
CONTRACT TO PROVIDE SERVICES
("Contract")

BETWEEN:	Meal On Wheels Queensland (ABN 63 104 919 974) (" The Contractor ")
AND:	TransitCare Limited of PO Box 981, Marsden QLD 4132 (ABN: 17 156 534 513) (" The Agency ")

BACKGROUND

- A. The Agency provides community care and support programmes for the frail aged and/or younger persons with disabilities through funding received from various sources including both Commonwealth and State Governments.
- B. The Agency is a specialist provider of Transport and Community Support both on a direct service delivery basis and also utilising indirect brokerage methods.
- C. The Contractor has fully informed itself of all requirements and has agreed to provide services in accordance with the terms and conditions set out in this Contract.

THE PARTIES AGREE as follows:**1. TERM**

- 1.1 This Contract commences on 29 March 2023 and continues for 12 months, unless terminated earlier in accordance with clause 19 ("**Term**").

2. RESPONSIBILITIES AND WARRANTIES OF THE CONTRACTOR

- 2.1 The Contractor agrees to provide to The Agency the services set out in Item 3 of Schedule 1 at the days and times set out in Item 4 of Schedule 1 ("**Services**").
- 2.2 The Contractor warrants and represents to The Agency that:
 - a. the Contractor has full power and authority to enter into this Contract;
 - b. the Contractor's execution of this Contract and compliance by the Contractor with this Contract does not and will not result in a breach of any law, its constituent documents or any agreement to which the Contractor is a party;
 - c. the Contractor is not bankrupt, insolvent or in the process of being wound up;
 - d. the Contractor is not entering into this Contract as trustee of any trust, unless expressly stated otherwise in the Contractor details above;
 - e. the Contractor has the skills, qualifications and experience to properly and competently deliver the Services, which includes delivering the Services safely, in an efficient and organised manner and with a high degree of responsiveness; and
 - f. the Contractor has the necessary resources, including financial resources to deliver the Services.
- 2.3 The Contractor
 - a. Acknowledges that The Agency is relying on the warranties and representations the Contractor has provided in this clause 2 in entering into this Contract; and
 - b. Is required to notify The Agency as soon as practicable if any of the warranties and representations the Contractor has provided in this clause 2 cease to be true.
- 2.4 The Contractor must at all times:

- a. comply with The Agency policies, processes and documentation, copies of which have been provided to the Contractor in the Contractors Pack or as otherwise advised to the Contractor from time to time;
 - b. ensure that any personnel providing the Services on behalf of the Contractor are Australian citizens or, if not Australian citizens, hold a valid and current Work Visa;
 - c. provide the Services in a manner which complies with the provisions of all applicable laws and policies;
 - d. deliver the Services in a lawful, skilful and professional manner and comply with all codes of conduct and ethics, regulations and other applicable industry standards applicable to the Services;
 - e. use its best endeavours to ensure that no fraud occurs;
 - f. ensure that its conduct and that of its personnel will not bring The Agency into disrepute or cause any nuisance or disruption to The Agency or its clients or residents;
 - g. if applicable to the Contractor, comply with the *Equal Opportunity for Women in the Workplace Act 1999*;
 - h. consult, co-operate and co-ordinate with The Agency (and any other relevant duty holder as defined by the *Work Health and Safety Act 2011*) regarding any health and safety issues arising in the workplace that affect the Contractor so that the Services are delivered in a manner that ensures the health and safety of all workers involved in The Agency's business;
 - i. comply with all other applicable obligations imposed on the Contractor by the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*; and
 - j. pay all taxes, duties and government charges which are applicable in connection with this Contract.
- 2.5 The Contractor will provide and maintain all equipment necessary and incidental to the delivery of the Services (if such equipment is not available on site).
- 2.6 The Contractor will follow individualised care requirements detailed in client and/or resident care/service plans including all reasonable directions and instructions of The Agency as to the scope and nature of the Services to be provided.
- 2.7 The Contractor will give The Agency such assistance and cooperation as The Agency reasonably requests, including:
- a. participating in the evaluation of service provision conducted by The Agency, including permitting any government department or other funding body or their auditors access to the Contractor's personnel, premises, accounts, records, documents and papers that are relevant to the provision of the Services;
 - b. providing reports relevant to the Services; and
 - c. participating in quality reporting activities relevant to the delivery of the Services.
- 2.8 The Contractor will, as soon as practicable, consult with The Agency on any matter arising which may materially affect the performance by the Contractor of its obligations under this Contract.
- 2.9 The Contractor will ensure that the Contractor and its personnel:
- a. obtain and maintain all qualifications, permits, registrations and licenses which the Contractor and its personnel are required to hold to lawfully provide the Services;
 - b. providing the Services have the necessary qualifications/skills set out in Item 4 of Schedule 1;
 - c. comply with contracted Service delivery requirements; and
 - d. are appropriately supervised and have knowledge of and comply with relevant workplace legislation, including but not limited to, their obligations under the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011 (Qld)*.
- 2.10 The Contractor must report immediately to the Agency if any of the following occurs:

- a. a client being absent for their service;
- b. any change in the clients health which includes any deterioration, change in mental health, decline in cognition and physical function;
- c. any accident/near misses involving the client;
- d. if emergency services was called;
- e. any concerns regarding the client.

2.11 If the Services are provided pursuant to a Commonwealth funding agreement, the Contractor acknowledges that:

- a. it may be considered a "Commonwealth service provider" for the purposes of the *Ombudsman Act 1976* and subject to investigation by the Ombudsman under that Act; and
- b. The Agency may be required to provide a copy of this Contract to the Commonwealth.

3. RESPONSIBILITIES AND WARRANTIES OF THE AGENCY

3.1 The Agency will:

- a. provide the Contractor with all reasonable assistance in order for the Contractor to provide the Services;
- b. provide an adequate referral process including the provision of sufficient information to enable the Contractor to deliver quality Services;
- c. communicate promptly any proposed change to the Services;
- d. process the contractor's verified invoices in a timely manner;
- e. evaluate the Contractor's performance in line with service delivery requirements; and
- f. ensure all required client or resident care documentation is completed including care plans and consent forms.

3.2 The Agency warrants and represents to The Contractor that:

- a. the Agency has full power and authority to enter into this Contract;
- b. the Agency's execution of this Contract and compliance by the Contractor with this Contract does not and will not result in a breach of any law, its constituent documents or any agreement to which the Contractor is a party;
- c. the Agency is not bankrupt, insolvent or in the process of being wound up;
- d. the Agency is not entering into this Contract as trustee of any trust, unless expressly stated otherwise in the Agency details above.

3.3 The Agency:

- a. acknowledges that The Contractor is relying on the warranties and representations the Agency has provided in this clause in entering into this Contract; and
- b. is required to notify The Contractor as soon as practicable if any of the warranties and representations the Agency has provided in this clause cease to be true

3.4 The Agency will give the Contractor such assistance and cooperation as The Contractor reasonably requests, including:

- a. participating in the evaluation of service provision conducted by The Contractor;
- b. providing reports relevant to the Services; and
- c. participating in quality reporting activities relevant to the delivery of the Services.

3.5 The Agency will, as soon as practicable, consult with The Contractor on any matter arising which may materially affect the performance by the Contractor of its obligations under this Contract.

4. PAYMENT FOR SERVICES RENDERED

- 4.1 In consideration of the Contractor providing the Services, The Agency agrees to pay, or will procure the client/resident to pay, to the Contractor the fees calculated on the basis as set out in Schedule 1.
- 4.2 Unless otherwise expressly stated in this Contract, all stated fees are exclusive of goods and services tax.
- 4.3 Where the fees are expressly stated to be exclusive of GST, The Agency will pay, or will procure the client/resident to pay, the Contractor the amount of the GST in addition to the stated rate.
- 4.4 The Contractor will provide a correctly rendered GST tax invoice in respect of the Services provided in accordance with the invoice schedule set out in Item 7 of Schedule 1. At the time of rendering the tax invoice, the Contractor must submit evidence of the Services delivered during the relevant period.

5. RECORDS

- 5.1 The Contractor is required to retain complete and accurate records which demonstrate the Contractor's performance of, and compliance with, this Contract.
- 5.3 The Contractor will keep records of all Services provided including details of the people assisted.
- 5.4 The Contractor will keep such records for seven (7) years after the end of this Contract.

6. INDEMNITY

- 6.1 The Contractor indemnifies The Agency, its officers, employees and agents from and against any:
 - a. personal injury to, or death of, any person;
 - b. Intellectual Property or Moral Rights infringement;
 - c. loss of or damage to property;
 - d. loss or expense incurred in dealing with any claim, including legal costs and expenses on a solicitor/own client basis and the cost and time spent, resources used or disbursements paid; or
 - e. other loss or liability.
- 6.2 Such circumstance arising from:
 - a. any act or omission by the Contractor or its personnel in connection with this Contract, including any negligence;
 - b. any breach by the Contractor of this Contract; or
 - c. any action, proceeding, investigation or allegation of a breach by the Contractor of any workplace health and safety laws.
 - d. the Contractor's liability to indemnify under clause 8.1 will be reduced proportionately to the extent that a negligent or other tortious act or omission by The Agency, its officers, employees or agents contributed to the relevant liability, loss, damage or expense.
 - e. The Agency will be taken to be agent or trustee for and on behalf of its current or former officers, employees and agents for the purposes of exercising rights under this clause.

7. INSURANCE

- 7.1 The Contractor will effect and maintain policies of insurance in respect of potential liability, loss or damage for claims for property damage, accidental death, personal injury, and public liability relevant to the performance of the Contractor's obligations pursuant to this Contract as specified in Item 5 of Schedule 1.

7.2 The Contractor will provide certificates of insurance for all insurance policies required at Item 5 of Schedule 1 to The Agency at any time throughout the duration of this Contract, upon the provision of a written request from The Agency. If the Services are provided pursuant to a government funding agreement, the Contractor acknowledges and agrees that the certificates of currency may be provided to the government if requested.

7.3 If any of the policies of insurance expire during the term of this Contract, the Contractor will effect and maintain new policies of insurance as specified in Item 5 of Schedule 1.

8. CONFLICTS OF INTEREST

8.1 The Contractor warrants that to the best of its knowledge after making diligent enquiry, at the date of signing this Contract, no conflict of interest exists or is likely to arise in the performance of this Contract.

8.2 The Contractor must not, and must use its best endeavours to ensure that its personnel do not, engage in any activity or obtain any interest that is likely to give rise to a conflict or adversely affect the performance of this Contract.

8.3 If at any time a conflict of interest arises or appears likely to arise in respect of this Contract or any of the Contract's personnel, the Contractor will notify The Agency in writing.

8.4 If the Contractor fails to comply with clause 9, The Agency may take such steps as it considers appropriate to resolve or otherwise deal with the conflict, which may include terminating this Contract.

9. CONFIDENTIALITY

9.1 During and after the Term of this Contract, the Contractor must:

- a. keep all Confidential Information belonging to The Agency secret and confidential;
- b. comply with all measures established by The Agency to safeguard its Confidential Information from unauthorised use or disclosure;
- c. not use or disclose any Confidential Information or make a copy or any other record of any Confidential Information except in the proper performance of the Services or as required by law; and
- d. take all reasonable steps to ensure that its employees and agents comply with this clause.

9.2 For the purposes of this clause, "Confidential Information" includes but is not limited to, all trade secrets, know-how and any other information confidential to The Agency that is disclosed to the Contractor or acquired by the Contractor during the Term of the Contractor's engagement with The Agency which relates to the business affairs, clients or property of The Agency that are generally not available to the public or are not generally known in the industry in which The Agency operates including (without limitation):

- a. client information, including but not limited to, care plans and medical records;
- b. any other information of The Agency relating to its services (offered or to be offered), research, development, marketing, pricing, clients and prospective clients, business methods, strategies, financial conditions, personnel, plans or policies;
- c. any information, record, specification, formula, patent, device, invention, method, technique or process that is owned by The Agency; and
- d. any confidential information of any third party obtained by The Agency on a confidential basis.

10. PRIVACY

- 10.1 The Contractor will, and will ensure its personnel:
- a. at all times comply with the *Privacy Act*;
 - b. use and disclose any personal information obtained in the course of performing this Contract, only for the purposes of this Contract;
 - c. promptly comply with any directions from the government, to the extent that they are consistent with the IPPs (where the Services are government funded).
- 10.2 If the Services are government funded, the Contractor acknowledges that the government may at any time disclose or publish details about this Contract or the Services.
- 10.3 Where the Services are government funded, the Contractor consents:
- a. to the disclosure of the Contractor's identity (including their personal information if an individual) to that government and;
 - b. for that government to disclose, for reporting purposes, the Contractor's identity and the existence and nature of this Contract.

11. ACCESS TO PREMISES AND RECORDS

- 11.1 If the Services are provided pursuant to a government funding agreement, the Contractor is required to allow access to the government, the Auditor-General, the Information Commissioner, the Privacy Commissioner, the Freedom of Information Commissioner, the Ombudsman and any person authorised by any of these parties, to premises at which materials associated with this Contract are stored, the Contract is performed or work under any Service is undertaken. These parties may inspect and copy materials in the Contractor's or its personnel's possession or control, to communicate with the Contractor's personnel wherever they may be located, for purposes associated with this Contract or any review of performance under this Contract.
- 11.2 The Contractor is required to provide all assistance reasonably requested by a person listed in clause 14.1 in respect of any inquiry into or concerning this Contract or the provision of the Services.
- 11.3 The clause does not restrict or limit any other duly authorised power right or entitlement of any party listed in clause 14.1 or their delegates.

12. DISPUTE RESOLUTION

- 12.1 If a dispute arises in connection with this Contract the parties must comply with the procedure set out in this clause.
- 12.2 The party initiating the dispute must give written notice to the other party specifying the dispute and requiring its resolution under this clause ("Dispute Notice").
- 12.3 The parties have 14 days from the date of the Dispute Notice to try to resolve the dispute. If the dispute is not resolved within this period, the dispute must be referred to mediation.
- 12.4 If the parties have not agreed upon a mediator to mediate the dispute within 7 days after the date the dispute is due for referral to mediation the mediator will be the person appointed by the President of the Queensland Law Society or the President's nominee upon the request of a party to the dispute.
- 12.5 The parties must pay the mediator's remuneration in equal shares. Each party must pay its own costs of the mediation.

12.6 If the dispute is not resolved within 30 days after the appointment of the mediator either party may commence court proceedings in relation to the dispute in any court of competent jurisdiction.

12.7 Despite anything in this clause 15, a party at any time may commence court proceedings in relation to any dispute or claim arising under or in connection with this Contract where that party seeks urgent interlocutory relief.

13. STATUS

13.1 The Contractor is an independent contractor.

13.2 The Contractor does not have authority to bind The Agency by contract or otherwise.

13.3 The Contractor and its personnel are not agents or employees of The Agency.

13.4 The Contractor is solely responsible for payment of wages, entitlements, superannuation, workers' compensation and taxes incidental to any form of employment.

13.5 The Contractor may not use the names "TransitCare", "TOTTS" or "Community Flyer" except to the extent it is authorised in writing to do so by The Contractor.

14. ASSIGNMENT

14.1 The Contractor will not assign the benefit of this Contract without the prior written consent of The Agency.

14.2 The Agency may consent to the assignment subject to such conditions as it chooses to impose, or refuse its consent without reason.

15. TERMINATION

15.1 This Contract may be terminated by either party at any time by giving one month's prior written notice to the other party.

15.2 If a party breaches any term of this Contract, the other party may give that party 14 days' written notice to remedy the breach. If the party fails to remedy the breach within the 14 day period, the other party may immediately terminate this Contract.

15.3 This Contract may be terminated immediately by one party if an Insolvency Event occurs with respect to the other party. An "Insolvency Event" means:

- a. A trustee in bankruptcy, a liquidator, receiver or administrator is appointed over any of the property or undertaking of the party;
- b. The party is or becomes unable to pay its debts when they are due; or
- c. An application or order is made for the bankruptcy or liquidation of the party or a resolution for the liquidation of the party, other than for the purposes of an amalgamation or reconstruction.
- d. Upon termination of this Contract, The Agency will only be liable for payments for Services rendered by the Contractor before the effective date of termination. The Contractor will not be entitled to any other compensation.

16. FUNDING

- 16.1 The Contractor acknowledges that The Agency receives government funding.
- 16.2 If for any reason the relevant funding agreement is terminated or the scope of the funding reduced prior to the expiration of the term of this Contract, The Agency may terminate this Contract immediately by written notice to the Contractor.
- 16.3 Where the Agency is required under a government funding agreement to acknowledge the financial and other support it has received under that agreement, the Contractor will also be required to acknowledge that support in the manner and form specified by The Agency.

17. INTELLECTUAL PROPERTY

- 17.1 The Contractor acknowledges and agrees that the Agency is the owner of all Intellectual Property created by the Contractor as a result of the performance of the Services under this Contract.
- 17.2 The Contractor agrees to immediately disclose to the Agency (and to no other person) all the details of any Intellectual Property.
- 17.3 Irrevocably assign to the Agency all of the Contractor's present and future rights, title and interest in all Intellectual Property;
- a the Intellectual Property being changed, copied, edited, added to, taken from and/or adapted in any manner or context by the Contractor and any person authorised by then Contractor to do so, for any purpose whatsoever, notwithstanding that such conduct may amount to derogatory treatment of the Intellectual Property within the meaning of the *Copyright Act 1968 (Cth)*;
 - b both during and after the Term of this Contract, do all such acts and things as The Agency may reasonably request to secure to The Agency ownership or registration rights in the Intellectual Property, and both during and after the Term of this Contract, refrain from engaging in any conduct which may damage The Agency's Intellectual Property rights.
- 17.4 The Contractor warrants that the delivery of the Services under this Contract will not infringe the Intellectual Property rights or Moral Rights of any person.

18. COMMUNITY AGED CARE FUNDING AGREEMENT

- 18.1 This clause applies to Services funded pursuant to the Aged Care Act 1997 and various Aged Care Principles including the Commonwealth Home Support Programme funding agreement ("CHSP Agreement") and / or Home Care Packages provider approval ("HCP Approval") entered into between The Agency and the Commonwealth of Australia as represented by the Department of Health or its successor.
- 18.2 The Terms and Conditions and the CHSP Programme Manual and / or HCP Program Operational Manual apply to this Contract as far as they are applicable to the Services and as if the Contractor was itself a party to the CHSP Agreement and / or HCP Approval.
- 18.3 Where there is any inconsistency between the CHSP Terms and Conditions or the CHSP Programme Manual and / or the HCP Terms and Conditions or the HCP Operational Manual and this Contract, the CHSP Terms and Conditions or the Programme Manual and / or the HCP Terms and Conditions or the HCP Operational Manual will prevail.

- 18.4 The Contractor will comply, and ensure that its personnel will comply, with this Contract and the CHSP and / or HCP Terms and Conditions as if the Contractor were a party to the CHSP Agreement and / or HCP Approval

19. VARIATION

- 19.1 This Contract can only be varied in writing by agreement between the parties.

20. EXTENSION/RENEWAL

- 20.1 This Contract can only be extended or renewed by the written agreement of the parties. Any extension or renewal of the Contract must be negotiated by the parties prior to expiration of the Term.

21. SEVERANCE

- 21.1 The terms of this Contract are severable. If any term or provision is declared invalid or unenforceable, it shall be severed from this Contract and shall not affect the interpretation or operation of the remaining terms or provisions, which shall remain in full force and effect.

22. ENTIRE AGREEMENT

- 22.1 This Contract constitutes the entire agreement between the parties and supersedes all prior representations, agreements, statements, contracts and understandings whether verbal or in writing.

23. GOVERNING LAW

- 23.1 This Contract will be governed by and construed in accordance with the laws of Queensland and the parties submit to the non-exclusive jurisdiction of the courts of Queensland.

SCHEDULE 1

Item 1: Commencement Date	29/03/2023
Item 2: Term	12 months; expires on 29/03/2024
Item 3: Description of Services to be provided	Meals
Item 4: Time, Day, Frequency of Service Delivery	TransitCare operates Monday - Friday
Item 5: Insurance	TransitCare will require a copy of the following documents: <ul style="list-style-type: none"> * Certificate Of Currency Public Liability * Certificate of Currency WorkCover Compliance * Professional Indemnity * Statutory Declaration regarding COVID immunisation for staff who will have direct contact with the client. * Statutory Declaration regarding police check completed and clear for all staff.
Item 6: Schedule of Fees	As per schedule of fees from each local branch
Item 7: Invoices	Invoices to be emailed through to hcp@transitcare.com.au

EXECUTION

Executed as an agreement

SIGNED by an authorised representative of
Meal On Wheels Queensland
(ABN 63 104 919 974)

Name: EVAN HILL)
Title: CHIEF EXECUTIVE OFFICER)
(Please print))


(Signature)

in the presence of:

Witness Name: KEA READY
(Please print)


(Signature)

Occupation: MEMBER SUPPORT
Address: UNIT 16/27 SOUTH PINE RD
BRENDALE QLD 4504
Date: 30/3/2023

SIGNED by an authorised representative of
TransitCare Limited (ABN 17 156 534 513)

Name:)
Title:)
(Please print))

(Signature)

in the presence of:

Witness Name:
(Please print)

(Signature)

Occupation:
Address:

Date:

ANNEXURE

Full Legal Name of Contractor:	Meal On Wheels Queensland
Legal Identity:	
Trading or Business Name:	
ABN:	63 104 919 974
Authorised Role of Contractor:	Meals
Place of Business:	Unit 16 / 27 South Pine Road, Brendale QLD 4500
Postal Address:	
Telephone:	07 3205 5588
Email:	lea.readdy@qmow.org
Website:	