

TERM SHEET - RELATIONSHIP AGREEMENT

#	Key Term	Clause	Explanation
Overview			
1.	<u>Background</u> A summary of the reasons for the Relationship Agreement.	Introduction – B	MSD and the Provider are to work together, utilising a relationship based, strategic partnership approach in relation to the Relationship Agreement and any Services Agreements.
2.	<u>Structure of Documents</u> <ul style="list-style-type: none"> Services Agreement (will take precedence over the Relationship Agreement). Relationship Agreement (will take precedence over the Operational Manual and other Contract Documents). 	Introduction – D 3.3	<p>The Relationship Agreement acts as a framework or master agreement. Services Agreements will be entered into under, and will incorporate, the terms of the Relationship Agreement.</p> <p>The Relationship Agreement and the Services Agreement will require the Provider to comply with the requirements and processes set out in the Operational Manual, which will be published on the MSD website from time to time, and the other Contract Documents. This includes Tenancy Management and Property Management requirements.</p>
Part A – Definitions and Interpretation			
This Part defines terms used throughout the Relationship Agreement and includes some interpretation rules.			
Part B – Parties and Term			
This Part describes the relationship between the parties, including how they will work together, and the term of the Relationship Agreement.			
3.	<u>Parties</u> <ul style="list-style-type: none"> The Ministry of Social Development (<i>MSD</i>) Provider 		The Provider will be a provider of public housing and associated services. Public housing includes public housing, social housing, state housing, emergency housing and transitional housing.
4.	Relationship between the Relationship Agreement and a Services Agreement	3.2	<p>The Relationship Agreement contains all the core terms applicable to the arrangements for the provision of public housing.</p> <p>All of these terms are incorporated into each Services Agreement.</p> <p>A Services Agreement must be signed by both the Provider and MSD in respect of each particular set of Services that the Provider is to provide to MSD.</p>
5.	Mutual obligations	3.4	<p>This clause sets out the mutual obligations of each party, including that they each agree to:</p> <ul style="list-style-type: none"> build a strong, relationship-based strategic partnership; fully co-operate with each other in good faith; share information on a 'no surprises' basis; consult about material issues; and not breach applicable Laws.
6.	Employees, agents, contactors and sub-contractors	3.6	Sub-contractor arrangements must be approved by MSD and, generally speaking, will relate to subcontractors engaged by the Provider in relation to property or tenancy management services.

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7.	Term	5, 22.1, 22.2 and 22.3	The Relationship Agreement has no expiry date. It will continue in force until the parties agree to terminate it, or it is terminated for convenience or for Provider default. However, it cannot be terminated while any Services Agreement is in force.
Part C – Services, Force Majeure Events and Changes			
This Part describes the Services to be provided by the Provider and, what it has to do to comply with MSD's requirements.			
8.	Services - General	6.1(a)	The Provider is to provide the Services in accordance with: <ul style="list-style-type: none"> its contractual obligations; applicable Laws; and in a manner which respects the privacy, dignity and personal matters of the Public Housing Clients.
9.	Performance Measures	6.5	The Provider is to meet any performance measures included in any Services Agreements.
10.	Relationship Management	7	A Relationship Management Group made up of members from both parties will oversee the implementation and performance of the Relationship Agreement and each Services Agreement.
11.	Records	8.1	The Provider is to maintain sufficient records, and assist MSD when requested, so that MSD can meet its obligations under the Official Information Act 1982, the Ombudsmen Act 1975 and the Public Records Act 2005.
12.	Regular reporting	8.2	The Provider will provide MSD with such reports and notifications as are required under, and within the timeframes stipulated in, any Services Agreement. The Provider is also to provide: <ul style="list-style-type: none"> copies of reports provided to a Regulatory Authority; copies of notices given to the Provider by a regulatory authority; copies of WorkSafe notifiable event reports; notifications of any breaches (or likely breaches); a "no surprises notification"; and any additional report MSD reasonably requests.
13.	Record Keeping	9	The Provider is to maintain all information relating to the Services (including all financial information relating to the provision of the Services). MSD has the right to access and inspect the Provider's records.
14.	Monitoring of Services	10	The Provider is required to regularly monitor its own performance under the Relationship Agreement and each Services Agreement. MSD may undertake its own performance monitoring of the Provider, including to ensure that the Services are being provided in accordance with the Relationship Agreement and the relevant Services Agreement. MSD may increase its own performance monitoring or the Provider's required monitoring if evidence of any

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			misleading or incorrect reporting or claims for payment occurs.
15.	Force Majeure Events	11 and 22.4	<p>The Provider will have no liability for default or delay in performance due to a Force Majeure Event.</p> <p>However, MSD:</p> <ul style="list-style-type: none"> can make its own arrangements for provision of Services which are suspended as a result of Force Majeure; and has the right to terminate the Relationship Agreement and/or any Services Agreements where the Provider is unable to provide all or a significant and material portion of the Services for 6 months or more.
16.	Change Procedure	12	<p>Either party may propose a Change to the Relationship Agreement. MSD is entitled to refuse a proposed Change.</p> <p>The Provider is entitled to refuse an MSD-initiated change in certain circumstances (e.g., where it would result in the Provider incurring capital expenditure or where the change requires the Services to be performed unlawfully).</p> <p>MSD will pay the Provider a compensation amount for a change of costs in respect of a change to the Relationship Agreement effected in accordance with clause 12 and in accordance with specified change compensation principles.</p> <p>Some financial relief may be available from MSD where there is a change in law that specifically only affects public housing, HNZ and registered community housing providers (not others generally) and that change results in a change in the Provider's costs of complying with a Services Agreement.</p>
Part D – Payment			
This Part describes how the Provider is paid, how invoicing is to be done and how MSD may take a security interest or other protection for certain obligations or amounts repayable or due to it.			
17.	Services Payments, Unavailability Deduction and other payments	13	<p>The Provider is entitled to invoice MSD the Services Payment fortnightly.</p> <p>The Services Payment will be calculated in accordance with any relevant Services Agreements. A Services Agreement may include Unavailability Deductions for Unavailability.</p> <p>MSD will pay undisputed tax invoices within 10 Business Days.</p>
18.	Security	13.8	MSD is entitled to register any such security interests over the Properties as are specified in a Services Agreement.
Part E – Confidentiality and Intellectual Property			
This Part records how MSD and the Provider will keep information confidential, and how each party will deal with its, and the other's, intellectual property.			
19.	Confidentiality	14	MSD and the Provider will each treat information of the other as strictly confidential and may not disclose such information except as expressly permitted.

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20.	Personal information	15	<p>The Provider will be collecting Personal Information in the course of providing the Services and may only use that information in appropriate circumstances.</p> <p>The Provider must ensure the Personal Information it holds is adequately protected.</p>
21.	Intellectual Property	16	Each party will provide the other party royalty free licences in respect of its own Intellectual Property as required to enable the other party to perform its obligations under the Relationship Agreement and any Services Agreement.
Part F – Indemnities and Liability			
This Part records who is responsible if the Relationship Agreement is not observed or things otherwise go wrong. The aim is to allocate risk and responsibility.			
22.	Indemnities	17	<p>The Provider is to indemnify MSD and MSD personnel from losses arising due to:</p> <ul style="list-style-type: none"> • death or personal injury • property damage; • breach of statutory duties; • third party claims, <p>arising in connection with the provision of the Services.</p>
23.	MSD's remedies	18	<p>MSD's remedies for Provider non-performance include:</p> <ul style="list-style-type: none"> • Unavailability Deductions; • the right to seek injunctions, specific performance and any other discretionary remedies of a Court; • rights to Step-in; and • rights to terminate the Relationship Agreement and/or any Services Agreements.
24.	Insurance	19	The Provider is required to hold any insurances policies required by any Services Agreements.
Part G – Step-in			
This Part describes how MSD can “step in” to perform the Services, instead of the Provider, if it needs to.			
25.	Step-in Rights	21	MSD will have Step-in Rights, so that it can step in and provide some or all of the Services where it reasonably considers that it needs to due to serious circumstances provided for in a Services Agreement.
Part H – Termination			
This Part sets out when and how the Relationship Agreement and any Services Agreements can be terminated.			
26.	Termination Events	22	<p>Either party may terminate the Relationship Agreement for convenience on 60 Business Days' notice unless a Services Agreement expressly negates such right.</p> <p>MSD can terminate the Relationship Agreement or any Services Agreement if the Provider defaults under it, by giving the Provider not less than 30 Business Days' notice. Specific events of termination will include (among others):</p> <ul style="list-style-type: none"> • the Provider definitively losing its registration under the HRTM Act;

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			<ul style="list-style-type: none"> the Provider assigning the Relationship Agreement or any Services Agreement; a Provider Insolvency Event; a Persistent Availability Breach; and the Provider or any of its employees, contractors or agents knowingly making any materially false, misleading or incorrect statement in any report, notice or invoice.
27.	Compensation on Termination	23	<p>No compensation will be payable by MSD if the Relationship Agreement or any Services Agreements are terminated for cause or due to prolonged Force Majeure Events.</p> <p>Compensation may be payable on termination for convenience (if specified in a Services Agreement).</p>
Part I – Expiry and Disengagement			
This Part describes how MSD and the Provider will disengage from each other at this end of the Relationship Agreement and/or any Services Agreements, to ensure a smooth transition.			
28.	Disengagement	25	So as to ensure a smooth transition between public housing providers, the Provider shall prepare a Disengagement Plan and provide certain services during the agreed Disengagement Period.
Part J – Dispute Resolution			
This Part sets out how any disputes between MSD and the Provider will be resolved.			
29.	Disputes	26 and 27	Disputes are notified in writing to the other party, then informal dispute resolution (internal escalation) to try to resolve the dispute. If this does not work, the dispute can be referred to arbitration or expert determination.
Part K – Miscellaneous Terms			
This Part contains a range of general miscellaneous provisions necessary for the proper operation of the Relationship Agreement and any Services Agreements.			
30.	Assignment		The Provider will not be able to assign its rights under the Relationship Agreement (or undergo a Change of Ownership) without the prior consent of the Crown.