year's previous notice in writing to expire on the tenth or any subsequent anniversary of the Commencement Date subject always, in the event of the Agreement continuing after the expiry of the ten years thereof, to the Health Board being entitled to reduce the number of Beds contracted at that time in terms of this Agreement to such number as it shall, at its sole discretion, determine.

4 CONTRACTED BEDS AND DAY UNIT PLACES

- 4.1 As long as this Agreement shall continue in force and the proper payments are made to the Operator by the Health Board, the Operator shall hold available within the completed Nursing Home 30 Day Places in the Day Unit which shall be occupied and paid for by the Health Board in terms of this Agreement and initially 40 Beds. Twenty of these Beds shall in the first instance be available for named individuals. On death or discharge of each of these patients the Board reserves at its discretion the option of replacing or not each Bed so vacated.

Where the Board exercises its right not to replace a vacated Bed it shall continue to pay for that Bed for three further months from date of discharge or death or until the bed is filled by the Operator - whichever is earlier.

With regard to the balance of twenty Beds the Board at its discretion may reduce its use of these Beds over the contract period as follows:-

Years 1 - 4 20 Beds contracted to the Board

Years 5 - 6 15 Beds contracted to the Board

Years 7 - 8 10 Beds contracted to the Board

Years 9 - 10 5 Beds contracted to the Board

Such contracted Beds shall be occupied and paid for by the Health Board. The Board shall give the Operator at least three months notice of its intention to exercise its right to reduce Beds as shown above.

- 4.2 The Operator shall maintain the Nursing Home and Day Unit to a standard and condition acceptable to the Health Board acting reasonably.
- 4.3 During the period the Agreement remains in force the Operator undertakes not to sell, dispo, transfer or in any way alienate its interest as proprietor of the Nursing Home and Day Unit without the prior written consent of the Health Board.
- 4.4 The Operator undertakes to operate the Day Unit in accordance with the terms of this Agreement Monday to Saturday 10.0 am to 4.00 pm 52 weeks a year.
- 4.5 Throughout the terms of the Agreement, the Operator shall provide details to the Health Board at (monthly) intervals of the number of Beds which are not currently occupied or contracted to be occupied or reasonably expected to be occupied within the following (three month) period ("the Vacant Beds"). The Health Board shall have the right upon giving reasonable notice to the Operator which shall not exceed one month to occupy any Vacant Beds at the price then applicable for each Bed.

5 ADMISSION POLICY

- 5.1 The admission of Patients to the Beds and patients to the Day Unit may only be made by the Medical Consultant responsible for the clinical care of the Patients and Day Place Patients.
- 5.2 Beds in the Nursing Home will be allocated for highly dependent geriatric Patients requiring nursing care. The Operator shall be obliged to admit and provide care for the full range of Patients being the underlying responsibility of the Health Board and as deemed by the Medical Consultant as being appropriate for the type of care provided.

5.3 Places in the Day Unit will be allocated for elderly Patients who are considered suitable by the Medical Consultant for referral for:-

- 1 Acute Conditions: cases where early intervention is indicated
- 2 Orthopaedic Conditions: eg Fracture, Joint Pain
- 3 Chronic Conditions: Progressive conditions eg Multiple Sclerosis
- 4 Short Term Respite: To relieve carer thus preventing hospital admission.
- 5 Mild Dementia:

5.4 The Health Board may seek to modify or amend the clinical designation of the Beds and Day Places as distinct from that designated in Clause 5.2 and 5.3 hereof and the Operator's Agreement to such modification shall not be unreasonably withheld. Should there be a change in the clinical designation of the Beds, the financial consequences will be as set out in Clause 30.3.

5.5 The operator shall ensure the provision of Patient and Day Place Patients Information Booklets, the contents of which shall be approved by the Health Board, and their issue to Patients and Day Place Patients and/or their representatives on admission or in advance if prior notice of patients admission is received.

6 QUALITY OF GENERAL CARE

The primary concern of the Health Board being to ensure that the quality of care and accommodation provided to Patients and Day Unit patients is of a high standard the Operator shall be required to meet the standards and quality of care specified in the Certificate of Registration, the 1938 Act, and the Health Board's Model Guidelines for Nursing Homes as amended from time to time, but only in so far and to the extent and within the time limits that any Nursing Home operated throughout the Area for which the Health Board has a statutory responsibility are required to comply therewith. The Operator shall be required to meet the appropriate service levels set out in the Health Board's Local Health Charter a copy of which together with any amendments made thereto from time to time by the Health Board shall be provided by the Health Board.

7 ACCOMMODATION

7.1 The Operator shall provide in the Nursing Home a homely, domestic environment which is comfortable, allows privacy and is maintained in a clean and tidy manner, therefore enabling Patients to retain their individuality and self-respect. The Accommodation shall be furnished and equipped to a high standard appropriate to the needs and care requirements of the Patients. Full account should be taken of Health Board design guidance.

The layout plans, and any subsequent changes to them shall be approved by the Health Board whose approval shall not be unreasonably withheld.

7.2 In the Nursing Home the Operator shall be obliged to:

- (a) undertake positive measures to encourage Patients to bring in personal belongings and furnishings into the home;
- (b) carpet the Nursing Home throughout with the exception of sanitary areas;
- (c) provide more than one sitting area and there shall be positive separation of smoking and non-smoking areas and there shall be sufficient space for non-smoking dining areas which allows Patients' choice;
- (d) provide ample storage as well as sufficient space to allow staff to fulfill their caring duties;

7.3 In the Day Unit the Operator will be obliged to:-

- (a) provide a therapeutic and clinical environment designed to suit wheelchair users;
- (b) provide suitable accommodation to allow treatments to be administered to certain patients;
- (c) the layout plans, and any subsequent changes to them shall be approved by the Health Board.

7.4 The grounds attached to the building shall provide facilities for Patients and their relatives in a safe environment. The Operator shall not make any amendment to the layout of the grounds without the Health Board's prior consent (not to be unreasonably withheld or delayed).

7.5 Part of the garden shall be available to Patients who can participate in gardening.

8 PHILOSOPHY AND STANDARDS OF CARE

- 8.1 The philosophy of care for Patients is based on the provision of support and care in a domestic environment where Patients have the opportunity to take part in the life of the local community if they so desire. The Operator shall ensure that there is easy access to the Nursing Home for relatives and friends of Patients. The philosophy recognises the uniqueness of each individual and his/her needs and the right of each individual to participate in decisions about their care. In a relationship based on partnership staff in the Nursing Home shall provide a programme of care which shall maximise the abilities of each Patient and their quality of living.
- 8.2 The Day Unit shall provide a full range of services for the frail elderly and the elderly with mild dementia.

9 STANDARDS OF SERVICES

- 9.1 During the continuance in force of this Agreement the Operator shall provide the Services at the Nursing Home and Day Unit to the reasonable satisfaction of the Health Board;
- 9.2 The organisation of the Nursing Home and Day Unit and the attitude of the staff shall reflect the individual needs of the Patients and Day Place Patients aiming to help them achieve personal dignity and allow, wherever possible, the right of choice especially with regard to the pattern of their daily lives. In the case of Patients this shall include (within reasonable limits) times of awakening, retiring and taking meals.
- 9.3 The Operator shall provide Patients with all meals which will ensure that each individual Patient's dietary and nutritional needs are met. Cycles of menus as set out in the schedule (which may be varied from time to time with the agreement of the Health Board) shall be provided. The Operator shall ensure that necessary assistance in the feeding of Patients is provided where appropriate.

The Operator shall ensure that Day Place Patients present at the Day Unit at recognised meal times are provided with meals of the same quality as Patients of the Nursing Home.

- 9.4 Patients of the Nursing Home and/or their representatives shall be consulted on all matters affecting their wellbeing and welfare and wherever possible shall be allowed to manage their own affairs provided that it shall be the responsibility of the appropriate Medical Consultant to consult Patients on the treatments being received by them.

- 9.5 The pattern of the Patient's day shall (in so far as it is consistent with the proper and efficient running of the Nursing Home) reflect the needs of the Patient and not the Nursing Home.
- 9.6 Each Patient and his/her relative or representative shall be consulted on his/her programme of care and the organisation of his/her day. As a matter of choice each Patient shall be able to participate in the structured programme of daily activity and wherever possible will participate in the designing of such activities. Wherever possible suitable activities shall be offered outside the Nursing Home.
- 9.7 Patients shall have access at all reasonable times to a telephone in order to maintain contact with friends and relatives (payment for calls upon which will be paid by the Patient.)
- 9.8 The Operator shall provide regular occupational and leisure activities (including music sessions, handicrafts, social contacts and excursions) for all Patients who wish to participate.
- 9.9 The Operator shall ensure the provision of a full Patient's personalised clothing launderette service.
- 9.10 Patients shall wear clothes provided by themselves or their relatives. The Operator shall advise the Patients and/or their representatives that the clothing shall be of a quality acceptable to the Health Board and appropriate to the needs of the individual Patients. The Operator shall be responsible for ensuring that Patients maintain sufficient items of clothing to enable them to have the choice of what they shall wear and they shall whenever possible participate in the selection and purchase of their own clothing. If a Patient has insufficient funds the Operator shall use reasonable endeavours to provide that Patient with personalised clothes at no expense to the Patient.
- 9.11 The Operator in the absence of a curator bonis or suitable relative shall be responsible for the management of the Patients' personal funds in compliance with the Health Board's Standing Financial Instructions which shall be provided to the Operator and in accordance with the recommendations of the Report on the Management of Patients' funds (The Incapax Report). The Operator shall be obliged to keep detailed records in the manner required by the Health Board of any use made of Patients' funds and shall be obliged to exhibit these records to the Health Board on request.

10 NURSING CARE IN THE NURSING HOME AND DAY UNIT

- 10.1 The Nursing Services shall be provided by the Operator and led by a nurse who has been registered at First Level with the United Kingdom Central Council for Nursing, Midwifery and Health Visiting for no less than 5 years on the appropriate part of the register, 3 of which within the last five years shall have been spent in the appropriate clinical area.

The nurse in charge of the Nursing Home shall be employed for no less than 35 hours per week. A core of staff as determined by the Health Board shall also be employed for no less than 35 hours per week.

Similarly the Manager of the Day Unit and a core of staff shall be employed for no less than 35 hours per week.

- 10.2 The Nursing Service shall be delivered using the primary nursing system. Each primary nurse shall have been registered at First Level for no less than 18 months on the appropriate part of the register with no less than 1 year's relevant experience. Primary nurses may be supported by associates who are registered at First and Second Level with the United Kingdom Central Council for Nursing, Midwifery and Health Visiting or Care Assistants according to the statutory minimum staffing notification.
- 10.3 The Health Board Corporate Nursing Strategy including Nursing Practice Standards, as amended from time to time shall apply and the Operator's nursing staff shall prepare service specification nursing standards which each primary nurse shall use to audit his/her service through peer reviews.
- 10.4 The full range of nursing supplies and equipment to support the nursing care needs of the Patients and Day Unit patients shall be provided by the Operator, including those required to manage incontinence and promote continence.
- 10.5 The Health Board at its expense shall provide specialist nursing services, eg, Infection control advice, diabetic sister for individual elderly people at the request of the Nurse in Administrative Charge or the Medical Consultant. The Operator's staff shall require to be appropriately trained in Control of Infection procedures in accordance with the Rules and Policies of the Health Board.
- 10.6 Confidentiality of nursing records shall require appropriate arrangements to be made by the Operator and shall be retained with the medical records. The Operator shall retain Nursing staff records and duty rotas for a minimum of 5 years.
- 10.7 A record of all accidents whether to Patients, Day Unit patients or staff shall be maintained by the Nurse in charge or appropriate deputy. This record will be open to inspection by authorised officers of the Health Board.

- 10.8 Participation in student nurse education programmes shall be required, this shall be under the supervision of the Principal of Lanarkshire College of Nursing and Midwifery or successor body.
- 10.9 The Day Unit Manager shall have overall control of the Day Unit and shall:-
- (i) co-ordinate the sessions of paramedical staff;
 - (ii) arrange the referral system to ensure that the patients referred shall receive their treatment episode as prescribed;
 - (iii) manage the Day Unit resource to maximise the available accommodation to meet its potential.
- 10.10 A care plan for each Patient and Day Place Patients shall be prepared jointly by the Medical Consultant and the Matron and will be held available for inspection by the Health Board. The Health Board care plan shall describe the assessment, planning, implementation and evaluation of nursing care.

11 MEDICAL CARE IN THE NURSING HOME AND DAY UNIT

- 11.1 The Health Board at its expense shall be required to arrange the Patient's dental and ophthalmic care.
- 11.2 The Health Board at its expense shall provide all necessary prescribed medicines required for the care of the Patients as prescribed by medical staff responsible for the clinical care of the Patients as designated by the Health Board.
- 11.3 The Operator shall arrange for providing acute medical treatment through a registered General Practitioner contracted to the Nursing Home. Where a referral to another clinical facility is required the Operator shall comply with the Health Board's operational policies related to such an eventuality.
- 11.4 The Operator shall provide at the Nursing Home secure means of retaining and maintaining the Patient's Health Board Medical Records relative to the immediate treatment of the Patients within the Nursing Home. The Operator shall, on discharge of the Patient for whatever reason, be responsible for the immediate return of the Patient's Health Board medical records held by it by recorded delivery post or approved Courier Services, to a nominated recipient as designated by the Health Board. The Operator shall complete on the discharge/death of any patient the appropriate notification form as specified by the Health Board and return it to the Health Board in the required format and timescale.

- 11.5 Copies of all correspondence, communications, nursing and other professional notes relevant to the Patients' clinical care shall be retained in the Patients' Health Board medical records. No alterations to existing Health Board medical records by the Operator or his staff are permitted.
- 11.6 It is recognised that Patients may seek to discharge themselves from the Nursing Home. The Operator is required to follow the Health Board's operational policies in such an eventuality.
- 11.7 The Medical Consultant responsible for clinical care shall decide after consultation with the Matron whether in each case care in the Nursing Home remains appropriate and shall also decide on the appropriate continued use of Day Unit facilities.

12 REMEDIAL CARE IN THE NURSING HOME AND DAY UNIT

- 12.1 The Operator shall provide at its *own* cost physiotherapy, occupational, diversional and recreational therapy, speech therapy, chiropody and hairdressing.
- 12.2 By Agreement between the Health Board and the Operator services and treatment to be provided by the Operator may be provided by the Health Board and vice versa in each case on the basis that the weekly fee calculated as provided in Clause 30 below shall be adjusted as may be agreed.

13 STAFFING AND MANAGEMENT ARRANGEMENTS

- 13.1 The Operator shall provide at its expense professional, ancillary and other staff as specified in Part 1 of the Schedule and subject to the following sentence shall maintain such staffing levels at all times throughout the period that the Agreement remains in force unless otherwise agreed in writing. Without prejudice to the generality of the foregoing obligations the Operator shall use all reasonable endeavours to ensure that during sickness leave or other unforewarned temporary absences of staff that replacement staff are available to maintain the agreed staffing levels as specified in the Schedule.

- 13.2 The Operator shall employ in and about the provision of the Services only such persons as are careful, skilled and experienced in their several trades and callings. The Operator shall ensure that all staff undergo a formal period of induction training and that the Operator has an ongoing commitment to staff training with routine provision of in-service training and attendance at appropriate courses. The Operator shall ensure that Senior Staff will keep up to date with developments in their field. Staff under training will be adequately supervised. The Operator shall ensure that qualified staff who are registered with UKCC meet the requirements of the Implementation of the UKCC's Standards for Post Registration Education and Practice (PREP), effective from 1 April 1995. In addition the Operator shall provide appropriate training at its own expense for staff to reflect additional/changed skills requirements brought about by alterations to this Agreement and/or changes in legislation and shall allow upon request by the Health Board NHS staff to attend at the Nursing Home and/or Day Unit for work experience training.
- 13.3 The Health Board shall allow the Operator's staff to attend courses and lectures at the Health Board's facilities upon payment by the Operator to the Health Board of the appropriate fee levied in respect of such courses and lectures.
- 13.4 The Operator shall ensure that every person employed by it in and about the provision of the Services is at all times properly and sufficiently trained and instructed with regard to:-
- (a) the task or tasks that person has to perform;
 - (b) all relevant rules, procedures, policies, regulations, legislation as applies to the provision of the Services and their employment in connection therewith;
 - (c) the special vulnerability of the Nursing Home and the Day Unit to fire. The Operator shall meet all statutory requirements and shall instruct staff to take every reasonable precaution to obviate fire risks. Particular emphasis shall be placed on risks of spontaneous combustion, careless disposal of matches, cigarettes and conformity with the non-smoking areas identified within the Nursing Home. The Operator shall require to ensure that all staff attend fire lectures and drills twice yearly. The Operator shall be required to maintain a register of fire lectures/drills and associated attendance;
 - (d) the need for all staff to observe the highest standards of hygiene, courtesy and consideration;
 - (e) the control of infection procedures. The Operator shall bear the cost of such training and shall maintain a record of staff so trained;
 - (f) the responsibility to recognise situations which involve an actual or potential danger of personal injury to any person(s) within the Nursing Home (for example, defective flooring, electrical equipment or fittings) and forthwith to report such situations to the Matron or Day Unit Manager for action;

- 13.5 The Operator shall in respect of all persons employed or seeking to be employed by it (whether in and about the provision of the Services or otherwise) comply with each and every provision of law which prohibits discrimination in relation to employment on the grounds of sex, colour, disablement, race, ethnic or natural origin or religion;
- 13.6 The Health Board may make reasonable representations to the Operator to take disciplinary action against or to remove from work in or about the provision of the Service any person employed by the Operator.
- 13.7 The Operator shall be entirely responsible for the employment and conditions of service of the Operator's staff.
- 13.8 The weekly fee for the Beds and day places contracted to the Health Board in terms of this Agreement as specified in Clause 30 hereof is calculated upon the basis of the staffing specified in Part I of the Schedule.
- 13.9 The Operator shall at his sole expense provide facilities in the Nursing Home and Day Unit for training of the Operator's staff and shall allow the NHS staff to attend at the Nursing Home for work experience training as agreed with the Matron.
- 13.10 Operator's staff are subject to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 - ie offences must be disclosed.
- 13.11 Any clinical or other research shall require the prior approval of the Health Board.

14 CONTROL AND SUPERVISION OF STAFF

- 14.1 The Operator shall appoint the Matron of the Nursing Home and Manager of the Day Unit. The Operator's Matron shall be the duly authorised representative of the Operator at the Nursing Home for all purposes connected with this Agreement. The Day Unit Manager shall be the duly authorised representative of the Operator at the Day Unit for all purposes connected with this Agreement.

- 14.2 The Operator shall prior to the Commencement Date give notice in writing to the Health Board of the identity of the persons it wishes to appoint as Matron and Manager and of any subsequent appointment. A curriculum vitae and two suitable references shall accompany such notice in respect of any person it is proposed should be so appointed. Any appointment shall be subject to Health Board approval (such approval not to be unnecessarily withheld or delayed).
- 14.3 The Operator shall ensure that the Matron or competent deputy duly authorised to act on her behalf is present at the Nursing Home and available to the Health Board at all times.
- 14.4 The Matron or deputy and Day Unit Manager shall consult with the Health Board with regard to the provision of the Service.
- 14.5 If the Operator at any time becomes aware of any act or omission or proposed act or omission by the Health Board which prevents or hinders or may prevent or hinder the Operator from providing the Services, the Matron or deputy and Day Unit Manager shall as soon as reasonably practicable inform the Health Board in writing of that fact.
- 14.6 The Operator's staff engaged in and about the provision of the Service, shall be under the control and direction of the Matron and Day Unit Manager.
- 14.7 The Operator shall require its staff at all times to be properly and presentably dressed in uniforms or other appropriate work wear.
- 14.8 The Operator shall provide and shall require its staff to wear at all times at the Nursing Home and Day Unit a personal identification badge.

15 EQUIPMENT AND MATERIALS

- 15.1 With the exception of drugs as referred to in Clause 11.2, the Operator shall provide at his expense all consumable disposable and other supplies or equipment required to meet the needs of the Patients and day patients including incontinence aids, testing reagents and food supplements required to provide the Services.
- 15.2 The Operator shall maintain all equipment in a safe, serviceable and clean condition.
- 15.3 The Operator shall ensure that all equipment and materials provided by it when first acquired conform to the latest relevant British Standards Specification or comparable standard where such a standard exists. The Operator shall, upon request, furnish the Health Board with appropriate documentation to prove that such equipment and materials comply with this condition.

16 MANAGEMENT INFORMATION

- 16.1 Regular reports shall be required by the Health Board. The format of the report shall be agreed between the Operator and the Health Board prior to Patients, and where appropriate, Day Place Patients, being admitted to the Nursing Home or to the Day Unit.
- 16.2 The Operator shall return to the Health Board each month no later than five days after the month end the following information :-

Occupied Bed Days (Midnight Bed Count)

- (i) Actual number of bed days
- (ii) Number remaining at midnight on the last day of the month
 - (a) this month
 - (b) last month

In-Patients

- (i) Admissions
- (ii) Discharges
- (iii) Deaths
- (iv) Transfers (temporary transfer to another Hospital)
- (v) Turnover interval between admissions
- (vi) Such other information as may reasonably be required from time to time

The operator shall submit the Hospital Activity Statistics Return ISD(S)1 to the Health Board on a quarterly basis.

Day Unit activity shall be recorded in accordance with the Health Board's procedures.

- 16.3 (i) The Operator shall provide to the Health Board reports showing details of staff in post, staff turnover rates and sickness and other absence rates. Such reports shall be provided monthly for the first three months following the Commencement Date and quarterly thereafter.
- (ii) The Operator shall notify the Health Board as soon as reasonably practicable following any occasion on which the Staffing Levels are not met during three or more consecutive shifts or during the same shift over three or more consecutive days in any one ward area.
- 16.4 The Operator shall notify the Health Board of all accidents and other incidents relating to patient care in a format agreed with the Health Board. A register of such accidents and untoward incidents shall be maintained and held available to inspection by any authorised officer.

In maintaining information systems the Owner shall comply fully with the requirements of the Data Protection Act.

17 INSPECTION OF NURSING HOME AND DAY UNIT

- 17.1 Inspection of the Nursing Home shall be undertaken by the Health Board in terms of the 1938 Act.
- 17.2 The inspection of the Day Unit shall be undertaken by the Health Board inspection team.
- 17.3 In addition the Health Board its General Manager or any representative(s) nominated by him may at any time visit and inspect the Nursing Home and Day Unit without restriction on time or frequency always providing Patients privacy is maintained. Access will also be provided at the request of the Health Board to the Mental Welfare Commission for Scotland, the Scottish Health Advisory Service and Lanarkshire Health Council.

18 COMPLAINTS

- 18.1 Complaints by the Operator relating to Patients or Day Unit Patients shall in the first instance be referred to the Medical Consultant. In the absence of agreement (within 21 days) they shall then be referred to the Health Board's General Manager.
- 18.2 The Operator shall provide the system stipulated by the Health Board for dealing with any complaint and suggestions which complies with the Hospital Complaints Procedure Act 1985 and Guidance on Implementation of the NHS Complaints Procedure following thereon.
- 18.3 Formal complaint made to the Operator by the Patients or their representatives shall be notified as soon as reasonably practicable, and in any event verbally within one working day and confirmed in writing within three (3) working days to the Health Board staff delegated with responsibility for receiving such complaints and dealing with the same who shall have been previously notified to the Operator or failing which the Authorised Officer and the Operator shall be obliged to investigate such complaints. Complaints made by the Patients or their representatives shall be dealt with in the following manner, namely-
- (i) Any complaint made in respect of matters affecting the Patients or Day Place patients care within the Nursing Home or in the Day Unit shall be remedied in the manner and within the period reasonably determined by the Health Board. In the event of any complaint being made in respect of any other matter within the Nursing Home this shall be dealt with by agreement between the Health Board and the Operator.
 - (ii) Any complaint relating to the professional conduct of the nurses at the Nursing Home shall be notified as soon as reasonably practicable and in any event verbally within one working day and confirmed in writing within three working days by the Operator to the Health Board's Chief Area Nursing Officer.
 - (iii) Complaints relating to a General Practitioner acting under the National Health Service shall be referred timeously by the Operator to the Chief Administrative Medical Officer of the Health Board.
 - (iv) Complaints relating to the professional conduct by a doctor or paramedical staff shall be referred as soon as reasonably practicable and in any event verbally within one working day and confirmed in writing within (3) three working days in the first instance by the Operator to the Health Board's Chief Administrative Medical Officer and then if considered appropriate by the said Chief Administrative Medical Officer to the General Medical Council or other appropriate professional body.
 - (v) Complaints relating to the professional conduct by a dentist shall be referred in the first instance by the Operator to the Health Board's Consultant in Public Dental Health and then if considered appropriate by the said Consultant in Public Dental Health to the General Dental Council.

19 EVALUATION AND MONITORING

- 19.1 Subject to such right being carried out in such a manner as causes minimum disruption to the efficient running of the Nursing Home and Day Unit, for monitoring purposes the staff delegated by the Health Board (hereinafter referred to as "the monitoring staff") shall reserve the right to visit the Nursing Home and Day Unit without advance notice (it being expressly declared that any inspection carried out in terms of this Clause shall be entirely separate from the Health Board's statutory function and duty in terms of the 1938 Act). The Health Board shall respect the Patients' rights of privacy and self-determination. Subject always to the Health Board's right to terminate the Agreement in terms of Clause 29 thereof the monitoring staff may discuss all findings with the Operator. A plan may thereafter be agreed between the monitoring staff and the Operator agreeing the steps to be taken to remedy any matter which the monitoring staff acting reasonably consider requires to be amended.
- 19.2 The Operator shall be invited to attend meetings convened by the Health Board to discuss reports prepared by the monitoring staff (hereinafter referred to as the "monitoring reports"). Copies of monitoring reports shall be provided to the Operator within one week of final copies of the same being available.

20 DISCLAIMERS

Patients or their representatives shall not be required or requested to sign any disclaimer notices or acceptance notices which in any way conflict with the terms and conditions expressed or implied within this Agreement or which seek to affect the Patients' statutory rights.

21 PATIENT TRANSFERS

- 21.1 If for any reason it is considered by the Medical Consultant to be in a Patient's best interest to transfer a Patient to a National Health Service Hospital or other appropriate facility then such a transfer shall be arranged by the Medical Consultant.
- 21.2 The Medical Consultant shall decide which mode of transport is appropriate. Ambulance transport where deemed clinically necessary by the Medical Consultant shall be the responsibility of the Health Board. Other transport shall be the responsibility of the Operator. The Patient shall be accompanied during such transfer and until admission by appropriate nursing personnel able to provide the National Health Service Hospital or other facility with details of the Patient's medical history and treatment. The Patient's medical and nursing records must accompany the Patient.
- 21.3 Responsibility of arranging appropriate and timeous transport other than ambulance transport shall lie with the Operator.

22 CONFIDENTIALITY

- 22.1 The Operator and the Operator's staff shall regard as strictly confidential and shall not disclose to any person other than a person authorised by the Health Board, either at any time during the continuance in force of this Agreement or at any time after the termination of this Agreement, any information acquired by the Operator or the Operator's staff in or in relation to the Health Board or any Patient and Day Unit patients including but not limited to any information regarding the provision of the Services in terms of this Agreement concerning the Health Board or, the Health Board's staff or procedures or, the identity of any Patient or the medical condition of or the treatment received by any Patient and the Operator shall not use any such information other than as specifically required for purposes of performing its obligations as provided in this Agreement provided that this obligation shall not apply in respect of an obligation to disclose the information by law, any information which is in or comes into the public domain other than through the default or negligence of the Operator or its employees, servants or agents.
- 22.2 The Operator's staff individually shall be bound in writing to maintain the confidentiality provisions as set out in Clause 22.1.

23 CHAPLAINCY SERVICES

Arrangements shall be made for Patients to worship within and outwith the Nursing Home. Arrangements shall be made by the Operator, in conjunction with the Health Board as appropriate, for all Patients (who so wish) to receive pastoral care, and this shall include the admission to the Nursing Home of Clergy holding Health Board contracts for the provision of Chaplaincy Services.

24 FUNERAL ARRANGEMENTS

The Operator shall assist relatives of deceased Patients with funeral arrangements and if there are no other financial means available to the deceased Patient the Operator shall use its reasonable endeavours to procure financial assistance to ensure that proper arrangements are made.

25 INDEMNITY

- 25.1 Except as may otherwise be expressly stipulated herein, the Health Board shall not be liable to the Operator or to any Patient or Day Place Patient or to any third party for any loss, cost, expense, penalty or damage incurred or suffered by any individual person or entity, including but not limited to any personal injury or death or damage to property, whatsoever and howsoever arising directly out of, or in consequence of, or in connection with treatment or care of any Patient or the provision of or the management and operation of the Nursing Home and the Day Unit by the Operator or the terms and conditions of this Agreement, but always excluding any claim or action howsoever arising attributable to the direct fault or negligence whether by act or omission of the Health Board or its employees or agents acting in the course of their employment with the Health Board.
- 25.2 The Operator shall fully indemnify the Health Board in respect of any and all liability including but not limited to any loss, cost, expense, penalty or damage, be it direct or consequential, in respect of any claim or action howsoever arising in relation to the care or treatment of any Patient, the provision of or management and operation of the Nursing Home and the Day Unit or the terms and conditions of this Agreement, including but not limited to claims or actions made or raised by or on behalf of Patients, Day Unit patients, or their relatives, or employees of the Operator or the Health Board or any other third party, always excluding any claim or action howsoever arising attributable to the direct fault or negligence whether by act or omission of the Health Board or its employees or agents acting in the course of their employment with the Health Board.

- 25.3 The Operator shall be obliged to effect with the Insurers insurance in respect of the indemnity provided in this clause for an amount determined in the first instance by the Operator and approved by the Health Board and shall be obliged to maintain the said insurance after the termination of the Agreement (at the expiry of the Agreement or sooner termination for a period of not less than five years).
- 25.4 The provisions of this Clause 25 shall survive the termination of the Agreement with regard to any matter in respect of which the Health Board has excluded liability pursuant to this Clause 25 or in respect of which the Operator has an obligation to indemnify the Health Board pursuant to this Clause 25, which arose, occurred or began during the term of the Agreement irrespective of when any claim is made or intimated relating to such matter, whether such claim or intimation is made before or after the termination of the Agreement save that the Operator shall in no circumstances have any liability to the Health Board or otherwise under this Agreement in relation to any matter, act or thing concerning any Patient or Day Place Patient prior to any such Patient or Day Place Patient becoming a Patient or Day Place Patient (as applicable).

26 DEFAULT

- 26.1 In the event of a Patient or Day Place Patient being referred back to the Health Board for further care and treatment outside the Nursing Home which arises as a direct result of material fault or negligence on the part of the Operator or the Operator's staff then the Health Board shall not be liable to pay the Operator the Contract Price in respect of the Patient or Day Place Patient for the period during which the Patient is receiving alternative care outside the Nursing Home or Day Unit as deemed necessary by the Medical Consultant.
- 26.2 In respect of the provisions of Clause 26.1 where material fault or negligence is on the part of the Operator or the Operator's staff then in addition to the provisions of Clause 26.1 the Health Board shall be entitled to recover such costs from the Operator as it is legally liable to pay in respect of treating the Patient referred from the Nursing Home or Day Unit and in fulfilling its statutory obligations but not the cost of care or treatment provided by the Health Board itself or any statutory, local or Governmental authority or body. The Health Board's remedy is without prejudice to its right to be indemnified in terms of Clause 25.

27 INSURANCE

- 27.1 The Operator shall effect with the Insurers insurance against the Insured Risks. The Operator shall effect such insurance as from the Commencement Date and shall exhibit a copy of the insurance policy to the Health Board within one month from the Commencement Date. In addition the Operator shall exhibit proof of payment of premium under said policy for each year of the Agreement.
- 27.2 The insurance which shall be effected by the Operator in respect of claims for personal injury or the death of any person under a contract of service with the Operator and arising out of and in the course of such persons employment shall comply with the Employers Liability (Compulsory Insurance) Act 1969.
- 27.3 Subject to the remaining provisions of this Clause 27.3 for public liability and all other claims the extent of insurance cover shall be FIVE MILLION POUNDS (£5,000,000) Sterling or such greater sum as the Operator may determine in respect of any one incident cover in respect of certain specified incidents shall be as follows:-
- The Operator undertakes to retain the insurance referred to herein and continue making payments of the premiums in respect thereof for such period as any claim for any incidences which arose, occurred or began during the subsistence of the Agreement irrespective of when any claim is made or intimated related to such incidence, whether such claim or intimation is made by a Patient, his executor or family member or a third party before or after the termination of the Agreement.
- 27.4 The Operator shall effect with the Insurer insurance of the Nursing Home and Day Unit for such amount as in the opinion of the Operator, taking account of any reasonable representation made by the Health Board. shall reasonably represent the full reinstatement value of the said Nursing Home and Day Unit and relative offices and any addition thereto from time to time.
- 27.5 Nothing shall be done or omitted to be done by the Operator or, for the avoidance of doubt its employees agents and sub-contractors whereby any policy or policies of insurance from the time being in force in respect of the Insured risks may become void or voidable and the Operator shall at all times comply with the requirements of the Insurers and shall indemnify the Health Board against all expense and loss arising from a breach of this obligation.

- 27.6 In the event of the Nursing Home and/or Day Unit being destroyed or damaged to an extent that the Operator is unable to fulfill the obligations incumbent upon it in terms of the Agreement, the Operator shall be obliged to obtain suitable alternative accommodation for the Patients affected and for the continued use of such alternative accommodation for as long as may be necessary. The determination of the extent of such damage or destruction shall rest with the Insurers in the event that such matter is an Insured Risk or with the Health Board if such matter is not an Insured Risk. The Operator shall be obliged to effect with the Insurers at its sole expense for the benefit of the Health Board, insurance cover in respect of any additional accommodation costs over the above the weekly fee payable by the Health Board in terms of Clause 30 hereof which might be incurred as a result of Patients being re-located in alternative accommodation as specified therein. In such an event the Health Board shall work jointly with the Operator to establish the most reasonable solution.
- 27.7 In the event of the Nursing Home and/or Day Unit or any part thereof being destroyed or damaged by any of the Insured Risks the Operator shall be obliged to apply all monies recovered under the policy of insurance to reinstating the Nursing Home and Day Unit. The Operator shall be obliged to apply for any consents or approvals (the Operator's application in this regard being subject to prior approval by the Health Board) (which will not to be unreasonably withheld or delayed) required to rebuild or repair the Nursing Home and Day Unit from the relevant planning authority within three months of the date any such damage or destruction occurred and to reinstate the Nursing Home and Day Unit within a period of eighteen months from the date of receiving any such consents or approvals as required from the Planning Authority.
- 27.8 In the event of the Nursing Home and Day Unit or any part thereof being destroyed or damaged by any of the Insured Risks and the insurance money under any insurance against the same effected thereon by the Operator being wholly or partially irrecoverable by reason solely or in part of any act of negligence or default of the Operator then and in any such case the Operator shall make good any deficiency in the insurance monies recovered from his own funds to repair or reinstate the Nursing Home and Day Unit.
- 27.9 The Health Board's interest shall be noted upon any policy or policies of insurance to be effected by the Operator in terms of this Agreement to the effect that the Health Board shall be advised of the date upon which any monies are paid to the Operator and the amount of any such monies.

27.10 If the Nursing Home and/or Day Unit or any part thereof is destroyed or damaged so as to make the Beds or Day Places contained therein or any number of them unfit for occupation and use by Patients or Day Place Patients then to the extent that the Operator fails or is prevented from finding alternative accommodation for any Patients as may be required the Health Board may release the Operator from the obligation contained in Clause 27.6 it being expressly stated that this Agreement shall not be terminated by rei interitus in consequence of such damage or destruction but shall be suspended and the weekly fee payable by the Health Board to the Operator in accordance with Clause 30 hereof in respect of any such Beds which are unfit for use and occupation shall be suspended and no payment shall be made by the Health Board to the Operator in respect thereof. In the event however that the Health Board releases the Operator from the obligation contained in Clause 27.6 hereof of finding alternative accommodation for any Patients in the circumstances described whether wholly or in part the Operator shall be obliged to make payment to the Health Board of any cost incurred by the Health Board in itself arranging alternative accommodation for Patients over and above the weekly fee payable by the Health Board to the Operator in accordance with Clause 30 hereof as at the date of any damage or destruction occurring to the Nursing Home or Day Unit. In such an event the Health Board shall work jointly with the Operator to establish the most reasonable solution.

27.11 The Health Board shall be entitled to review the minimum levels of insurance at five yearly intervals from the Commencement Date and require reasonable increases of the minimum levels of insurance required to be provided by the Operator in terms of Clause 27

28 ASSIGNATION

No part of this Agreement may be transferred, assigned or sub-contracted without the prior approval in writing of the Health Board which shall be granted or refused at the sole discretion of the Health Board except that the Health Board agrees not to unreasonably withhold or delay its consent to the sub-contracting of part of the Agreement.

29 TERMINATIONS

29.1 The Health Board shall be entitled to terminate the contract in the following circumstances:-

- (a) If the Operator shall fail to provide the Services or quality of care as defined in this Agreement to the reasonable satisfaction of the Health Board;
- (b) If the Certificate of Registration of the Nursing Home shall be cancelled or not granted;
- (c) If the Operator repeatedly or consistently defaults as specified in Clause 26;
- (d) On bankruptcy, liquidation or receivership of the Operator or the appointment of an administrator of the Operator or the institution of insolvency proceedings or any general composition formal or informal with or for the benefit of creditors of the Operator (except voluntary liquidation by a solvent company for the purposes of amalgamation or reconstruction);
- (e) If the Operator shall become at any time after the Commencement Date a subsidiary, a holding company or a wholly owned subsidiary as defined in Section 736 of the Companies Act 1985 as amended by Section 144 of the Companies Act 1989 or in any regulations issued thereunder.
- (f) If the Operator shall fail to maintaining to the Health Board's reasonable satisfaction the Nursing Home and Day Unit to the standards specified herein.

29.2 The Health Board shall, however, be obliged to serve a notice in writing upon the Operator specifying the nature of the breach and requiring that steps be taken to remedy the same where possible within one month of the date of the said notice except for any factor which compromises the care and well being of Patients which factor shall be redressed immediately. The Health Board's obligation to make payment of the Contract Price payable in terms of the Agreement shall be suspended during any period in respect of which the Operator is in breach of its obligations contained in the Agreement. In the event that the Operator fails to remedy the Breach as specified in the said notice within the said one month period the Health Board shall be entitled to terminate the Agreement forthwith. Such right to terminate the Agreement is without prejudice to the remaining provisions for termination contained herein.

29.3 In the event of termination:-

- (a) The Health Board and the Operator shall make arrangement to provide suitable accommodation and care arrangements in respect of the Patients and Day Place Patients, as the long-term needs of the Patients and Day Place Patients are of paramount consideration;
- (b) The Health Board shall not be obliged to pay the Contract Price for any period during which the Operator is in breach of its obligations as aforesaid;
- (c) Any termination of the Agreement (howsoever occasioned) shall not affect the coming into force or the continuing in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

29.4 In the event of termination by the Health Board for reasons of the nature specified in Clause 29.1 the Health Board shall excepting its cost of any arbitration have no responsibility whatsoever for any costs or annual amount arising out of or by reason of or in any way connected with Agreement and without prejudice to and under reservation of all and any claims whatsoever which the Health Board may have arising out of or in consequence of or by reason of or in connection with the Agreement, other than for any amounts of the Contract Price then outstanding.

29.5 For the avoidance of doubt, nothing contained in this Agreement shall prevent the Health Board from complying with its statutory obligations or discharging any statutory duty imposed on it and in the event of any conflict between the terms of the Agreement and any such statutory provision, the statutory provision shall take precedence provided that in all such cases and provided further that the Operator has complied with the terms of this Agreement, the Operator shall have no obligation to indemnify the Health Board for any losses costs claims damage or liability which it may suffer to the extent of such conflict nor shall the Health Board be entitled to terminate the Agreement other than by giving notice pursuant to Clause 3.

30 FINANCIAL

- 30.1 Subject to the application of Clauses 4, 11.1, 11.2 and 26, 30.3, 30.4 and 30.5 hereof, the weekly fee for the Beds (whether occupied or not) payable by the Health Board during the continuance of this Agreement shall :-
- (a) Until 31 August 1996 at the rate of £363.03 exclusive of Value Added Tax per bed per week in respect of the Nursing Home and at the rate of £239.81 exclusive of Value Added Tax per place per week in respect of the Day Unit.
 - (b) From the 1 September 1996 and each succeeding period of twelve months immediately following at the reviewed rate to be determined in accordance with the formula specified in Clause 30.2 hereof. The agreed reductions in respect of unoccupied Beds shall be likewise determined at the reviewed rate; it being agreed that in each of the first five (5) years from the Commencement Date a total annual reduction of two thousand pounds (£2000) in respect of unoccupied Beds will be made.
- 30.2 The reviewed rate shall be determined as at 1 September each year by increasing the rate previously payable as follows:-
- (a) 30% of the previous rate shall be increased in the same proportion as the Health Service Price Index shall have increased during the twelve calendar months ended on the previous 31 August. In the event that the Health Service Cost Index ceases to be published the Retail Price Index or such other index agreed by both parties shall serve as the base index for this purpose.
 - (b) The 70% of the previous rate shall be increased in the same proportion as the National Health Service Pay Scales (or such other Pay Scale as may be substituted therefore) shall have increased during the year ended on the previous date.
- 30.3 In the event that:-
- (a) the Operator shall agree to an amendment to the staffing and management levels referred to in Clause 13.1 and Part 1 of the Schedule;
 - (b) the Operator and the Health Board agree changes to dependency levels of Patients;
 - (c) there is a change of Clinical Designation of Beds as provided for in Clause 5.4 and Part 111 of the Schedule;

- (d) amendments to staffing or management levels are required as a condition of registration or continued registration of the Nursing Home under the 1938 Act; or
- (e) changes in staffing levels are deemed necessary to meet the needs of Patients and/or Day Place Patients as judged by the Matron or Day Unit Manager and agreed by the Health Board's Chief Area Nursing Officer and as a consequence of any one or more of the events specified at (a) to (e) above adjustments to the staffing levels for a period of more than seven consecutive days are required, the costs of additional staffing for the first seven days shall be met by the Operator and from the eighth day onward the cost shall be met by the Health Board for as long as still required in the professional opinion of the Matron and agreed by the Chief Area Nursing Officer and the Medical Consultant responsible for the Patients Clinical Care and upon each such amendment there shall be a pro rata adjustment in the calculation to determine the weekly fee for each Bed. This adjustment shall be made by reference to the Staffing Levels and the mechanism for agreeing staff increases as herein specified provided always that if the Clinical Condition of any Patient or Day Place Patient is such that under the terms of this Clause 30.3, it is agreed by the Operator and the Health Board's Chief Area Nursing Officer that such person requires nursing on a one-to-one basis then at the option of the Health Board such Patient/Patient or Day Place Patient shall be nursed on a one-to-one basis in the Nursing Home or Day Place Unit in which event the Health Board shall meet the costs of such additional staffing from the first day that such additional staffing is required or such Patient or Day Place Patient shall be transferred from the Nursing Home Day Place Unit to accommodation deemed more appropriate by the Health Board. For the avoidance of doubt, such transfer shall not be deemed to be a discharge of the Patient/Patient or Day Place Patient in terms of Clause 4.1 of this Agreement unless the Health Board intimates in writing to the contrary.

30.4 For the purpose of Clause 30.2 (b) the increase in the National Health Service Pay Scales shall be a weighted average calculated as follows:-

- (a) 75% nursing scales taking the average percentage increase at the mean of Scale D, Scale C and Scale E.
- (b) 25% ancillary scales using the top of Scale D/C 01-02.

Reference to the above National Health Service Pay Scales shall include reference to future pay scales within the National Health Service in respect of the jobs details in Clause 30.4(a) and (b).

The Board shall require evidence that monies paid over under this adjustment have been passed on to staff of the Operator engaged in the operation of the Nursing Home and/or Day Unit.

30.5 The staffing levels of the Nursing Home and Day Unit upon the basis of which the weekly fee is calculated are as specified in Part 1 of the Schedule.

- 30.6 Without prejudice to the foregoing terms of the Agreement the Health Board shall make payment monthly in arrears on the last day of the calendar month and shall represent one-twelfth of the annual sum. If payment is delayed by more than one week from the due date the Operator has the right to claim compensation being interest at 2% above base rate except in circumstances defined in Section 29 (Terminations). Interest will not be paid on any amount for so long as and to the extent that same is in dispute provided that in the event that any sum is determined to be payable by the Health Board to the Operator, interest shall be payable thereon from the due date until date of payment.
- 30.7 The first payment of the rate per week per bed as specified in Clause 30.1 hereof shall be made by the Health Board as from the date upon which the first Patient is admitted thereto provided always that:
- (a) the Operator shall be obliged to permit admission in each week following the Commencement Date of no less than 10 Patients to the Nursing Home and
 - (b) the Contract Price payable by the Health Board to the Operator under the Agreement shall in any event be paid to the Operator (based on an occupancy of forty Patients) three calendar months from the date of entry of the first Patient to the Nursing Home.
- 30.8 The prices agreed under this Agreement are confidential to the Health Board and the Contractor and shall not be disclosed by either party without the prior consent of the other to any third party.

31 STATUTORY OBLIGATIONS

- 31.1 It is expressly declared that nothing in this Agreement detracts from or is to be seen as preventing the exercise by the Health Board of its Statutory obligations and responsibilities under the 1938 Act or any other Statutory obligations which arise solely by reason of its position as a health authority and that the exercise by the Health Board of its obligations or responsibilities under those provisions may not be founded on by the Operator or its successors in any way by breach of Contract, Action or Reparation nor shall it give rise to any other Right of Action on the part of the Operator or its successors excepting any right to appeal under the 1938 Act or any other statutory provisions.
- 31.2 The Contractor shall at all times during the contract period comply in all respects with the requirements and provisions or any enactment of regulations or orders made thereunder or any by-laws of the local authority(s) for the time being in force whatsoever and howsoever affecting the Nursing Home and Day Unit and its operation, the provision of the services, the employment of staff or in relation to any other obligations to be performed by the Contractor under this Agreement.

32 GENERAL

32.1 The Operator shall not:-

- (a) Offer or give any gift or consideration of any kind to any person in the Health Board's employ as an inducement for obtaining or execution of any agreement with the Health Board;
- (b) Enter into an agreement with the Health Board involving the payment of commission unless particulars of the commission have first been disclosed in writing to the Health Board.

32.2 In the event of a breach of this condition on the part of the Operator the Health Board shall be entitled to terminate the Agreement immediately and to recover from the Operator the amount of any loss resulting from such termination

33 NOTICES

Any notice to be served under the provisions of the Agreement shall be sufficiently served, unless otherwise stipulated to the contrary in the Agreement, if delivered or sent by registered or recorded delivery, in the case of the Health Board addressed to the General Manager at the address given in the Agreement, and in the case of the Operator, addressed to the Managing Director and left at the Nursing Home or at such other address as either party may notify in writing to the other for this purpose.

34 ARBITRATION

Any dispute, difference or question between the parties to the Agreement with respect to any matter arising out of or in relation to the Agreement, except as may otherwise be provided for herein, shall be referred to an Arbiter appointed by Agreement between the parties and failing Agreement within 21 days to be appointed by referral of either party to the Chairman for the time being of the Chartered Institute of Arbiters, the Arbiter's decision on any referral hereof including which party shall meet the expense of referral, shall in the absence of manifest error be final and binding on both parties.

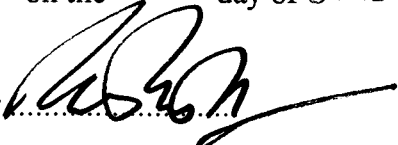
35 TRANSPORT

The Operator shall be required to satisfy the Health Board that they shall operate a safe and efficient transport system for the uplift and return of patients for the Day Unit. Vehicles used for this purpose must conform to the Board's specification.

36 SCOTS LAW

This Agreement shall be considered as an Agreement made in Scotland subject to Scots Law: IN WITNESS WHEREOF these presents typewritten on this and the preceding 31 pages together with the Schedule annexed are executed as follows

At on the 20 day of JUNE Nineteen hundred and ninety six.

Signed by 

(PRINT NAME) DR. Magdy A. ISHAK

DESIGNATION Chief Executive of CrestaCare PLC and director of Jostone

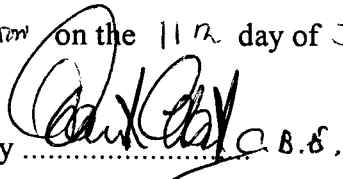
Signed by Gwen Kidd

(PRINT NAME) G.WEN KIDD

DESIGNATION GENERAL MANAGER

On behalf of SCOTCARE GROUP LTD.

At ~~Hamilton~~ on the 11th day of JUNE Nineteen hundred and ninety six.

Signed by  C.B.E.

(PRINT NAME) PROFESSOR FRANK CLARK CBE

DESIGNATION GENERAL MANAGER

On behalf of Lanarkshire Health Board

DRAFT/

Agreement

between

LANARKSHIRE Health Board

and

1996

Subjects:

CLO Ref: L1/221

FAS 7290

SOLICITOR TO THE
SECRETARY OF STATE FOR SCOTLAND
SCOTTISH HEALTH SERVICE
CENTRAL LEGAL OFFICE
RE BOX NO 154, EDINBURGH

CUMBERLD
CONT

SCHEDULE PART 1

STAFFING LEVELS

SCHEDULE OF NURSING STAFF

The matron/nursing officer will require by the Health Board to be registered on Part 1 of the UKCC Professional Register and have recent relevant clinical experience in the area of "care of the elderly" and appropriate managerial experience. The matron shall also have a minimum of three years post registration experience.

If it is intended that the nursing home will be seeking to provide nursing care for patients suffering from "dementia", the matron will require to be registered in Part 3 of the UKCC Professional Register and have relevant clinical experience in this area and appropriate managerial experience and shall also have a minimum of three years post registration experience.

In Patient Beds

The minimum number of hours per week of nursing staff required for the 40 bed nursing home is undernoted:-

Trained Nurses	-	466.5 hrs	50%
Untrained Nursing Staff	-	466.5 hrs	50%

The design of the Unit and disposition of the beds will require to be taken into account in the final deployment of nursing staff as set out in this schedule.

Day Unit - Nurse Staffing

The services from the Unit will be provided six days of the week Monday to Saturday.

Trained Nurses	-	131,25 hrs	3.5 WTE
Untrained Nursing Staff	-	56.25 hrs	1.5 WTE
		<hr/>	<hr/>
		187,50 hrs	5.0 WTE

The nurse "in charge" of the day unit will be registered on Part 1 of the UKCC Professional Register and have recent relevant experience in care of the elderly.

SCHEDULE OF NURSE STAFFING

The minimum number of hours per week of nursing staff required for each 20 bed unit is undernoted:-

Registered Nurse (Part 1 of UKCC Register) First Level	117 hours
Register Nurse First/Second Class	70 hours
Nursing Care Assistants	279 hours

A minimum staffing for each shift will be :-

a m	1 member of staff to each 5 beds
p m	1 member of staff to each 6 beds
Night/duty	not less than 2 persons in each 20 bed unit

GENERAL

A nurse registered in Part 1 of the UKCC register must be on duty at all times and if registered for dementia, a nurse on Part 3 of the UKCC register.

A minimum of nurse staffing levels is set-out in 'Schedule of Nurse Staffing'

The night shift shall not exceed ten hours in duration.

Holiday/sickness absence relief will be required.

The hours of the matron/manager are not included in this schedule.

Separate provision for ancillary staff will be agreed separately by the parties of the Agreement.

DAY UNIT - SCHEDULE OF ACTIVITY

The day unit will provide facilities for physiotherapy, occupational, diversional and recreational therapy, speech therapy, chiropody and hairdressing. There is a requirement to administer treatments to certain patients.

These activities will be provided over 6 days, per week, Monday to Saturday is suggested, and will be supported by the nursing and Professions Allied to Medicine staff as shown on the attached Manpower Schedules.

PAM STAFFING

<u>PROFESSION</u>	<u>WTE</u>	
Occupational Therapy	3.0	50% should be qualified staff
Physiotherapy	2.25	66 ² / ₃ % should be qualified staff
Chiropody	0.75	Should be qualified staff
Speech Therapy	0.2	Should be qualified staff
Psychology	<u>0.2</u>	Should be qualified staff
	<u>6.40</u>	

Please note, whole time equivalent (WTE) means 37.5 hours/week.

SCHEDULE PART 11

QUALITY AND STANDARDS OF CARE

The quality and standards of care shall be no less than that stated in Clause 6, Quality of General Care, Clause 8, Philosophy and Standards of Care, and Clause 9, Standards of Services, of the Agreement.

SCHEDULE PART 111

CLINICAL DESIGNATION OF BEDS

The Beds will be designated for the use of highly dependent geriatric residents requiring nursing care as stated in Clause 5.2 of the Agreement.

SCHEDULE PART IV

CYCLES OF MENUS

Residents of the Nursing Home and Day Place Patients in the Day Unit shall be provided with meals as stated in Clause 9.3 of the Agreement.

CUMBERLD
SCHEDULE

WK 1 Menu Specification

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
MM Break	Assorted Plain Biscuits, Tea or coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee
Lunch	Pea & Ham soup	Vegetable soup	chicken broth	Cream of tomato	Scottish broth	potato & Vegetable	fresh fruit juice
	Fish fingers & Chips/Toast, Beans	Macaroni cheese pickles	quicheorraine & chips	Hamburgers & Gravy & Mashed potatoes	Aberdeen roll tomato & potato salad	Scottish pie, baked beans & potato Croquettes	Roast pork, apple sauce, Brussels Sprouts & potatoes
	Scottish Biddle	Poached egg on toast	Stovies	tomato & Vegetable Pasta Bake	Baked potato with Butter & cheese	French Toast	Roast chicken leg
	Bread & Butter	Bread & Butter	Bread & Butter	Bread & Butter	Bread & Butter	Bread & Butter	Tide
P.M. Break	Assorted Cream or chocolate biscuits Tea or Coffee	Assorted Cream or chocolate biscuits Tea or coffee	assorted Cream or chocolate biscuits Tea or coffee	assorted Cream or chocolate biscuits Tea or Coffee	Assorted Cream or chocolate biscuits tea or Coffee	Assorted Cream or chocolate biscuits tea or Coffee	Assorted Cream or chocolate biscuits Tea or Coffee
Dinner	Fresh Fruit Juice	Fresh Fruit Juice	Fresh Fruit Juice	Fresh Fruit Juice	Fresh Fruit Juice	Fresh fruit juice	Lentlil Soup
	Beef Casserole, Boiled Tots & Creamed Potatoes	Savory Mince Carrots & seasonal potatoes	Honey roast ham Vegetable Salad & saute potatoes	steamed Lamb Sausage in onion Gravy, turnip & new potatoes	Breaded haddock Garden peas & Chips	shepherd pie & Buttered cabbage & Gravy	Egg Mayonnaise & Salad Garnish
	Chili Con Carne	Chicken Risotto	Lasagna	Gammon Salad	Bacon & Egg	beef Curry & Rice	A Variety of Sandwiches
	Syrup sponge & Custard	Napolitan Ice Cream	semolina & stewed apples	Peach Flan	Ice Cream	Pears & Chocolate sauce	
Supper	Homobaking & Hot Drink	Homobaking & Hot drink	Homobaking & Hot Drink	Homobaking & Hot Drink	Homobaking & Hot Drink	Homobaking & Hot Drink	Homobaking & Hot Drink

FRESH FRUIT & YOGHURTS WILL BE AVAILABLE AS AN ALTERNATIVE TO THE SWEET COURSE

WK 2 Menu Specification

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
AM Break	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits tea or coffee	Assorted Plain biscuits tea or coffee	Assorted Plain biscuits tea or coffee	Assorted Plain biscuits tea or coffee
Lunch	Potato & Leek soup Cold Meats, Vegetable Salad	Chicken Broth Fish Cakes, Beetroot & Chips	Yellow Split Pea Soup Hot Dog & Fried Onions	Country Vegetable Cauliflower & Cheese Sauce Potato Croquettes	Leaftl Soup Sausage Roll spaghetti hoops	Chicken Rice Soup Meatoni Cheese Tomato salad	Fruit Juice Roast Beef, Roast potatoes/ Boiled potatoes, mixed vegetables
PM Break	Biscuits & Cheese Bread & Butter	egg mayonnaise on a Soft Roll Bread & Butter	Cheese & Biscuits Bread & Butter	Baked Jacket Potato With Cheese and Salad Bread & Butter	Poached Egg on Toast Bread & Butter	Bride with Beans Bread & Butter	Chicken Casserole Chocolate Ice Cream
Dinner	Assorted Cream or Chocolate Biscuits Tea or Coffee Fresh Fruit Juice	Assorted Cream or Chocolate Biscuits Tea or Coffee Fresh Fruit Juice	Assorted Cream or Chocolate Biscuits Tea or Coffee Fresh Fruit Juice	Assorted Cream or Chocolate Biscuits Tea or Coffee Fresh Fruit Juice	Assorted Cream or Chocolate Biscuits Tea or Coffee Fresh Fruit Juice	Assorted Cream or Chocolate Biscuits Tea or Coffee Fresh Fruit Juice	Assorted Cream or Chocolate Biscuits Tea or Coffee Vegetable Soup
1	Mince & Vegetable Hot Pot, Boiled Potatoes, Carrots Pasta with Chicken & Tomato Steamed Orange Sponge with Orange	Roast Turkey Stuffing Garden Peas Creamed Potatoes Chili with Rice Banana Whirl	Irish Stew & Cabbage Meat Balls in Spicy Sauce & Pasta Smotha & Stewed Apples	Steak & Mushroom Pie, Turnip, Boiled Potatoes Lamb Curry & Rice Rhubarb Sponge & Custard	Haddock in a Creamy Sauce, Potatoes, Green Beans Cold Meat Salad	Meat Loaf and Potatoes & Brussels's Sprouts Lasagna	Quiche & Chips Assorted Sandwiches
Supper	Homebaking & Hot Drink	Homebaking & Hot Drink	Homebaking & Hot Drink	Homebaking & Hot Drink	Homebaking & Hot Drink	Homebaking & Hot Drink	Homebaking & Hot Drink

FRESH FRUIT & YOGHURT WILL BE OFFERED AS A CHOICE ON ALTERNATIVE DAYS

WK 3 Menu Specification

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
AM Break	Assorted Plain Biscuits, Tea or coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits Tea or Coffee	Assorted Plain Biscuits Tea or Coffee
Lunch	Tomato Soup Gamonon Colcawl Potato Croquettes	Minestrone Soup Scotch Pie Baked Beans	Pea & Ham Soup Egg Bake, spaghetti hoops & chips.	Vegetable Broth Corned Beef & Vegetable Salad	Potato & Veg Soup Chocohurger & Chips	Cream of Chicken Soup Fish Fingers, Garden peas & croquettes	Roast lamb, mint sauce Roast/New potatoes turnip
P.M. Break	Tuna Mayonnaise on a soft roll, bread & butter Bread & Butter	Flourishans Lunch	Baked Jacket Potatoes with Chilli or Cheese Bread & Butter	Totd in the Hole Bread & butter	Brittes Bread & Butter	Onionle Butter & cheese	Sloves Tifle
Dinner	Assorted Cream or chocolate biscuits Tea or Coffee	Assorted Cream or chocolate biscuits Tea or coffee	assorted Cream or chocolate biscuits Tea or coffee	assorted Cream or chocolate biscuits Tea or Coffee	Assorted Cream or chocolate biscuits tea or Coffee	Assorted Cream or chocolate biscuits tea or Coffee	Assorted Cream or chocolate biscuits Tea or Coffee
	Fresh Fruit Juices	Fresh Fruit Juices	Fresh Fruit Juices	Fresh Fruit Juice	Fresh Fruit Juices	Fresh fruit Juice	Lentil Soup
	Chicken & Mushroom Pie Boiled Potatoes & Garden Peas	Mince with mixed vegetables Creamed Potatoes & Brussels	Square Sausage Hot Pot Boiled Potatoes Sliced Carrots	Breaded Fish, Chips & Boiled Peas	Irish Slow, Cabbage	Spicy Pork Casserole, Rice & Brussels Sprouts	Sausage & Bean Pie
	Lasagne with Salad	Chicken Stir Fry & Rice	Tuna Pasta Bake	Chicken Curry & Rice	Liver, Onions & Potatoes	Pasta with Tomato Sauce	Banana Sandwiches
	Apple Pie & Custard	Jelly & Fruit	Semolina & jam sauce	Peaches & Cream	Fresh Fruit Salad with Evap Milk		
Supper	Homebaking & Hot Drink	Homebaking & Hot drink	Homebaking & Hot Drink	Homebaking & Hot Drink	Homebaking & Hot Drink	Homebaking & Hot Drink	Homebaking & Hot Drink

FRESH FRUIT & YOGURTS WILL BE AVAILABLE AS AN ALTERNATIVE TO THE SWEET COURSE

WK 4 Menu Specification

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
AM Break	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee	Assorted Plain Biscuits, Tea or Coffee
Lunch	Scottish Broth Soup Quiche Lorraine & Chips	Potato & Leek Soup Chopped Pork Potato Salad	Green Split Pea Soup Sausage Roll, Baked Beans, Chips	Chicken Broth Soup Fish Cakes Beetroot	Spring Vegetable Soup Cheese Pudding Spaghetti Hoops & Potato Waffles	Lentil Soup Macaroni Cheese Sliced Tomato	Roast Chicken Roast Boiled Potatoes Garden Peas
	Oatcakes & Pate Bread & Butter	Baked Jacket Potato Butter & Cheese Bread & Butter	Hot Dogs Soft Roll Bread & Butter	Beefburger Roll Bread & Butter	Chicken Burger & Salad Bread & Butter	French Toast Bread & Butter	Shepherds Pie Rhubarb Crumble & Custard
P.M. Break	Assorted Cream or Chocolate Biscuits Tea or Coffee	Assorted Cream or Chocolate Biscuits Tea or Coffee	Assorted Cream or Chocolate Biscuits Tea or Coffee	Assorted Cream or Chocolate Biscuits Tea or Coffee	Assorted Cream or Chocolate Biscuits Tea or Coffee	Assorted Cream or Chocolate Biscuits Tea or Coffee	Assorted Cream or Chocolate Biscuits Tea or Coffee
Dinner	Fresh Fruit Juice Chicken Casserole with Mushrooms Carrots, Creamed Potatoes Spaghetti Bolognese	Fresh Fruit Juice Savoury Mince, Mixed Veg Boiled Potatoes Egg Mayonnaise	Fresh Fruit Juice Lamb Hot Pot, Boiled Potatoes, Sweetcorn Chilli Concarne & Rice	Fresh Fruit Juice Steamed Sausage Onion, Gravy, Potatoes Shredded Cabbage Cheese Omelette	Fresh Fruit Juice Breaded Whiting Onion, Gravy, Potatoes Filllets, Chips Curried Mince with Rice	Fresh Fruit Juice Braised Steak Braised Sprouts Roast Potatoes Haddock au gratin	Fresh Fruit Juice Toad in the Hole Croquette Potatoes Assorted Sandwiches
Supper	Bananas & Mandarins & Cheese Homobaking & Hot Drink	Steamed Syrup Sponge with Vanilla Sauce Homobaking & Hot Drinks	Ice Cream Homobaking & Hot Drink	Apple Tart & Custard Homobaking & Hot Drink	Lemon Mousse Homobaking & Hot Drink	Baked Rice Pudding Homobaking & Hot Drink Scones	Homobaking & Hot Drink Pancakes

FRESH FRUIT OR YOGHURT WILL BE OFFERED AS A CHOICE ON ALTERNATIVE DAYS