



This document constitutes a critical study of the existing PSP (Personal Support Plan) currently in use, together with proposed reflections and new clauses that we believe should be introduced into the PSP to ensure full alignment with national law and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

Doninu (Malta) International

This document constitutes a critical study of the existing PSP (Personal Support Plan) currently in use, together with proposed reflections and new clauses that we believe should be introduced into the PSP to ensure full alignment with national law and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

1. Preamble and Objectives This agreement is designed to provide a framework for residential and support services for persons with disabilities, in line with the highest international human rights standards as established by the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). All parties involved are committed to promoting dignity, autonomy, inclusion, and equality.

2. Active Participation and Co-Production Each Service User (SU) must be actively involved in the design, approval, review, and implementation of their Personal Support Plan (PSP). The user or their designated family representative may attend all related meetings and submit recommendations either verbally or in writing.

3. Dialogue and Appeal Mechanisms Services must include clear and accessible mechanisms for feedback, complaints, and appeals. These must be presented to users in a simple, understandable language or format. Decisions regarding levels of support, transfers, or changes in residential conditions must be appealable before an independent board.

4. Support for Independent Living and Inclusion Services must promote independent living through:

- Functional and social skills programmes;
- Access to community and civic activities;
- Communication tools and assistive technologies;
- Access to employment, education or voluntary work;
- Reduction of stereotypes and stigma.

5. Privacy and Relationships

- Every individual must have a private space (personal room) and the option to keep a key;
- Users may host friends and family in a comfortable setting;
- There must be respect for personal and sexual relationships.

6. Choice in Daily Life

- Food, clothing and lifestyle must be chosen by the person themselves;
- No fixed menu or imposed routine should apply;
- Activities must be optional and personalised.

7. Complaint Mechanisms and Independent Advocate

- An accessible complaints system (including audio, visual or alternative formats);
- Right to an independent legal advocate not affiliated with the staff;
- Access to an Ombudsman or independent monitoring entity.

8. Public Inclusion and Participation

- Access to the right to vote and political information;
- Participation in NGOs, boards, and community forums;
- An active citizenship programme for every user.

9. Participatory and Independent Monitoring

- Involvement of persons with disabilities in the evaluation process;
- Supervisory Board including users and their representatives;
- Annual public reports on quality of life and personal freedom.

10. Legal Validity and Reference This document must form an integral part of every agreement between the Ministry, Agency, and Service Provider. Any conflict or breach must be resolved within a legal framework, in accordance with Article 33 of the UNCPRD and Chapters 413, 525, and 602 of the Laws of Malta.

Introduction

Below is an overview of the current PSP (Personal Support Plan) as it stands today (our review is based on a copy dated July 2024). Overall, the PSP is well-structured, thoughtfully designed, and built on a solid foundation. However, we believe that there are additional elements which should be integrated into the PSP framework to further strengthen this sector and ensure full alignment with the principles of dignity, autonomy, and inclusion.

The new proposals we are recommending can be found in the final section of this document, under the heading “New Proposals We Wish to See Introduced”.

PSP ORIGINAL 2024:

1. DEFINITIONS

1.1 General Interpretation

In this Agreement, unless the context clearly indicates otherwise, the following terms shall bear the respective meanings ascribed to them below. Terms used in the singular shall include the plural and vice versa, and the masculine shall include the feminine and neutral as applicable.

1.1.1 Abuse

"Abuse" shall mean any misuse of power or authority, whether through acts of commission or omission, that results in the violation of a Service User's rights, dignity, civil liberties, bodily integrity, or general well-being. Abuse includes, but is not limited to, any action or inaction by any person that causes or contributes to physical, sexual, psychological, emotional, social, or financial harm or neglect of a Service User.

1.1.2 Accommodation

"Accommodation" refers to the Residential Community Home located at
XXXXXXXXXX XXXXXXXXXXXXXXXX XXXXX , administered and operated by
XXXXXXXXXXXXXXXXXXXX

1.1.3 Agenzija Sapport or the “Agency”

"Agenzija Sapport" refers to the public agency designated by the Ministry for Inclusion and the Voluntary Sector to:

- Assess and determine eligibility for services,
- Refer persons with disabilities to approved Service Providers,
- Monitor service delivery, and
- Endorse the ongoing provision of care in accordance with this Agreement.

1.1.4 Agreement

"Agreement" refers to this contractual instrument, including all schedules, appendices, annexes, and documents incorporated by reference herein.

1.1.5 Case Review

"Case Review" means a structured multidisciplinary meeting wherein the Service User's Personal Support Plan is discussed, evaluated, and potentially updated. The meeting shall involve professionals, the Service User, and their legal representative, within a supportive and confidential setting.

1.1.6 Confidential Information

"Confidential Information" includes any data, documentation, or knowledge—whether oral, written, or digital—disclosed to one party by the other (the "Disclosing Party") under the express or implied obligation of confidentiality. Such information may include personal data, medical records, operational details, or any information not in the public domain. It shall not include information that:

- Is lawfully available in the public domain,
- Was rightfully obtained from a third party without breach of any duty,
- Is required to be disclosed by law or court order.

1.1.7 Conflict of Interest

"Conflict of Interest" shall mean any circumstance wherein the Service Provider's ability to act objectively or impartially is compromised due to financial, professional, personal, or institutional interests, or where such conflict interferes with prioritising the best interests of the Service Users or other Parties to this Agreement.

1.1.8 Force Majeure Event

"Force Majeure Event" refers to any unforeseeable and extraordinary circumstance beyond the reasonable control of a Party, which prevents or delays the performance of obligations under this Agreement. This includes but is not limited to: acts of God, war, acts of terrorism, civil unrest, fire, flood, natural disasters, or extreme weather conditions.

1.1.9 Ministry

"Ministry" refers to the Ministry responsible for Inclusion and the Voluntary Sector, which has legal and administrative competence over disability policy and residential care services in Malta.

1.1.10 Parties

"Parties" collectively refers to the Ministry, Aġenzija Sapport (the Agency), and the Service Provider as the contractual stakeholders in this Agreement.

1.1.11 Personal Support Plan (PSP)

"Personal Support Plan" means a formal, individualised written plan developed for the Service User. It outlines the person's assessed needs, preferences, goals, support strategies, rights, and progress indicators. The PSP shall be developed in consultation with the Service User and/or their legal guardian and updated regularly.

1.1.12 Retention Bed

"Retention Bed" refers to a bed that is temporarily unoccupied for more than ten (10) consecutive days due to the Service User's authorised absence, such as hospitalisation, holiday leave, or death. It also includes beds reserved for incoming Service Users awaiting placement, as pre-approved by the Agency.

1.1.13 Service Provider

"Service Provider" means any individual, organisation, foundation, or legal entity duly approved to operate a residential facility for persons with disabilities, including the provision of care, support, supervision, and community integration services under the scope of this Agreement.

1.1.14 Service User

"Service User" refers to any person with a disability who has been assessed and referred by the Agency to reside in the Accommodation specified in this Agreement and who receives support services from the Service Provider.

1.1.15 Staff

"Staff" includes any individual employed, engaged, or assigned—whether directly by the Service Provider, through contractual arrangements, or via schemes such as Community Work Programmes—whose responsibilities include the provision of care, supervision, or support to Service Users, irrespective of the form of compensation or employment status.

1.1.16 Standards

"Standards" refers to the applicable legal, regulatory, operational, and ethical standards that may be established and updated from time to time by competent authorities, including but not limited to the Social Care Standards Authority (SCSA), CRPD, public health regulations, or EU-mandated protocols.

1.1.17 Support Level

"Support Level" refers to the degree of care and assistance required by a Service User, based on a structured assessment conducted by the Agency. Reference to Support Levels is detailed in Appendix A of this Agreement.

1.1.18 Writing

"Writing" includes communication by means of electronic mail, registered post, or other verifiable and legally recognised written formats.

1.2 Interpretation

Unless expressly stated otherwise, or unless the context clearly indicates a different intention, the following rules of interpretation shall apply throughout this Agreement:

1.2.1 Words importing the singular shall be deemed to include the plural and vice versa, unless the context otherwise requires.

1.2.2 Words referring to the whole shall be construed as including reference to any part thereof, and references to a part may likewise include the whole, where contextually appropriate.

1.2.3 Words denoting any specific gender shall be interpreted as including all genders, and any reference to a person shall include both natural and legal persons.

1.2.4 Any reference to a provision of law shall be construed as a reference to that provision as it may be amended, modified, re-enacted, or replaced from time to time, whether before or after the date of this Agreement.

1.2.5 References to any statutory provision shall also be deemed to include any subsidiary legislation, regulations, rules, guidelines, or orders issued thereunder, as may be in force from time to time.

1.2.6 References to this Agreement, or to any appendix, schedule, annex, or other document referred to herein, shall be deemed to include any amendments, modifications, variations, supplements, assignments, renewals, or replacements thereof, provided they are made in accordance with the provisions of this Agreement or with the mutual written consent of the Parties.

1.3 Headings for Reference Only

The headings, titles, and subheadings used throughout this Agreement are inserted solely for the purpose of convenience and reference. They shall not affect, modify, or influence the construction, meaning, scope, or interpretation of any provision, clause, or section of this Agreement. In the event of any conflict between a heading and the content of the clause it precedes, the content shall prevail.

1.4 Illustrative Language Not Limiting

Any reference in this Agreement to terms such as “include”, “including”, “in particular”, “such as”, or similar expressions shall be construed as **illustrative only**. These terms shall not limit the generality or comprehensiveness of the words, descriptions, or phrases that precede or follow them. Accordingly, any examples given are not to be regarded as exhaustive, nor shall they restrict the natural meaning of the terms or obligations being described.

2. PROVISION OF SERVICES

The Parties acknowledge and agree that the management, operation, and day-to-day running of the residential facility known as **xxxxxxx**, located at **xx xxxxxx**

xxxxxx xxxxxx, shall fall under the sole responsibility and operational authority of xxxxxxxxxxxx (hereinafter referred to as the “Service Provider”).

2.1 Bed Allocation

The Service Provider shall make available a total of **twenty-four (24) residential beds** to be utilised by Service Users referred by Agenzija Sapport (the “Agency”). These beds shall be distributed across three tiers of support as follows:

- 6 beds for **Support Level 1**
- 9 beds for **Support Level 2**
- 9 beds for **Support Level 3**

2.2 Scope of Funded Services

The funding rates outlined under **Clause 4.1** of this Agreement shall include all costs associated with staffing, staff training, and quality standards, as described in **Appendix B**. The Service Provider shall not request, impose, or accept any additional payments for these services from the Service Users or third parties.

2.3 Beds Outside Scope

Any beds operated or made available by the Service Provider outside the scope of this Agreement shall fall exclusively under the Service Provider’s responsibility and shall not be eligible for funding or compensation by the Ministry.

2.4 Bed Conversion Flexibility

The Ministry and the Agency may, in consultation with the Service Provider, discuss and agree upon the **conversion of residential bed spaces into respite care beds**, where deemed appropriate and aligned with national priorities.

2.5 Flexibility in Support Level Allocation

While the total number of twenty-four (24) beds must be maintained, the distribution across support levels may vary based on real-time assessments by the Agency. The Service Provider is required to accommodate referrals according to updated needs, provided adequate resources and qualified staff are available to address the revised support level requirements.

2.6 Scope of Care

The Service Provider shall ensure the provision of **comprehensive, round-the-clock support services (24/7, year-round)**. These services shall include, but are not limited to:

- Residential care
 - Community integration
 - Support in physical, behavioural, medical, psychological, and social domains
- ... in accordance with each Service User's assessed support level.

2.7 Response to Unforeseen Needs

The Service Provider shall respond promptly and effectively to **unforeseen or emergent needs** of Service Users, regardless of the user's designated support level, until such time that the Agency reassesses and confirms a change in level, if applicable.

2.8 Notification of Bed Vacancy

The Service Provider shall notify the Agency **immediately** upon a bed becoming vacant due to reasons outside its control, such as the death of a Service User, prolonged hospitalisation, or other absences.

2.9 Transfer or Termination of Services

The Service Provider may not unilaterally terminate or transfer a Service User. All such actions require:

- Prior consultation and written approval from both the Ministry and the Agency.
- Clear documentation of the rationale behind any proposed transfer or termination.

2.9.1 Protection from Termination Based on Mental Health

Service provision may **not be suspended or terminated** solely due to mental health conditions, including but not limited to depression, hallucinations, or similar symptoms.

2.9.2 Termination Due to Risk Behaviours

Where a Service User's behaviour poses a persistent and significant danger to self or others, the matter shall be reviewed jointly by the Agency and Service Provider. The Ministry must be duly informed. Suspension or termination may proceed only upon formal assessment and consensus.

2.10 Reassessment of Support Level

The Agency shall conduct periodic and needs-based reassessments of Service Users. Any changes in support level must be:

- Approved by the Agency, and
- Formally endorsed before revised funding is authorised by the Ministry.

2.11 Personal Support Plans (PSP)

The Service Provider shall develop an individualised PSP for each Service User. Once reviewed and approved by the Agency, it becomes the binding care framework. The Service Provider must:

- Implement the PSP through competent and trained staff.
- Ensure the principles of **co-production**, **active support**, and **supported decision-making** are embedded in daily operations.

2.12 Monitoring of PSP Implementation

The Agency shall monitor PSP implementation through:

- Regular and ad hoc visits (including unannounced inspections),
- Annual case reviews, and
- Specific recommendations (e.g. care ratios), which the Service Provider is obliged to implement.

2.12.1 Adjustment of Care Ratios

Staff-to-resident ratios must:

- Reflect the most current needs of each Service User, and
- Be adjusted following reassessments by the NGO Department within the Agency.

2.13 Ancillary Services

All costs related to maintenance, refurbishment, or extraordinary repairs shall be borne solely by the Service Provider, with no additional cost to the Ministry or the Agency.

2.14 Acceptance of Referrals

The Service Provider shall accept any referral from the Agency, provided:

- Bed space is available, and
- The Service Provider has the competence and resources to meet the Service User's needs.

2.15 Objections to Referrals

In the event the Service Provider raises a written objection to a referral:

- A resolution meeting shall be convened by the Ministry within **five (5) working days**.
- The decision taken in that meeting shall be **final and binding** on all Parties.

2.16 Additional Bed Procurement

In exceptional cases, and subject to resource availability, the Ministry may, in consultation with the Agency, procure additional beds beyond the 24 outlined in Clause 2.1. Any such beds shall be offered under the same terms and conditions of this Agreement.

2.17 De-institutionalisation Action Plan

Within the first eight (8) months of this Agreement, the Service Provider shall submit an **Action Plan** to the Agency and Ministry outlining:

- Measurable goals and indicators toward **deinstitutionalisation**, and
- Progress reviews to be held **biannually** with Agency and Ministry representatives.

3. QUALITY OF SERVICE

3.1 Licensing Requirement

The Service Provider must possess and maintain a valid licence issued by the **Social Care Standards Authority (SCSA)** or any other competent authority, and shall ensure compliance with the **National Standards for Residential Services for Persons with Disability** at all times.

3.2 Legal and Regulatory Compliance

The Service Provider shall comply fully with all:

- Applicable laws and regulations,
- Governmental and ministerial directives,
- Relevant obligations under the **UNCRPD**.

3.3 Notification of Licensing Issues

The Service Provider shall immediately notify the Ministry and Agency in the event of:

- Suspension,
- Withdrawal, or
- Revocation of any licence or permit.

3.3.1 Financial Suspension During Non-Compliance

In cases where:

- The Service Provider is found non-compliant with this Agreement, or
- Is subject to investigation by a regulator or licensing authority,

the Ministry reserves the right to **suspend payments** for the relevant period, following consultation with the Agency, the regulator, and other relevant stakeholders.

3.4 Performance Indicators

The following **Key Performance Indicators (KPIs)** shall be monitored annually by the Ministry, via the Agency:

Output Area	Performance Indicator	Target Range
1. Personal Support Plan Effectiveness	% of PSP goals achieved within one year & number of case reviews	65% – 95%
2. Service User Satisfaction	Annual satisfaction rate with services received	65% – 95%

Failure to meet performance thresholds may result in corrective actions by the Ministry, including but not limited to:

- **Financial adjustments** (up to 5% of service funding), and/or
- **Termination of the Agreement**, depending on severity.

4. CHARGES, INVOICING, AND PAYMENT

The provision of services as outlined in this Agreement shall be governed by the following financial and administrative provisions:

4.1 Service Rates and Adjustments

The Ministry, upon verification and endorsement by the Agency, agrees to remunerate the Service Provider based on the following **per bed, per night rates**, according to the level of support required by each Service User, as assigned by the Agency under Clause 2.1.

These rates are inclusive of the **Cost of Living Adjustment (COLA) for the year 2024** and shall be reviewed annually in accordance with national COLA provisions for the duration of this Agreement:

Support Level Rate per Bed per Night (2024)

Level 1	€36.93
Level 2	€73.88
Level 3	€203.16

These rates are **inclusive of all staffing, training, administrative overheads, and quality standards** as defined in Appendix B. No additional charges may be levied by the Service Provider in respect of these services.

4.2 Total Contract Value

The **maximum total payable amount** by the Ministry to the Service Provider under this Agreement shall not exceed **€3,297,329.70** (three million, two hundred ninety-seven thousand, three hundred twenty-nine euro and seventy cents), subject to the following annual allocations:

- **July to December 2024:** €495,476.55
- **Full Year 2025:** €1,060,321.35
- **Full Year 2026:** €1,134,551.40
- **January to June 2027:** €606,980.40

This ceiling includes anticipated annual COLA adjustments over the term of the Agreement. The **actual amount payable** shall be calculated on a quarterly basis, factoring in:

- The number of occupied bed nights;
- The approved support level for each Service User;
- Verified invoices submitted by the Service Provider;
- The actual COLA rate applicable to the respective year.

Note: If changes in PSP support levels or increases in capacity (number of beds) are introduced, an **addendum** to this Agreement shall be executed upon consensus of all Parties.

4.3 Revenue Auditing and Deductions

The Ministry shall, at the close of each financial year, ensure that total public funds disbursed to the Service Provider **do not exceed the actual cost** of service delivery, net of any **revenues or donations received by xxxxxxxxx** that are allocated to this service. Any overpaid amount shall be **deducted from the next scheduled payment**.

4.4 Retention Bed Rates for Vacant Beds

In cases where a bed remains unoccupied, the Ministry/Agency shall pay a **retention rate equivalent to the Level 1 rate (€36.93)** per night **only if** the bed remains reserved **exclusively for use by the Ministry/Agency**.

4.5 Respite-Related Absences

When a Service User is temporarily absent due to participation in an **external respite service**, the retention rate shall apply **from the first day of absence**. Upon return, the applicable standard support level rate shall resume.

4.6 Temporary Absence (Non-Respite)

Where a bed is temporarily vacated due to:

- Hospitalisation,
- Travel abroad,
- Temporary residence with relatives or social contacts,

the retention rate outlined in Clause 4.4 shall apply **only after ten (10) consecutive days** of absence. The retention rate shall commence on day eleven, provided that valid documentation (e.g., **hospital discharge letter**) is submitted for verification.

4.7 Permanent Absence

If a Service User vacates a bed permanently (due to death, long-term hospitalisation, etc.), the retention rate shall apply **from the date that formal notification is submitted to the Agency** by the Service Provider, in accordance with Clause 2.8.

4.8 Non-Payable Vacancies

No payment shall be made for periods where:

- The Service Provider refuses an eligible referral without justified cause;
- The bed is unavailable due to **planned or emergency maintenance** conducted by the Service Provider.

4.9 Inclusive Nature of Agreed Rates

The rates listed under Clause 4.1 shall be deemed to cover **all costs** associated with the delivery of services under this Agreement, including but not limited to personnel, training, insurance, administration, and operational expenses.

4.10 Changes in Support Level

Any adjustment in a Service User's support level, as outlined under Clause 2.5, shall only take effect **from the date of written approval** issued by the Ministry, following endorsement by the Agency.

4.11 Payment Obligation of the Ministry

The Ministry commits to remunerate the Service Provider for all services rendered in compliance with this Agreement, subject to:

- Verification by the Agency,
- Availability of valid documentation,
- Compliance with the invoicing procedures outlined herein.

4.12 Invoicing Procedure

The Service Provider shall submit payment requests **quarterly** using the official invoice template found in **Appendix C**, and in accordance with the procedure set out in **Appendix D**. Invoices must be sent via email to:

ngoinvoices.support@gov.mt

4.13 Financial Record-Keeping

The Service Provider shall maintain:

- A **separate accounting system**, or
- A **dedicated accounting cost centre**,
...for all financial transactions relating to this Agreement. These records must be **auditable, accurate**, and available for review by the Ministry, the Agency, or any other authorised regulatory body upon request.

5. WITHHOLDING OF FUNDS

5.1 Use of Public Funds in Line with Approved Purpose

The Ministry, in coordination with the Agency, shall ensure that all funds disbursed to the Service Provider under **Clause 4.1** of this Agreement are utilised **solely and exclusively** for the delivery of services and obligations as set out in this Agreement. The use of such funds must also be in conformity with the **budgetary allocations and financial projections** specified in **Appendix E**.

The Service Provider undertakes to apply all public funds in a manner that is transparent, accountable, and fully aligned with the service objectives established herein.

5.2 Right to Withhold for Non-Compliance

The Ministry shall have the right, at its sole discretion and upon verification by the Agency, to **withhold any outstanding or future payments** to the Service Provider in the event that:

- The Service Provider fails to fulfil any of its contractual obligations under this Agreement;
- The quality, consistency, or scope of services provided fall below the expected or agreed standards;
- There is evidence or reasonable suspicion of misappropriation or mismanagement of public funds.

In such cases, the Ministry may, where necessary and proportionate, **secure the continuation of services through third-party providers**, with the related costs recoverable from the Service Provider.

5.3 Right to Withhold for Failure to Provide Documentation

The Ministry also reserves the right to **withhold payments** if the Service Provider fails to submit the documentation and records required under this Agreement, as listed in **Appendix F**, within **two (2) weeks** from the date of the Ministry's written request.

5.3.1 Evaluation of Grounds for Delay

In the event that the Service Provider is unable to comply with the documentation deadline, it may submit a written explanation to the Ministry within **ten (10) working days** from the date of the Ministry's notice. This explanation must set out **just and reasonable grounds** for the delay.

The Ministry shall have the sole authority to assess the validity of the reasons provided and to determine, based on objective criteria, whether they are sufficient to justify an extension or waiver of the deadline.

6. REFERRAL AND ASSESSMENT OF SERVICE USERS

6.1 Competence and Process of Assessment

The **Agency shall be the sole and competent authority** responsible for conducting eligibility assessments and certifying the appropriate level of support required by each prospective Service User. Such assessments shall be carried out:

- In line with the criteria and framework set out in **Appendix A** of this Agreement;
- Through a multidisciplinary approach, ensuring professional accuracy and consistency;

- In consultation with the **prospective Service User and their family or legal representative**, in a manner that respects their dignity, rights, and preferences.

In the event of a disagreement concerning eligibility or level of support, **Clause 22.2 (Dispute Resolution)** shall apply.

6.2 Waiting Lists and Eligibility Authority

The **compilation and management of waiting lists** and the application of eligibility criteria under this Agreement shall be **exclusively entrusted to the Agency**.

- **Voluntary Organisations (VOs)** and Service Providers are **strictly prohibited** from compiling, maintaining, or communicating any independent waiting lists for the purposes of residential placement under this Agreement.
- Any VO found in breach of this clause shall be deemed to have committed a **material breach of contract**, and the Agreement shall be **automatically terminated**, without prejudice to any other remedies available to the Ministry and/or the Agency.

7. SERVICE MONITORING

7.1 Access for Monitoring and Inspections

The Service Provider shall guarantee **full and unrestricted access** at all reasonable times to the **Ministry and/or the Agency**, or any persons formally authorised by them, to enable the conduct of:

- **Regular scheduled inspections**, and/or
- **Ad hoc or unannounced visits**,
...for the purpose of assessing the quality, compliance, and integrity of service provision.

Such access includes physical access to the premises, administrative offices, communal areas, and — with appropriate consent — resident records.

7.2 Availability of Records and Documentation

The Service Provider shall maintain and, upon request, promptly make available the following:

- All records and documentation listed in **Appendix F**;
- Any additional statements, registers, reports, and supporting documentation that may be reasonably requested by the Ministry and/or the Agency, whether for auditing, compliance, or policy purposes.

7.3 Audits and Investigative Access

The Ministry and/or the Agency shall have the right to conduct or commission:

- **Service audits** (including care quality and safeguarding compliance),
- **Financial audits** (including cost verification and fund utilisation),

...relating to the implementation of this Agreement.

For this purpose, the Ministry and/or the Agency may **delegate or authorise any qualified individual, team, or entity** to conduct such audits. The Service Provider shall ensure **full cooperation**, and shall provide all relevant information, access, and documentation as reasonably required.

7.3.1 Timeframes for Rectification and Sanctions

In the event that deficiencies, non-compliance, or irregularities are identified during an audit or inspection:

- The Service Provider shall be granted a period of up to **thirty (30) working days** to rectify such deficiencies.
- Failure to remedy the deficiencies within this period shall result in the following financial penalties:

Delay in Rectification	Sanction
Between 31 and 50 working days	5% reduction in financial contribution
Between 51 and 70 working days	20% reduction in financial contribution
Beyond 70 working days	Suspension of this Agreement

7.3.2 Extensions in Exceptional Circumstances

In **exceptional cases**, including but not limited to matters involving:

- Legal complications, or
- Due diligence investigations,

...the Ministry may, at its discretion, grant an **extension to the rectification period**. To be considered for such an extension, the Service Provider must submit:

- A formal **written request for extension**, and
- A **justification outlining the reasons** for the delay and why compliance cannot be achieved within the original timeframe,

...within **ten (10) working days** from receipt of the Ministry's official notification.

7.3.3 Misrepresentation and Serious Breach

The sanctions in **Clause 7.3.1** shall apply without prejudice where:

- The Service Provider is found to have **knowingly made false declarations**, or
- The Service Provider has committed a **serious breach of its contractual obligations**, including the deliberate concealment of non-compliance or manipulation of service data.

Clause 8: Premises, Equipment and Staff

Obligations of the Service Provider:

- **Premises & Equipment:**
 - Must be **safe, fit for purpose, properly maintained**, and

- Covered by all **necessary permits and insurance** (covering premises, equipment, staff, service users, and third parties).
- **Staff:**
 - Must be of **good conduct, properly vetted**, and possess:
 - Relevant **permits, competencies, skills, and qualifications**.
 - Undergo **criminal record checks**.
 - Complete **mandatory training** under the *National Standards for Disability Services*, including:
 - Mental Health First Aid
 - First Aid
 - UN Convention on the Rights of Persons with Disabilities (UNCRPD)
 - Disability equality training
 - Active support
 - Food handling

Evaluation:

This clause establishes a **high standard of safety and professionalism**. It also ensures **compliance with regulatory frameworks**, especially important in care services. The inclusion of **mandatory UNCRPD and disability equality training** aligns with **international human rights standards**, which strengthens legal and ethical safeguards.

Clause 9: Representations and Warranties

Each party confirms:

- The **signatory** has full **legal authority** to enter into the agreement.
- It has the **resources** to fulfil both:
 - **Legal obligations**, and
 - The **contractual terms**.

The Service Provider additionally warrants:

- It holds all **necessary permits and licenses**.
- It will always **comply with Maltese law** when fulfilling its obligations.

Evaluation:

This clause ensures **legal validity and enforceability** of the agreement. The confirmation of **permits, licensing, and legal compliance** safeguards the **State or contracting authority** from liability and ensures **regulatory oversight**.

10. INDEMNITIES

10.1 The **Service Provider** shall indemnify, defend, and hold harmless the **Ministry**, the **Agency**, and their respective officers, employees, agents, and representatives (hereinafter collectively referred to as the “Indemnified Parties”) from and against any and all **claims, actions, demands, liabilities, losses, damages, expenses, and costs**, including but not limited to legal and court fees, arising directly or indirectly from:

- Any **negligent or willful misconduct** of the Service Provider or its employees, agents, or subcontractors;
- Any **failure** by the Service Provider to comply with the **terms and conditions** of this Agreement;
- Any **non-compliance** with the standards or obligations imposed by relevant Maltese legislation, regulatory authorities, or competent courts or tribunals;
- Any **breach of duty of care** or other **legal obligations** towards Service Users, staff, or third parties.

For the purposes of this clause, such incidents or liabilities shall collectively be referred to as “**Claims**”.

10.2 Upon receiving written notice of any Claim that may reasonably be considered to fall under this indemnity clause, the Ministry and/or the Agency shall **promptly notify** the Service Provider and shall grant the Service Provider the opportunity to take full control over the **defence and settlement** of such claim, provided that:

- The Service Provider shall act in good faith and with due diligence;
- The Ministry and/or Agency shall have the right to be represented and kept informed of all developments at the Service Provider’s expense.

10.3 The Ministry and the Agency shall under no circumstances be held liable to the Service Provider for any **indirect, consequential, or special damages**, including, but not limited to, **loss of anticipated profits, income, goodwill, or business reputation**, regardless of the cause or theory of liability.

10.4 The Service Provider agrees and undertakes to maintain in force, for the full duration of this Agreement, a valid **public liability insurance policy** issued by a reputable insurer. The policy must provide coverage for an amount **not less than five hundred thousand Euros (€500,000)** per occurrence. This insurance shall cover, inter alia, liability for **death or personal injury** suffered by Service Users while under the care or accommodation provided by the Service Provider, arising from negligence, breach of duty, or non-compliance with this Agreement.

10.5 A copy of the valid insurance certificate(s) and/or policy documents must be submitted to the Ministry **within fifteen (15) working days** following the payment of the relevant insurance premium. Failure to do so may be considered a material breach of this Agreement.

11. RECORDS AND RETURNS

11.1 The Service Provider shall maintain, in a clear and orderly manner, **all records and documentation** relevant to the performance and administration of this Agreement. Such records shall include, but are not limited to, service provision data, personnel records, financial documentation, and any other information deemed necessary by the Ministry and/or the Agency for monitoring, audit, or verification purposes.

These records must be made **readily available upon request** to the Ministry and/or the Agency. The Ministry also reserves the right to request access to relevant **bank account statements** pertaining to the financial administration of this Agreement.

11.2 The Service Provider shall submit to the Ministry a **certified true copy of its audited financial statements**, prepared in accordance with **International Financial Reporting Standards (IFRS)**, for the preceding financial year. This submission must be made **prior to any renewal** or extension of this Agreement and shall specifically account for the financial operations of the accommodation and related services governed herein.

12. COMPLIANCE WITH DATA PROTECTION LAWS

12.1 All Parties to this Agreement agree that any **personal data or records** processed under or in connection with this Agreement shall be **retained solely for the purposes of this Agreement** and in full compliance with their respective **data retention policies** and the **applicable laws of Malta**.

12.2 All personal data collected, generated, or stored in relation to **applications for funding, verification of service delivery, and auditing of financial transactions** shall be processed in accordance with **Chapter 586 of the Laws of Malta (Data Protection Act)**, and any other applicable data protection regulations.

12.3 Throughout the duration of this Agreement, the Service Provider shall ensure that all service-related data and personal information are kept **under the control and supervision of the appointed Data Controller**, and that all processing activities are carried out in line with **data protection best practices** and Maltese law.

12.4 Each Party undertakes to **fully comply** with all applicable **data protection laws** in the performance of their respective obligations under this Agreement. A formal **Data Sharing Agreement**, governing the terms and conditions of any data exchanged between the Parties, shall be entered into and attached to this Agreement as **Appendix G**.

13. DURATION AND RENEWAL

13.1 This Agreement shall be valid for an initial **fixed term of three (3) years**, commencing on the **1st July 2024** and expiring on the **30th June 2027**, unless terminated earlier in accordance with the provisions herein.

13.2 The Agreement may be **renewed by mutual written agreement** of the Parties for further specified periods, subject to the satisfactory performance of the Service Provider and the ongoing requirements of the Ministry and the Agency.

13.3 The Ministry shall notify the Service Provider in writing of its **intention to renew** this Agreement **no later than six (6) months** prior to the expiry of the initial term.

13.4 The Service Provider shall, in turn, notify the Ministry in writing of its **willingness to renew or not renew** this Agreement **no later than eight (8) months** prior to the expiry of the current term.

13.5 Renewal shall only take effect if **both Parties expressly consent in writing**, and such renewal shall be documented through an official addendum to this Agreement signed by the authorised representatives of both Parties.

14. AMENDMENTS TO THE AGREEMENT

14.1 No addition, variation, amendment, or deletion to any part of this Agreement, including any of its **clauses, articles, terms, service specifications, and appendices**, shall be valid or binding unless made in **writing and signed by both Parties**.

14.2 Any such agreed changes shall be incorporated into the Agreement as a formal **Addendum**, which shall form an integral part of this Agreement and shall be subject to all its terms and conditions.

15. TERMINATION

15.1 This Agreement may be terminated by either Party by giving **written notice**, in the following circumstances:

15.1.1 If the Service Provider is **dissolved, declared insolvent, enters into liquidation, is unable to meet its financial obligations**, or is **struck off the Register of Voluntary Organisations** maintained by the Office of the Commissioner for Voluntary Organisations.

15.1.2 If either Party commits a **material breach** of any of its obligations under this Agreement and fails to **remedy such breach within thirty (30) working days** from the receipt of a written notice requesting rectification.

15.2 In exceptional cases, and at the sole discretion of the Ministry, a **longer rectification period** may be granted depending on the **nature and complexity** of

the breach, including but not limited to matters involving **due diligence or legal review**.

15.3 The Ministry reserves the right to terminate this Agreement **at any time, without fault or liability**, by providing written notice to the Service Provider. In such cases, the Ministry shall only be liable to settle payment for services duly rendered up to the effective date of termination. **No additional compensation or penalties** shall be due.

15.4 The **termination or expiry** of this Agreement shall be **without prejudice to any accrued rights, remedies, or liabilities** of either Party as at the date of termination or expiry, and shall not affect the right of either Party to seek legal recourse under applicable laws.

15.5 In the event of termination for any reason, the Service Provider shall cooperate fully with the Ministry and the Agency to ensure a **smooth and orderly transition** of the services to the Ministry, the Agency, or any designated third party. The Service Provider shall provide such **reasonable assistance and documentation** as may be required, including the handover of records and continuity plans, for a **transition period not less than six (6) months**, unless otherwise agreed.

15.6 Subject to Clause 15.3, **termination shall take effect within fifteen (15) working days** from the date of receipt of the **written termination notice** issued by either Party, unless a different timeframe is mutually agreed upon in writing.

16. CONFIDENTIALITY

16.1 The Parties acknowledge and agree that all information exchanged between them in connection with the performance of this Agreement, including but not limited to business, technical, financial, operational, and personal data, shall be treated as **confidential** and shall be kept strictly confidential by the receiving Party. This obligation of confidentiality shall apply **indefinitely**, surviving the termination or expiry of this Agreement.

16.2 Notwithstanding the foregoing, the confidentiality obligation shall **not apply** to information which is required to be disclosed pursuant to a **court order, legal or regulatory obligation, or official directive**, including but not limited to

disclosures arising from questions raised in Parliament or before Parliamentary Committees, provided that the disclosing Party notifies the other Party promptly of such disclosure requirements to the extent permitted by law.

17. ASSIGNMENT AND SUBCONTRACTING

17.1 Neither this Agreement nor any rights or obligations arising under it may be **assigned, transferred, pledged, hypothecated, or otherwise disposed of**, in whole or in part, by either Party without the **prior written consent** of the other Party, which shall not be unreasonably withheld or delayed.

17.2 The Service Provider shall obtain **prior written authorization** from the Ministry before entering into any subcontracting arrangements related to the performance of any services under this Agreement. Such request for authorization shall include detailed information regarding the scope of services to be subcontracted and full particulars of the proposed subcontractor, including evidence of their **competence, relevant experience, qualifications, and track record**.

17.3 The Ministry shall communicate its decision to the Service Provider in writing within **thirty (30) calendar days** of receipt of the subcontracting request. In the event that authorization is denied, the Ministry shall provide reasons for such refusal.

17.4 Under no circumstances shall any subcontract create or be construed as creating a direct contractual relationship between the subcontractor and the Ministry and/or the Agency. The Service Provider shall remain the sole responsible party to the Ministry for the full and proper performance of the Agreement.

17.5 The Service Provider shall be fully responsible and liable for the acts, omissions, defaults, and negligence of its subcontractors, their employees, agents, or representatives, as if such acts or omissions were those of the Service Provider itself.

17.6 The approval by the Ministry of any subcontracting arrangements shall **not relieve** the Service Provider of any of its obligations, warranties, or liabilities under this Agreement.

17.7 Any change or replacement of subcontractors without the **prior written consent** of the Ministry shall be deemed a material breach of this Agreement and may result in immediate termination under the terms set forth herein.

18. GENERAL CONDITIONS

18.1 No failure or delay by either Party in exercising any right, power, or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right, power, or remedy.

18.2 If any provision or part thereof of this Agreement is found to be invalid, illegal, or unenforceable under any applicable law, statute, or regulation, such provision shall be deemed severed and deleted to the extent of such invalidity without affecting the validity or enforceability of the remaining provisions. The Parties shall negotiate in good faith to replace such provision with a valid, legal, and enforceable provision that most closely reflects the original intent.

18.3 The Service Provider shall be responsible for promptly and competently addressing any and all **allegations of abuse** or mistreatment of Service Users. All allegations must be **reported immediately** to the appropriate authorities and/or parties as warranted by the severity of the incident. The Service Provider shall forward a detailed incident report to the Agency **within 24 hours** of occurrence.

18.4 For all other incidents not covered under Clause 18.3, the Service Provider shall submit a weekly incident report to the Agency or an immediate report, depending on the seriousness of the situation, ensuring timely communication and transparency.

18.5 The Service Provider shall take all necessary measures to prevent and promptly resolve any situations that may **compromise the impartiality and objectivity** of the Agreement's performance. Conflicts of interest arising from economic interests, political affiliations, national ties, family relationships, emotional connections, or any other relevant factors must be **disclosed immediately in writing** to the Ministry.

18.6 The Ministry reserves the right to assess and verify the adequacy of the Service Provider's conflict of interest measures and may require additional actions

to mitigate risks. The Service Provider shall ensure that its staff, including management personnel, do not engage in activities or situations that may give rise to conflicts of interest. Should such conflicts arise, the Service Provider shall **immediately replace the affected personnel without any entitlement to compensation** from the Ministry or the Agency.

18.7 The Service Provider and its staff shall refrain from any conduct, communication, or relationship that could compromise their independence or impartiality.

18.8 Failure by the Service Provider to maintain independence and impartiality may result in the Ministry terminating this Agreement **immediately and without prior notice**, without prejudice to any claims for damages or other remedies available under law.

18.9 Public employees may be engaged as experts or consultants, provided they submit a self-declaration confirming compliance with the provisions of the **Public Administration Act, Chapter 497 of the Laws of Malta**, particularly regarding ethics as stipulated in Article 5 of the First Schedule (Code of Ethics).

18.10 The Service Provider shall not engage in any form of publicity, marketing, or public communication regarding the services funded under this Agreement without obtaining the **prior written approval** of the Ministry.

18.11 The Service Provider shall ensure that the Government's financial contribution to the services provided under this Agreement is **publicly acknowledged** in an accurate, clear, and appropriate manner in all relevant communications and materials.

18.12 Both Parties undertake to execute their responsibilities under this Agreement in accordance with the principles of **sound financial management, good governance, transparency, and accountability**.

18.13 Upon signature by the authorised representatives of both Parties, this Agreement shall constitute a **legal, valid, and binding obligation**, enforceable according to its terms and applicable law.

19. FORCE MAJEURE

19.1 Neither party shall be held liable to the other for any delay in performance or failure to perform any of its obligations under this Agreement, where such delay or failure is directly caused by an event of force majeure. Such force majeure event shall mean any circumstance beyond the reasonable control of the affected party, including but not limited to natural disasters, acts of God, war, terrorism, civil unrest, strikes, lockouts, governmental actions or restrictions, epidemics or pandemics, or other unforeseeable events.

19.2 Upon occurrence of a force majeure event, the affected party shall:

19.2.1 Promptly notify the other party in writing, providing detailed information regarding the nature of the event, the anticipated duration of the delay or non-performance, and the expected impact on the fulfillment of obligations;

19.2.2 Use all reasonable efforts to mitigate the effects of such event and to resume full performance of its obligations as soon as practicable;

19.2.3 Continue to keep the other party regularly informed of developments and any changes in circumstances; provided however that, where notification is not reasonably possible due to justifiable circumstances, such delay in notification shall not be deemed a breach of this clause.

19.3 Unless otherwise directed in writing by the Ministry and/or the Agency, the Service Provider shall, to the greatest extent practicable, continue to perform its contractual obligations notwithstanding the occurrence of a force majeure event, seeking all reasonable alternative means to fulfill its obligations that are not prevented by the force majeure.

19.4 Any period of delay or non-performance resulting from a force majeure event shall not constitute a breach of this Agreement, and the time for performance shall be extended by a period equivalent to the duration of the force majeure event.

19.5 Notwithstanding the foregoing, the Ministry reserves the right, under sub-clause 15.3 of this Agreement, to terminate this Agreement forthwith should the force majeure event substantially impair the performance of this Agreement for a prolonged period.

20. NOTICES

20.1 All notices, demands, requests, consents, approvals, or other communications required or permitted under this Agreement shall be given in writing and shall be deemed to have been duly served if:

- a) Delivered personally; or
- b) Sent by prepaid registered post or courier service to the respective addresses set forth below:

MINISTRY:

Attn: The Permanent Secretary
Ministry for Inclusion and the Voluntary Sector
89, Palazzo Francesco
Triq Sir Ugo Mifsud
Lija, Malta

AGENCY:

Attn: Chief Executive Officer
Aġenzija SAPPOR
Head Office
Fr Gwann Azzopardi Street
Santa Venera, SVR 1614, Malta

SERVICE PROVIDER:

Attn: Director
XXXXXXXXXXXXXX
XXXXXXXXXXXXXX
Malta

20.2 Any notice sent by prepaid registered post shall be deemed to have been received forty-eight (48) hours after posting. Proof of posting or delivery, including properly stamped, addressed, and mailed letters or courier receipts, shall be sufficient evidence of service.

21. GOOD FAITH

21.1 Each party undertakes and agrees to perform its respective obligations under this Agreement honestly, fairly, and in good faith, and to cooperate fully to achieve the purposes and objectives of this Agreement.

22. DISPUTE RESOLUTION

22.1 Disputes Relating to Financial Claims

22.1.1 In the event that the Ministry and/or Agency dispute any or all charges invoiced by the Service Provider, the Ministry and/or Agency shall provide the Service Provider with a written explanation of the disputed amounts within ten (10) working days from receipt of the relevant invoice.

22.1.2 In exceptional circumstances, and at the Ministry's sole discretion, a longer response period may be granted depending on the complexity of the matter, including but not limited to due diligence investigations or legal considerations.

22.1.3 The Service Provider may respond in writing to the Ministry's explanation within ten (10) working days of receipt thereof.

22.1.4 If the dispute is not resolved within thirty (30) working days from the date of the disputed invoice, either party may escalate the matter for resolution in accordance with clause 22.3.

22.1.5 Payments of undisputed amounts shall be made promptly and in accordance with the terms of this Agreement.

22.2 Disputes Other Than Financial Claims

22.2.1 For all other disputes arising under or in connection with this Agreement, the parties shall first attempt to resolve the matter amicably through good faith negotiations within thirty (30) working days following formal notification of the dispute by either party.

22.2.2 Should the parties fail to reach a resolution within this period, either party may initiate arbitration proceedings as detailed in clause 22.3.

22.3 Arbitration

22.3.1 Any dispute, controversy, or claim arising out of or relating to this Agreement, including its breach, termination, or invalidity, which cannot be settled amicably in accordance with clauses 22.1 and 22.2, shall be finally resolved by arbitration.

22.3.2 Arbitration shall be conducted in accordance with Part IV (Domestic

Arbitration) of the Malta Arbitration Act, 1996 and the Arbitration Rules of the Malta Arbitration Centre as in force at the time the dispute arises.

22.3.3 The decision of the arbitrator(s) shall be final and binding on both parties.

LIST OF APPENDICES

- **Appendix A:** Levels of Support Description
 - **Appendix B:** Service Quality Criteria
 - **Appendix C:** Invoice Template
 - **Appendix D:** Payment Procedure
 - **Appendix E:** Financial Projection
 - **Appendix F:** Checklist for Residential Homes for Persons with Disability
 - **Appendix G:** Data Sharing Agreement
-

APPENDIX A: LEVELS OF SUPPORT DESCRIPTION

This Appendix provides a comprehensive description of the different levels of support applicable to Service Users, categorized according to their respective needs for assistance, supervision, and monitoring. These levels serve as guidelines for tailoring support to the individual requirements of persons with disabilities, ensuring appropriate allocation of resources and care standards.

Level 1: Minimum Support

Definition:

Minimum Support indicates that the Service User is capable of performing the majority of tasks independently but requires a limited degree of support in certain circumstances.

Characteristics:

The Service User:

- May have an intellectual, physical, or other disability, or a combination thereof.

- Requires minimal supervision and monitoring to ensure that all essential needs are met effectively.
- Needs assistance to develop, maintain, and enhance essential life skills.
- Requires support only in exceptional or specific circumstances.

Recommended Staff-to-Service User Ratio: Minimum 1:3

Level 2: Moderate Support

Definition:

Moderate Support applies where the Service User can perform tasks but requires prompting, encouragement, and some physical assistance to complete them.

Characteristics:

The Service User:

- May have intellectual, physical, or other disabilities, or a combination thereof.
- Requires moderate support across personal, medical, social, and domestic needs.
- Needs supervision and guidance in situations that may pose risks to themselves or others.
- Requires monitoring and support in managing occasional challenging behaviors.

Recommended Staff-to-Service User Ratio: Minimum 1:2

Level 3: Substantial Support

Definition:

Substantial Support is necessary when the Service User is significantly limited in task performance and requires continuous assistance and supervision.

Characteristics:

The Service User:

- May have intellectual, physical, or other disabilities, or a combination thereof.
- Requires substantial assistance with personal care, medical needs, behavioral management, social interactions, and domestic tasks.
- Needs guidance to identify and avoid dangerous situations to prevent risk to self or others.
- Requires constant supervision and assistance in environments that may present risks or dangers.
- Must be closely monitored when exhibiting challenging behaviors that could endanger themselves or others, disrupt the environment, or cause property damage.
- Needs substantial support and monitoring when using assistive equipment.

Recommended Staff-to-Service User Ratio: Minimum 1:1

DEFINITIONS

- **Needs:** Refer to essential requirements for well-being, including but not limited to activities of daily living (such as eating, drinking, bathing, toileting), medication management, health and safety, as well as social, sexual, behavioral, and cognitive needs.
- **Minimal Support:** Primarily involves verbal prompting, including encouragement, verbal or visual reminders, and supervision during specific exceptional activities.
- **Moderate Support:** Entails verbal prompting supplemented by gestural and physical cues, and occasional physical assistance with certain activities of daily living.
- **Substantial Support:** Includes verbal, gestural, and physical prompting combined with continuous physical assistance across most or all activities of daily living, necessitating constant supervision.
- **APPENDIX B: SERVICE QUALITY CRITERIA**
- This Appendix sets forth the standards and criteria governing the quality of services provided to Service Users. The Service Provider is committed to delivering care that respects the dignity, independence, and individual rights of each Service User. Service delivery shall embody the principles of person-centred, holistic, and active support, uphold supported decision-making, foster co-production, and fully respect the rights to self-advocacy and autonomy.

- **1. Meals**

- The Service Provider shall ensure that:
 - a. Three meals are served daily—namely, breakfast, lunch, and dinner—at appropriate times to meet the nutritional needs of Service Users.
 - b. The main meal (either lunch or dinner) includes at least two menu options, allowing for meaningful choice and preference.
 - c. Hot drinks, water, and snacks are provided between main meals to maintain adequate hydration and energy levels.
 - d. Food provision caters to cultural, religious, and dietary preferences, ensuring respect for the diverse backgrounds of Service Users.
 - e. Dietary needs, including but not limited to diabetic, low-fat, soft, or other medically prescribed diets, are addressed at all times.
 - f. A balanced, two-week cyclical menu is submitted and reviewed to maintain nutritional adequacy and variety.

- **2. Premises, Health and Safety**

- The Service Provider shall ensure that:
 - a. The premises, both internal and external, are regularly maintained, secure, and adapted to meet the specific requirements of Service Users without exposing them to undue risk or hazards.
 - b. All equipment, including electrical appliances and other amenities, is routinely inspected, maintained, and kept in safe working order.
 - c. Potential risk areas are identified through formal risk assessments, and all necessary precautions and improvements are implemented accordingly.
 - d. The residence is fully furnished with appropriate furniture, bedding, and utensils to ensure a comfortable and functional living environment.
 - e. Furnishings and living environments, particularly communal lounge and living areas, are age-appropriate and conducive to the wellbeing of Service Users.
 - f. A suitable private space within the residence is made available for family and friendly interactions, promoting privacy and social connection.

- **3. Hygiene**

- The Service Provider shall ensure that:
 - a. Service Users wash or are assisted with washing at least once daily, with more frequent assistance provided in exceptional cases such as incontinence or specific personal care needs.
 - b. An effective cleaning schedule is maintained to minimize odors and uphold high standards of cleanliness and hygiene throughout the premises.

- c. Supplies such as nappies, toothpaste, shaving equipment, sanitary products, and other toiletries are provided unless Service Users opt to use their personal items.
- d. Bed linen is changed frequently, at least weekly, or immediately if soiled or malodorous for any reason.
- e. Laundry services include washing, drying, necessary ironing, storage, and minor repairs for clothes, towels, and household linens.
- f. Beds are made daily to maintain a clean and comfortable living environment.
-

• **4. Rooms**

- The Service Provider shall ensure that:
 - a. Each Service User's room provides adequate personal space including a bed suited to their individual needs, a bedside table, and a wardrobe with a secure drawer, in compliance with relevant national and international standards.
 - b. The room setup complies with the **National Standards for Residential Services for Persons with Disability** as well as the **United Nations Convention on the Rights of Persons with Disabilities (CRPD)**.
 - c. Bedrooms and common areas are well ventilated, benefit from sufficient natural lighting, and maintain a comfortable ambient temperature.
 - d. Lavatory and bathroom facilities are readily accessible and available at all times to Service Users.
-

• **5. Activities**

- The Service Provider shall ensure that:
 - a. Service Users have access to a variety of appropriate, meaningful, and engaging activities that promote social, physical, and psychological wellbeing.
 - b. Daily activities are provided within the home environment, while outings and community engagement occur on an individual or small-group basis, aligned with the interests, preferences, and active citizenship of the Service Users.
 - c. Service Users are appropriately supervised and supported during all activities to ensure safety and positive participation.
 - d. Service Users are encouraged to participate in social activities while fully respecting their right to decline involvement without prejudice.
-

• **6. Other Provisions**

- The Service Provider shall ensure that:
 - a. The contents of this Appendix B are communicated to Service Users in their preferred and accessible means of communication to ensure full understanding of their entitlements and service standards.
 - b. Service Users are supported in considering available options and making informed decisions regarding their personal, legal, and financial needs.
 - c. Access to private communication means, including telephones and other appropriate technologies, is provided to Service Users to facilitate personal contact and independence.
 - d. Communication opportunities are adapted to accommodate various disabilities, including but not limited to hearing impairments, ensuring equitable access for all Service Users.
-

• **Subject: Request for Payment for Residential Services Provision**

- In accordance with the terms and conditions outlined in the Agreement executed between the **Ministry for Inclusion and the Voluntary Sector, Aġenzija Sapport**, and **Fondazzjoni xxxxxx**, we hereby submit a formal request for payment in the amount of € **[Insert Amount]** (Euro **[Insert Amount in Words]**).
- This payment corresponds to the provision of residential care and support services for persons with disabilities during the aforementioned quarter. The request is supported by the attached detailed list of Service Users receiving care under the terms of the Agreement.
-

SECTION 2

New Clause Suggestion:

11. Freedom and Security of the Person

- *In accordance with Article 14 of the UNCRPD and Article 36 of the Constitution of Malta.*
- **New Clause Suggestion:**
- *“No person shall be deprived of their liberty on the basis of disability alone. Any restrictive measure applied within a residential setting must be lawful, necessary, the least restrictive possible, subject to periodic review, and open to challenge through judicial or independent mechanisms.”*

12. Informed Consent and Medical Safeguards

- *Reflecting the spirit of CRPD Articles 12 & 25; and Maltese Mental Health Act.*
- **New Clause Suggestion:**
- *“Any medical or psychosocial intervention must be based on the free and informed consent of the individual. Where legal capacity is questioned, a supported decision-making approach must be used. Consent must be documented and revisited regularly.”*

13. Protection from Abuse, Neglect, and Exploitation

- *CRPD Article 16 and relevant local safeguarding policies.*
- **New Clause Suggestion:**

- *“The PSP must include preventive and response mechanisms for any suspected abuse, mistreatment, or neglect. Each user must have access to a safe reporting pathway, with the assurance of protection from retaliation, and immediate safeguarding action by the provider.”*

14. Transparency, Record-Keeping and Review

- *Supports accountability under Article 33 CRPD and local public sector standards.*
- **New Clause Suggestion:**
- *“Any restriction on personal freedom, including limitation of movement or communication, must be documented in writing, justified in line with legal principles, and subject to review and oversight. All PSPs must be audited periodically by an independent external body.”*

15. Capacity-Building and Staff Training

- *CRPD Article 4(1)(i) on promoting awareness and professional standards.*
- **New Clause Suggestion:**
- *“All staff involved in PSP development and delivery must receive regular training on disability rights, person-centred care, communication accessibility, and non-discrimination. Training must be co-delivered or reviewed by persons with lived experience of disability.”*

include a clause in the PSP that ensures that when a person with an intellectual disability **cannot exercise legal capacity independently**, the PSP should formally recognise a **designated legal representative** (sometimes called a *"supported decision-maker"* or *"legal proxy"*) who acts **on behalf of the person**, but **in their best interest and according to their will and preferences** — not simply substituting judgment.

Here's a **professionally written clause** in English that you can insert into the PSP agreement:

Clause on Legal Representation for Persons with Intellectual Disabilities

Legal Capacity and Designated Representation

Where a Service User has an intellectual disability or another condition that significantly affects their ability to understand and make informed decisions, the Personal Support Plan (PSP) shall formally recognise a designated **Legal Representative or Supported Decision-Maker**, duly appointed in accordance with national legislation and with the consent of the individual or their guardian.

This representative shall be responsible for supporting or, where legally authorised, acting on behalf of the Service User in matters relating to care, health, rights, finances, and personal affairs. The representative must always act:

- In accordance with the known **will and preferences** of the Service User;
- In the **best interests** of the individual, if their will and preference cannot be determined;
- In full respect of the individual's dignity, rights, and freedoms under the UNCRPD and national law.

The identity and scope of the legal representative's role must be clearly documented within the PSP and subject to regular review. Any action or decision taken by the representative must be transparent, accountable, and open to independent oversight or appeal where necessary.

Clause on the Duties of the Service Provider to Uphold the Will and Rights of the Person with a Disability

Obligation of the Service Provider to Respect the Will and Legal Authority of the Person or Their Representative

The Service Provider shall be legally and ethically bound to **respect, implement, and uphold** the expressed **will, preferences, and best interests** of the Service User with a disability, as documented in the Personal Support Plan (PSP) and in all interactions relating to their care, daily life, and rights.

Where a legally appointed representative is authorised to act on behalf of a Service User with an intellectual disability, the Service Provider shall **cooperate fully** with the representative, and **shall not act in contradiction** to their instructions, provided such instructions are:

- In line with the legal framework of the PSP and national safeguarding standards;
- In favour of the dignity, rights, safety, and wellbeing of the Service User;
- Consistent with the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

The Service Provider must not override, delay, ignore, or arbitrarily alter any decision made by the Service User or their legal representative, unless there is a **documented and justifiable safeguarding concern** that has been referred to the appropriate authorities and reviewed through an independent process.

Clause on the Primary Authority of Agenzija Sapport and the CRPD in Matters Concerning Persons with Disabilities

Exclusive Competence of Agenzija Sapport and the CRPD in Disability-Related Residential Matters

In all matters that directly affect the rights, care, wellbeing, and daily life of residents with disabilities in supported or residential environments, **Agenzija Sapport shall be recognised as the primary national authority** entrusted with decision-making, oversight, and implementation, in full alignment with the principles and obligations of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

No governmental, private, or institutional entity may override, bypass, or interfere with the functions, decisions, or directives of Aġenzija Sapport in such matters, except where legally mandated under disability-specific legislation or under **the independent authority of the Commission for the Rights of Persons with Disability (CRPD)**.

Where any concern, incident, or alleged breach arises that directly affects a resident with a disability, any formal **investigation or intervention shall be led by the CRPD** in full collaboration with Aġenzija Sapport, with both entities acting in partnership as **the highest and exclusive safeguarding bodies** in matters involving disability rights and service integrity.

This clause shall be interpreted in accordance with the provisions of:

- **Chapter 413 of the Laws of Malta – Equal Opportunities (Persons with Disability) Act;**
- **Chapter 525 – Social Care Standards Authority Act (only where applicable and non-conflicting);**
- **The United Nations Convention on the Rights of Persons with Disabilities, especially Article 33 on implementation and monitoring.**

This clause:

- Establishes **Aġenzija Sapport as the sole operational authority** in disability care;
- Recognises the **CRPD as the only oversight entity** empowered to monitor and investigate;
- Blocks interference by other entities unless legally authorised **under disability-specific frameworks;**
- Binds the interpretation to Maltese and international law.

Position Statement on the Financial Provisions within the Current PSP Framework

We take a position of clear disagreement with a specific financial mechanism currently embedded in the PSP (Personal Support Plan) framework, namely the requirement that **any unspent funds from a PSP allocation must either be returned or adjusted in the following year's budget**. In principle and in practice, this clause disproportionately and unjustifiably penalises **NGO service providers**,

while placing **no equivalent financial risk or burden on private, for-profit providers**.

Structural Inequity Between NGO and Private Service Providers

Under the current system, **private residential service providers** are typically contracted to deliver support at a **fixed monthly or annual fee**, which is **not subject to reduction or refund**—regardless of whether the full budget allocated for an individual's PSP is utilised. In essence, the private provider retains the full sum contractually agreed, even when some services or resources are not delivered in full, or when there are savings.

In contrast, **NGOs providing the same services** under public funding agreements are subject to **refund or deduction obligations** when they do not spend the entirety of the PSP allocation. This practice:

- **Disincentivises operational efficiency** and penalises good financial stewardship;
- Creates **financial instability** for NGOs who already operate with tight margins and greater accountability;
- Undermines the **principle of equity** between providers of the same public service;
- Acts as a **barrier to sustainable NGO involvement** in the national care model for persons with disabilities.

The Reality of Private Sector Motivation

It is naïve to assume that a private provider will voluntarily operate at a financial loss or return unused funds. The private sector functions on a profit model — and it is entirely foreseeable that **no cents are refunded** once transferred. This is not an accusation, but a reflection of business logic.

Consequently, to impose tighter refund obligations **only on NGOs**, while granting **full payment retention to private Service providers**, constitutes an unjustifiable imbalance in public funding policy. It risks creating an environment where **private interests are protected**, while **voluntary and social sector organisations are penalised** for performing similar or higher quality work under stricter ethical and financial constraints.

Recommendation

We recommend that the Ministry and relevant authorities **urgently review this double standard** and implement a revised financial policy under the PSP framework whereby:

- **All providers** (NGOs and private alike) are subject to **the same conditions** regarding surplus funds;
- A percentage of **unspent funds may be retained or reinvested** by NGOs, provided they are used for:
 - Service development;
 - Quality of life enhancement;
 - Infrastructure or capacity building in the disability sector;
- Any refund mechanism must be **proportional, transparent, and fair**, and must not compromise the financial sustainability of providers who operate ethically and efficiently.

Principle of Pro-NGO Governance

Finally, we remind the public authorities that **the Ministry's role is not to create market favouritism, but to empower social equity**. The voluntary and not-for-profit sector must be **actively supported, not structurally disadvantaged**. Public governance should reflect the values of fairness, transparency, and the best interest of persons with disabilities—not merely financial expediency or commercial convenience.