

THIS CONSULTING SERVICES AGREEMENT MADE THIS _____ DAY OF December, 2012

BETWEEN:

peopleCare Inc.
(hereinafter referred to as "the Consultant")

AND

The Corporation of the City of London
a registered municipality incorporated under the laws
of the Province of Ontario:
(hereinafter referred to as "the Client")

WHEREAS the Client is approved under the *Long-Term Care Homes Act, 2007* (the "Act") to operate and maintain 243 beds at the Dearness Home (the "Home") located at 710 Southdale Road East, London, Ontario (the "Site");

AND WHEREAS the Client will continue to manage the Home;

AND WHEREAS the Consultant and the Client have agreed that the Consultant will provide its expertise and services to the Client by providing operational consulting services, including providing access to its team of professionals with experience in multiple areas of long term care, including: nursing and personal care, policy and legislation, accreditation, information technology, restorative care, Resident Assessment Instrument – Minimum Data Set (RAI MDS), program and support services, and care planning;

NOW THEREFORE IN CONSIDERATION OF the mutual covenants contained herein the parties hereto agree as follows:

1. Supply of Services

- 1.1 The Client hereby retains the Consultant to provide those services itemized in paragraph 3 hereof and the Consultant agrees to provide the services herein under the general direction and control of the City Manager of the Client ("City Manager") commencing on the 26th day of December, 2012.
- 1.2 The Consultant hereby agrees that during the term of this Agreement it will provide its services on a non-exclusive basis.
- 1.3 It is acknowledged by the Client that this is not an exclusive Agreement with the Consultant and that the Consultant provides similar services to other companies.
- 1.4 The Consultant agrees to supply at its sole cost and expense all staff, equipment, vehicles, accommodations and technical assistance necessary to perform the services to be furnished by the Consultant under this agreement and shall assume all overhead expenses in connection therewith, except as approved under Clause 2.2.

2. Consultant's Fees

- 2.1 The Client shall pay the Consultant a block fee of \$25,000 plus HST per month for the Services described in Article 3 for all hours worked in a month calculated from the 26th of one month to the 25th of the following month. The Consultant is expected to provide services for a period of time of at least 60 hours per month. When required by the Client, the Consultant shall provide for approval by the City Manager a Schedule showing Services to be completed in each month.

- 2.2 In addition to the fee the Consultant may be reimbursed at cost for out of pocket expenses that it expends in carrying out this Agreement limited to reasonable travel, meal, telephone and accommodation expenses up to a maximum of \$2500 per month, exclusive of HST.
- 2.3 The Consultant shall keep time dockets showing all time worked in each month, records, receipts, vouchers and documents as will verify to the satisfaction of the City Manager the time spent performing services in each month, the services performed and the out of pocket expenses incurred in accordance with this Agreement for which billings have been submitted. Upon the request of the City Manager, the Consultant shall furnish such documentation to the satisfaction of the City Manager to verify the time spent performing services, the services performed and the out of pocket expenses incurred.
- 2.4 The Consultant will submit to the Client monthly an invoice for each installment plus applicable taxes for all Services completed in the immediately preceding month.
- 2.5 Where applicable, and pursuant to section 3.2 of the Long-Term Care Home Service Accountability Agreement ("SAA") between the South West Local Health Integration network (the "LHIN") and the Client, the Consultant shall permit the LHIN or its authorized representatives to audit the Consultant in respect of this Agreement if the LHIN or its authorized representatives determines that such an audit would be necessary to confirm that the Client has complied with the terms of the SAA.

3. Services Provided

- 3.1 The Consultant shall deliver to the Client the Services as per the Terms of Reference outlined in Appendix A as changed, altered or added to in accordance with the provisions of this Agreement.

4. Term

- 4.1 This Agreement shall take effect December 26th, 2012 and will continue until March 31, 2013 unless the Client or Consultant invokes its privilege to terminate this Agreement under clause 6.1.

5. The Consultant/Client Relationship

- 5.1 The Consultant, in compliance with its obligations under this Agreement, shall be solely responsible for all statutory obligations related to the payment of Employment Insurance, CPP benefits, WSIA, OHIP, HST and taxes.
- 5.2 The parties hereto are each independent of the other and this Agreement shall not operate to create a partnership, joint venture, employment arrangement, master servant relationship or any other similar relationship between the Client and the Consultant or between the Client and any employees, agent or contractor of the Consultant.
- 5.3 **Accessibility for Ontarians with Disabilities Act Training:** The Consultant shall ensure that all of its employees receive training about the provision of services to persons with disabilities, in compliance with the *Accessibility for Ontarians with Disabilities Act, 2005* and its Regulations.
- 5.4 **Client Policies:** Consultant shall ensure that its employees conduct themselves in a professional manner while on the Client's premises and/or workplaces including ensuring that their employees' conduct is in compliance with the Client's *Workplace Harassment/Discrimination Prevention Policy and Complaint Procedure, Workplace Violence Prevention Policy, and Code of Conduct*, and any such further policies as the Client may provide to the Consultant from time to time. The Consultant

acknowledges that copies of these policies have been provided to and/or made available to it.

6. Termination

- 6.1 The Client or Consultant may at any time by thirty (30) days' written notice to the other suspend or terminate the Services or any portion thereof at any stage of the Agreement. Upon receipt of such written notice, the Consultant shall perform no further Services or incur any disbursements other than those reasonably necessary to close out its Services. Further, the Client may terminate this Agreement immediately in the event that the South West Local Health Integration Network terminates the SAA or if so directed by the Ministry of Health and Long Term Care or at the direction of Municipal Council.
- 6.2 In the event of termination in accordance with clause 6.1, the Client shall pay the Consultant only those installments due and payable prior to the date of termination.
- 6.3 Any termination under this section shall be without compensation, penalty or liability on the part of the Client to the Consultant otherwise than for Services provided prior to the termination date, and shall be without prejudice to any legal or equitable right or remedy of the Client.

7. Notice

- 7.1 Any notice, report, direction, request or other documentation required or permitted to be given to either party hereto shall be in writing and shall be given by personal service or by mailing by registered mail, with postage thereon fully prepaid, in a sealed envelope, and be addressed as follows:

If for the Consultant

To: Brent Gingerich, CEO
At: peopleCare Inc.
28 William Street North
Tavistock, ON
N0B 2R0

If for the Client

To: City Manager
At: 300 Dufferin Avenue
P.O. Box 5035
London, Ontario N6A 4L9
Telephone 661-2500 ext. 1804

Either party may by notice in writing advise of a new address for notice, which shall then be used by the party to whom it is addressed.

Any notice, report, direction, request or other document delivered personally in accordance herewith shall be deemed to have been received when given to the addressee on the day of delivery. Any notice, report, direction, request or other document mailed as aforesaid shall be deemed to have been received by and given to the addressee on the second (2nd) business day following the date of mailing, provided that for such purposes no day during which there shall be a strike or other

occurrence which shall interfere with normal mail service shall be considered a business day.

8. Changes and Additional Services

8.1 With the consent of the Consultant, the Client may in writing at any time after the execution of this Agreement or the commencement of the Services delete, extend, increase, vary or otherwise alter the Services forming the subject of this Agreement.

9. Indemnification

9.1 **Indemnification:** The Consultant undertakes and agrees to defend and indemnify the Client and hold the Client harmless, at the Consultant's sole expense, from and against all claims, demands, suits, losses, costs, damages and expenses that the Client may sustain or incur by reason of:

(a) any breach of this Agreement by any of the Consultant, the Consultant's employees, any subcontractor of the Consultant, or persons for whom the Consultant is at law responsible;

(b) the acts or omissions of the Consultant, the Consultant's employees, subcontractor of the Consultant, or any person for whom the Consultant is at law responsible in performing the Services or otherwise carrying on the Consultant's business, including any damage to any and all persons or property, whether deliberate, accidental or through negligence, and all tickets, fines or penalties;

(c) any claim or finding that any of the Consultant, the Consultant's employees, subcontractor of the Consultant, or persons for whom the Consultant is at law responsible are employees of, or are in any employment relationship with, the Client or are entitled to any Employment Benefits of any kind; or,

(d) any liability on the part of the Client, under the *Income Tax Act* (Canada) or any other statute (including, without limitation, any Employment Benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments, or to pay any related interest or penalties, by virtue of any of the following being considered to be an employee of the Client, from the Consultant; the Consultant's employees or others for whom the Consultant is at law responsible in connection with the performance of Services or otherwise in connection with the Consultant's business.

10. Insurance

10.1 The Consultant shall obtain insurance coverage in the amount of Two Million Dollars (\$2,000,000.00) for general liability and automobile insurance. The coverage provided by the policy will not be changed or altered in any way nor cancelled by the Consultant until after 30 days written notice of such change or cancellation has been personally delivered to the Client.

10.2 Professional Liability Insurance, to an inclusive limit of not less than two million dollars per occurrence for each claim of negligence arising directly or indirectly from the professional services rendered by the Consultant, its officers, agents or employees.

11. Assignment

11.1 Neither party may assign this Agreement without the prior consent in writing of the other.

12. Previous Agreements

12.1 This Agreement supersedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to this Agreement.

13. Publication and Confidentiality

13.1 The Consultant agrees to obtain the consent in writing of the Client before publishing or issuing any information regarding the Services. The Consultant shall treat all confidential information (including personal information and personal health information) and proprietary information communicated to or acquired by it, or disclosed by the Client in the course of carrying out the Services provided for herein in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*. No such information shall be used by the Consultant on any other project without the approval in writing of the Client.

14. Time

14.1 The Consultant shall perform the Services expeditiously to meet the requirements of the Client and shall complete any portion or portions of the Services in such order as the Client may require. If requested at any time by the Client, the Consultant shall provide to the Client a schedule showing the Services completed and remaining to be completed.

15. Waiver

15.1 The failure of either party at any time to require performance by the other party of any provisions shall in no way affect the full right to require such performance at any time thereafter, nor shall waiver by either party of any breach of the provisions be taken or held to be a waiver of any succeeding breach of such provisions or as a waiver of the provision itself.

16. Conflict of Interest

16.1 The Consultant shall disclose in writing to the City Manager any outside interests and commitments that may generate a conflict of interest before commencing work under this Agreement and thereafter upon any such outside interest or commitment coming to the Consultant's attention. "Conflict of Interest" means a situation in which the interests of the Consultant or its staff or any outside interest or commitment of the Consultant comes into conflict, or appears to come into conflict with the interests of the Client. The City Manager shall review the conflict promptly after disclosure by the Consultant and shall give the consultant notice under clause 7 of his determination in writing as to whether any outside interest or commitment raises a potential conflict of interest with respect to the projects identified in Appendix A and the decision of the City Manager shall be final. Disclosures of conflicts by the Consultant to the City Manager shall be kept confidential except to the extent necessary to review, consider and resolve any conflict and as permitted by the *Municipal Freedom of Information and Protection of Privacy Act*. A conflict of interest may be resolved by the Consultant ceasing to carry out a portion of the work identified in Appendix A upon the written direction of the City Manager or by the termination of the Agreement in accordance with section 6.1.

17. Applicable Law

17.1 This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and Canada and the parties hereto hereby agree to the jurisdiction of the Courts of Ontario.

17.2 This Agreement shall enure to the benefit of and be binding on the parties and their respective successors and assigns.

17.3 **Observance Of The Law:** The Parties agree that they and their respective directors, officers, employees, agents, volunteers and representatives, shall at all times comply with all Federal and Provincial statutes, rules, regulations and orders, (including but not limited to the Human Rights Code) and with all Municipal by-laws, policies, rules, and orders, governing the performance of this Agreement.

Signed Sealed and Delivered on the date first written above:

The Consultant:
peopleCare Inc.

The Client
The Corporation of the City of London:

PER: _____
Title

PER: _____
Joe Fontana
Mayor

PER: _____
Title

PER: _____
Catharine Saunders
City Clerk

I/We have the authority to bind the corporation.

I/We have the authority to bind the corporation

Appendix A Terms of Reference

The Consultant will work as and when required under the direction of the City Manager;

- to provide operational consulting services regarding the Home, including providing access to its team of professionals with experience in multiple areas of long term care, including: nursing and personal care, policy and legislation, accreditation, information technology, restorative care, Resident Assessment Instrument - Minimum Data Set (RAI MDS), program and support services and care planning;
- in conjunction with the Client develop and implement changes in policy, procedure or practice required at the Home and take the necessary steps required to achieve accreditation for the Home if desired prior to the end of the term of this Agreement;
 - Where applicable under the Act, before the employees of the Consultant first work in the Home, the Consultant shall screen them including a criminal reference check in accordance with section 215 of Regulation 79/10 and including a vulnerable sector screen to determine the person's suitability to be a staff member in a long-term care home and to protect residents from abuse and neglect.
 - Where applicable under the Act, the employees of the Consultant shall provide the Client with a signed declaration with respect to the criminal reference check in accordance with section 215(4) of Regulation 79/10
- The parties agree to meet prior to January 31, 2013 to discuss a possible extension of this Agreement including the terms and conditions thereof.

THIS PURCHASE OF SERVICES AGREEMENT MADE THIS ___ DAY OF December , 2012

BETWEEN:

peopleCare Inc.
(hereinafter referred to as "the Provider")

AND

The Corporation of the City of London
a registered municipality incorporated under the laws
of the Province of Ontario:
(hereinafter referred to as "the Client")

WHEREAS the Client is approved under the *Long-Term Care Homes Act, 2007* (the "Act") to operate and maintain 243 beds at the Dearness Home (the "Home") located at 710 Southdale Road East, London, Ontario (the "Site");

AND WHEREAS the Client will continue to manage the Home;

AND WHEREAS the Provider and the Client have agreed that the Provider will provide the services of an Administrator for the Home and as more specifically set out in Secondment Agreement between the Client, the Provider, and an employee of the Provider (attached as Appendix B to this Agreement);

NOW THEREFORE IN CONSIDERATION OF the mutual covenants contained herein the parties hereto agree as follows:

1. Supply of Services

- 1.1 The Client hereby retains the Provider to provide those services itemized in paragraph 3 hereof and the Provider agrees to provide the services herein under the general direction and control of City Manager of the Client ("City Manager") commencing on the 15th day of December, 2012.
- 1.2 The Provider hereby agrees that during the term of this Agreement it will provide its services on a non-exclusive basis.
- 1.3 It is acknowledged by the Client that this is not an exclusive Agreement with the Provider and that the Provider provides similar services to other companies.
- 1.4 The Provider agrees to supply at its sole cost and expense all staff, equipment, vehicles, accommodations and technical assistance necessary to perform the services to be furnished by the Provider under this agreement and shall assume all overhead expenses in connection therewith, except as approved under Clause 2.2.

2. Provider's Fees

- 2.1 The Client shall pay the Provider a block fee of \$15,000 plus HST per month for the Services described in Article 3 for all hours worked in a month calculated from the 15th of one month to the 14th of the following month. The Provider is expected to provide services for a period of time of at least 140 hours per month, with a minimum of 35 hours per week attributed to the Administrator. When required by the Client, the Provider shall provide for approval by the City Manager a Schedule showing Services to be completed in each month.
- 2.2 In addition to the fee the Provider may be reimbursed at cost for out of pocket expenses that it expends in carrying out this Agreement limited to reasonable travel,

meals, telephone, and accommodation expenses up to a maximum of \$2500 per month, exclusive of HST.

- 2.3 The Provider shall keep time dockets showing all time worked in each month, records, receipts, vouchers and documents as will verify to the satisfaction of the City Manager the time spent performing services in each month, the services performed and the out of pocket expenses incurred in accordance with this Agreement for which billings have been submitted. Upon the request of the City Manager, the Provider shall furnish such documentation to the satisfaction of the City Manager to verify the time spent performing services, the services performed and the out of pocket expenses incurred.
- 2.4 The Provider will submit to the Client monthly an invoice for each installment plus applicable taxes for all Services completed in the immediately preceding month.
- 2.5 Where applicable, and pursuant to section 3.2 of the Long-Term Care Home Service Accountability Agreement ("SAA") between the South West Local Health Integration network (the "LHIN") and the Client, the Provider shall permit the LHIN or its authorized representatives to audit the Provider in respect of this Agreement if the LHIN or its authorized representatives determines that such an audit would be necessary to confirm that the Client has complied with the terms of the SAA.

3. Services Provided

- 3.1 The Provider shall deliver to the Client the Services as per the Terms of Reference outlined in Appendix A as changed, altered or added to in accordance with the provisions of this Agreement.
- 3.2 The Parties hereto will execute the Secondment Agreement attached hereto as Appendix "B".

4. Term

- 4.1 This Agreement shall take effect December 15th, 2012 and will continue until March 31st, 2013 unless the Client or Provider invokes its privilege to terminate this Agreement under clause 6.1.

5. The Provider/Client Relationship

- 5.1 The Provider, in compliance with its obligations under this Agreement, shall be solely responsible for all statutory obligations related to the payment of Employment Insurance, CPP benefits, WSIA, OHIP, HST and taxes.
- 5.2 The parties hereto are each independent of the other and this Agreement shall not operate to create a partnership, joint venture, employment arrangement, master servant relationship or any other similar relationship between the Client and the Provider or between the Client and any employees, agent or contractor of the Provider.
- 5.3 **Accessibility for Ontarians with Disabilities Act Training:** The Provider shall ensure that all of its employees receive training about the provision of services to persons with disabilities, in compliance with the *Accessibility for Ontarians with Disabilities Act, 2005* and its Regulations.
- 5.4 **Client Policies:** Provider shall ensure that its employees conduct themselves in a professional manner while on the Client's premises and/or workplaces including ensuring that their employees' conduct is in compliance with the Client's *Workplace Harassment/Discrimination Prevention Policy and Complaint Procedure, Workplace Violence Prevention Policy, and Code of Conduct*, and any such further policies as the Client may provide to the Provider from time to time. The Provider acknowledges that copies of these policies have been provide to and/or made available to it.

6. Termination

- 6.1 The Client or Provider may at any time by two (2) days' written notice to the other suspend or terminate the Services or any portion thereof at any stage of the Agreement. Upon receipt of such written notice, the Provider shall perform no further Services or incur any disbursements other than those reasonably necessary to close out its Services. Further, the Client may terminate this Agreement immediately in the event that the South West Local Health Integration Network terminates the SAA or if so directed by the Ministry the Ministry of Health and Long-Term Care or at the direction of Municipal Council.
- 6.2 In the event of termination in accordance with clause 6.1, the Client shall pay the Provider only those installments due and payable prior to the date of termination.
- 6.3 Any termination under this section shall be without compensation, penalty or liability on the part of the Client to the Provider otherwise than for Services provided prior to the termination date, and shall be without prejudice to any legal or equitable right or remedy of the Client.
- 6.4 **Transition Period** - In the event of termination, the Client may require the Provider to continue to provide an Administrator for a transition period of up to thirty (30) days, as determined by the Client. In the event the Client requires the Provider to continue providing an Administrator for such transition period, the Client shall continue to pay to the Provider the fees at the average per diem rate charged for the previous month.

7. Notice

- 7.1 Any notice, report, direction, request or other documentation required or permitted to be given to either party hereto shall be in writing and shall be given by personal service or by mailing by registered mail, with postage thereon fully prepaid, in a sealed envelope, and be addressed as follows:

If for the Provider

To: Brent Gingerich, CEO
At: peopleCare Inc.
28 William Street North
Tavistock, ON
N0B 2R0

If for the Client

To: City Manager
At: 300 Dufferin Avenue
P.O. Box 5035
London, Ontario N6A 4L9
Telephone 661-2500 ext. 1804

Either party may by notice in writing advise of a new address for notice, which shall then be used by the party to whom it is addressed.

Any notice, report, direction, request or other document delivered personally in accordance herewith shall be deemed to have been received when given to the addressee on the day of delivery. Any notice, report, direction, request or other document mailed as aforesaid shall be deemed to have been received by and given

to the addressee on the second (2nd) business day following the date of mailing, provided that for such purposes no day during which there shall be a strike or other occurrence which shall interfere with normal mail service shall be considered a business day.

8. Changes and Additional Services

8.1 With the consent of the Provider, the Client may in writing at any time after the execution of this Agreement or the commencement of the Services delete, extend, increase, vary or otherwise alter the Services forming the subject of this Agreement.

9. Indemnification

9.1 **Indemnification:** The Provider undertakes and agrees to defend and indemnify the Client and hold the Client harmless, at the Provider's sole expense, from and against all claims, demands, suits, losses, costs, damages and expenses that the Client may sustain or incur by reason of:

(a) any breach of this Agreement by any of the Provider, the Provider's employees, any subcontractor of the Provider, or persons for whom the Provider is at law responsible;

(b) the acts or omissions of the Provider, the Provider's employees, subcontractor of the Provider, or any person for whom the Provider is at law responsible in performing the Services or otherwise carrying on the Provider's business, including any damage to any and all persons or property, whether deliberate, accidental or through negligence, and all tickets, fines or penalties;

(c) any claim or finding that any of the Provider, the Provider's employees, subcontractor of the Provider, or persons for whom the Provider is at law responsible are employees of, or are in any employment relationship with, the Client or are entitled to any Employment Benefits of any kind; or,

(d) any liability on the part of the Client, under the *Income Tax Act* (Canada) or any other statute (including, without limitation, any Employment Benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments, or to pay any related interest or penalties, by virtue of any of the following being considered to be an employee of the Client, from the Provider; the Provider's employees or others for whom the Provider is at law responsible in connection with the performance of Services or otherwise in connection with the Provider's business.

10. Insurance

10.1 The Provider shall obtain insurance coverage in the amount of Two Million Dollars (\$2,000,000.00) for general liability and automobile insurance. The coverage provided by the policy will not be changed or altered in any way nor cancelled by the Provider until after 30 days written notice of such change or cancellation has been personally delivered to the Client.

10.2 Professional Liability Insurance, to an inclusive limit of not less than two million dollars per occurrence for each claim of negligence arising directly or indirectly from the professional services rendered by the Provider, its officers, agents or employees.

11. Assignment

11.1 Neither party may assign this Agreement without the prior consent in writing of the other.

12. Previous Agreements

12.1 This Agreement supersedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to this Agreement.

13. Publication and Confidentiality

13.1 The Provider agrees to obtain the consent in writing of the Client before publishing or issuing any information regarding the Services. The Provider shall treat all confidential information (including personal information and personal health information) and proprietary information communicated to or acquired by it, or disclosed by the Client in the course of carrying out the Services provided for herein in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*. No such information shall be used by the Provider on any other project without the approval in writing of the Client.

14. Time

14.1 The Provider shall perform the Services expeditiously to meet the requirements of the Client and shall complete any portion or portions of the Services in such order as the Client may require. If requested at any time by the Client, the Provider shall provide to the Client a schedule showing the Services completed and remaining to be completed.

15. Waiver

15.1 The failure of either party at any time to require performance by the other party of any provisions shall in no way affect the full right to require such performance at any time thereafter, nor shall waiver by either party of any breach of the provisions be taken or held to be a waiver of any succeeding breach of such provisions or as a waiver of the provision itself.

16. Conflict of Interest

16.1 The Provider shall disclose in writing to the City Manager any outside interests and commitments that may generate a conflict of interest before commencing work under this Agreement and thereafter upon any such outside interest or commitment coming to the Provider's attention. "Conflict of Interest" means a situation in which the interests of the Provider or its staff or any outside interest or commitment of the Provider comes into conflict, or appears to come into conflict with the interests of the Client. The City Manager shall review the conflict promptly after disclosure by the Provider and shall give the Provider notice under clause 7 of his determination in writing as to whether any outside interest or commitment raises a potential conflict of interest with respect to the projects identified in Appendix A and the decision of the City Manager shall be final. Disclosures of conflicts by the Provider to the City Manager shall be kept confidential except to the extent necessary to review, consider and resolve any conflict and as permitted by the *Municipal Freedom of Information and Protection of Privacy Act*. A conflict of interest may be resolved by the Provider ceasing to carry out a portion of the work identified in Appendix A upon the written direction of the City Manager or by the termination of the Agreement in accordance with section 6.1.

17. Applicable Law

17.1 This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and Canada and the parties hereto hereby agree to the jurisdiction of the Courts of Ontario.

17.2 This Agreement shall enure to the benefit of and be binding on the parties and their respective successors and assigns.

17.3 **Observance Of The Law:** The Parties agree that they and their respective directors, officers, employees, agents, volunteers and representatives, shall at all times comply with all Federal and Provincial statutes, rules, regulations and orders, (including but not limited to the Human Rights Code) and with all Municipal by-laws, policies, rules, and orders, governing the performance of this Agreement.

Signed Sealed and Delivered on the date first written above:

The Consultant:
peopleCare Inc.

The Client
The Corporation of the City of London:

PER: _____
Title

PER: _____

Joe Fontana
Mayor

PER: _____
Title

PER: _____

Catharine Saunders
City Clerk

I/We have the authority to bind the corporation.

I/We have the authority to bind the corporation

Appendix A Terms of Reference

The Provider will work as and when required under the direction of the City Manager;

- to provide the services of an Administrator for the Home and as more specifically set out in the attached Secondment Agreement between the Client, the Provider, and an employee of the Provider, including the following requirements:
 - ensure that the Administrator complies with the requirements of an Administrator under the Act and its Regulations, including but not limited to:
 - shall work regularly in the position of Administrator on Site at the Home for at least 35 hours per week;
 - has a post-secondary degree from a program that is a minimum of three years in duration, or a post-secondary diploma in health or social services from a program that is a minimum of two years in duration;
 - has at least three years working experience,
 - in a managerial or supervisory capacity in the health or social services sector, or
 - in another managerial or supervisory capacity, if he or she has already successfully completed the course set out below;
 - has demonstrated leadership and communications skills; and
 - has successfully completed or (subject to the Act's Regulation) is enrolled in, a program in long-term care home administration or management that is a minimum of 100 hours in duration of instruction time;
 - is otherwise eligible to act as an Administrator pursuant to the Act.
 - The Administrator shall meet at least quarterly as part of an interdisciplinary team, to evaluate the effectiveness of the medication management system in the home and to recommend any changes necessary to improve the system.
 - The Administrator shall meet annually to evaluate the effectiveness of the medication management system in the home and to recommend any changes necessary to improve the system.
 - Before the Administrator first works in the Home, the Provider shall screen the Administrator including a criminal reference check in accordance with section 215 of Regulation 79/10 and including a vulnerable sector screen to determine the person's suitability to be a staff member in a long-term care home and to protect residents from abuse and neglect.
 - The Administrator shall provide the Client with a signed declaration with respect to the criminal reference check in accordance with section 215(4) of Regulation 79/10

APPENDIX B

SECONDMENT AGREEMENT

THIS AGREEMENT MADE AS OF THE ___ DAY OF December, 2012

BETWEEN:

The Corporation of the City of London
(hereinafter referred to as "Client")

- and -

peopleCare Inc.
(hereinafter referred to as the "Employer")

- and -

Carol Bradley
(hereinafter referred to as the "Employee")

WHEREAS Client is engaged in the operation, maintenance and management of a long-term care home under the *Long-Term Care Homes Act, 2007* (the "Act") with 243 beds known as the Dearness Home (the "Home") located at 710 Southdale Road East, London, Ontario (the "Site");

AND WHEREAS the Employer is engaged in providing expertise in services for long-term care homes, including providing temporary help for the position of Administrator and is the employer of the Employee;

AND WHEREAS the Employee is employed by the Employer and has specialized skills in relation to providing services as an Administrator for a long-term care home;

AND WHEREAS Client wishes to utilize the skills and engage the services of the Employee to perform those services listed in Schedule "A" attached hereto pursuant to this Agreement;

AND WHEREAS the Parties agree that the Employee will be seconded to Client to provide services in accordance with Schedule "A" attached hereto, on the terms and conditions set forth in this Agreement;

AND WHEREAS the Employee is a signatory to this Agreement to signify acceptance of her secondment from the Employer to Client and acceptance of the terms and conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements contained in this Agreement, the parties hereto covenant and agree each with the other as follows:

1. **TERM AND SERVICES**

1.01 Client shall purchase from the Employer the services of the Employee and the Employee shall assume the position and exercise the functions of **Administrator** with Client. The duties and responsibilities of this position include, but are not limited to, those detailed in **Schedule "A"** and such other reasonable duties and responsibilities as assigned from time to time by Client.

1.02 The engagement of the Employee pursuant to this Agreement shall commence December 15, 2012, and shall terminate on the date that the Purchase of Services Agreement between the Client and the Employer dated December ____, 2012 ("Administrator Services Agreement") terminates, unless earlier terminated in accordance with the provisions of this Agreement.

It is a condition precedent that the Employee be screened by Employer including a criminal reference check in accordance with section 215 of Regulation 79/10 of the Act and including a vulnerable sector screen to determine the Employee's suitability to be a staff member in a long-term care home and to protect residents from abuse and neglect.

1.03 The Employee's performance shall be evaluated by Brent Gingerich (CEO of Employer) or designate in consultation with the City Manager or designate.

1.04 The role of the Employee will be reviewed every month. Should any concerns or issues arise regarding the program or the role of the Employee, the designated liaison managers will meet to mutually endeavour to resolve such concerns or issues.

The designated liaison for the parties are as follows:

- **City Manager, Client (or his designate)**
- **CEO, Employer (peopleCare Inc.)**

1.05 The Employer agrees that it will employ the Employee exclusively to provide all of the services required under this Agreement during the term of this Agreement, unless the Employer and Client hereto mutually agree otherwise.

- 1.06 The Employee shall devote her best efforts, skill and ability to the performance of the services under this Agreement and to promote the interest of Client during the term of this Agreement.

The Employee shall:

- a) Act honestly and in good faith with a view to the best interests of Client;
- b) Exercise the care, diligence and skill that a reasonably prudent employee would exercise in comparable circumstances;
- c) Comply with any and all applicable Client policies, procedures and by-laws, copies of which the Employee acknowledges have been provided to and/or made available to her.

2. TERMINATION OF AGREEMENT

2.01 TERMINATION WITHOUT NOTICE

The Client may terminate this Agreement at any time without notice.

Upon termination, Client may, at its option, either require the Employee to continue performing her services as provided in the Purchase of Services Agreement, or require the Employee to immediately discontinue such performance.

2.02 TERMINATION OF SECONDMENT AGREEMENT - Default

It is an event of default (hereinafter referred to as a "default") if:

- a) The Employer and/or the Employee fail to observe, perform or carry out any of their obligations hereunder;
- b) The Employer and/or the Employee engage in any act, omission or conduct which would entitle Client at common law to terminate this Agreement;
- c) The Employer and/or the Employee perform the services required under this Agreement in a negligent manner, or in a manner that is contrary to general industry or professional practices;
- d) The Employer and/or the Employee engage in a conflict of interest;
- e) The Employer and/or the Employee conduct themselves in such

a manner that the business or reputation of Client is jeopardized;

- f) The Employer and/or the Employee become bankrupt or commit any act of bankruptcy or makes an assignment for the benefits of creditors or otherwise;
- g) The Employee is no longer able to provide the services either by death or otherwise.

2.03 In the event of a default pursuant to Section 2.02 hereof, Client may do any one or more of the following:

- a) Pursue any remedy available to it in law or equity, it being acknowledged by the Employer that specific performance, injunctive relief (mandatory or otherwise) or equitable relief may be the only adequate remedy for a default;
- b) Take all action in its own name as may be reasonably required to cure the default, in which event, all payments, expenses and costs incurred therefore shall be payable by the Employer on demand;
- c) Terminate this Agreement by notifying the Employer of the default and the exercise of such election; or
- d) Waive the default except, however that a waiver of a particular default shall not operate as a waiver of any subsequent or continuing default.

3. REIMBURSEMENT FOR SERVICES

3.01 Client agrees to reimburse the Employer as set out in the Purchase of Services Agreement. Such sum shall include all costs associated with the salary, benefits, pension contributions, vacation and public holiday entitlement of the Employee.

For greater certainty, unless otherwise agreed to in writing by the parties hereto, no additional fee, wage, salary, commission or other emolument shall be paid to the Employer on account of the services herein contemplated and to be provided by the Employee.

3.02 The Employer shall at all times be the employer of the Employee and will provide the Employee with her salary and all existing benefits including pension contributions during the term of this Agreement.

It is understood and agreed that the Employee shall not be entitled to

participate in any benefits offered by Client to its own employees and the Employer shall have sole responsibility for providing all salary and benefits to the Employee.

- 3.03 Any fee paid by Client to the Employer under the Purchase of Services Agreement shall be pursuant to invoices submitted by the Employer and shall be made without withholdings for Income Tax, Canada Pension Plan or Employment Insurance contributions or other like deductions (herein collectively referred to as "Withholdings").

Any taxes or other Withholdings levied now or hereafter by any governmental body, local, provincial or federal, with respect to the Employee, shall be for the account of and paid by the Employer.

Without limiting the generality of the foregoing, Client shall have no obligation whatsoever to the Employer with respect to employer health tax, income tax withholding obligations, employment insurance, Canada pension plan benefits, WSIA, OHIP, retirement, insurance, HST and taxes or other similar obligations regarding the services to be provided under this Agreement.

- 3.04 The legal relationship between the Employer and Client arising pursuant to this Agreement shall only be that of an independent contractor and the purchaser of services and, in particular, nothing in this Agreement shall be construed so as to render the relationship between Client and the Employer or the relationship between the Client and the Employee to be that of an employer and employee, principal and agent, partnership or joint venture. As an independent contractor the Employer acknowledges that it is responsible for and shall remit to the appropriate government agency any tax and any other amounts based on the fees paid as required by provincial and federal legislation.

Neither the Employer nor the Employee shall have the right or authority to assume or create any obligation or responsibility express or implied on behalf of or in the name of Client, or to bind Client in any manner or thing whatsoever, without the express written consent of Client.

4. HOURS OF WORK

- 4.01 The Employee's normal hours of work shall be at least 35 hours per week, at the Site or as otherwise in compliance with the Act.
- 4.02 Hours of work, and all other scheduling will be mutually agreed between the Employer and Client in consultation with the Employee.

5. ACCOUNTABILITIES

- 5.01 The Employee will be directly accountable to and supervised by Employer CEO (Brent Gingerich or his designate) and Client's City Manager, (Art Zuidema or his designate), for all work performed and services rendered for the Client.
- 5.02 The Employee shall abide by and comply with all Client's policies and procedures including but not limited to policies and procedures governing resident care, human resources, health and safety, confidentiality, *Workplace Harassment/Discrimination Prevention Policy and Complaint Procedure*, *Workplace Violence Prevention Policy*, and *Code of Conduct*, and computer use for all work performed and services rendered at the Site, copies of which the Employee acknowledges have been provided to and/or made available to the her.
- 5.03 The Employee's orientation to the Home and Site will be the responsibility of Client.

6. CONFIDENTIALITY OF INFORMATION

- 6.01 The Employer and the Employee shall maintain confidentiality and treat all confidential (including personal information and personal health information) and proprietary information in accordance the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*. Therefore, except with the consent in writing of Client, the Employer and the Employee shall not, at any time, directly or indirectly use or disclose to any person or persons, firm, association, syndicate, company or corporation as principal, agent, shareholder or in any other manner whatsoever, any Confidential Information (including personal information and personal health information).

On the termination of this Agreement, the Employer and the Employee shall return all Client papers, effects and materials which have been entrusted to it. Additionally, the Employer and Employee shall return all notes, memorandum, correspondence and reports completed or in the process of the time of termination of this Agreement. The Employer and Employee shall not keep or remove any documents from Client without Client written knowledge and consent.

- 6.02 For the purposes of this Agreement, the term "Confidential Information" shall mean all of the following materials and information (whether or not reduced to writing and whether or not patentable or protected by copyright) which the Employer and the Employee had previously received or had access to or which the Employer and the Employee receives in connection

with the Employer's and the Employee's engagement by Client:

- a) Trade or other secrets, business data, private affairs, processes, health care information, policies, procedures, financial information, employee, patients, supplier and distributor data and other materials or information relating to Client's business and activities and the manner in which Client does business;
- b) Discoveries, concept and ideas including, without limitation, the nature and results or research and development activities, processes, formulas, initiatives or techniques;
- c) Any other material or information related to the business or activities of Client which are not generally known to others engaged in similar businesses or activities; and
- d) All ideas which were derived from or related to the Employer's and the Employee's access to or knowledge of any of the above enumerated materials and information. After the termination of this Agreement, the individual shall promptly return to Client any of Client's information, materials and other property that may subsequently be in the individual's possession, without further request from Client.

6.03 The parties to this Agreement recognize that a breach by the Employer and Employee of any of the covenants contained in this section would result in damages to Client and that Client could not be adequately compensated for such damages by monetary award. Accordingly, the Employer and Employee agree that, in the event of any such breach and in addition to all other remedies made available at law or in equity, Client shall be entitled as a matter of right to apply to a Court of competent equitable jurisdiction for such relief by way of restraining order, injunction or decree or otherwise as may be appropriate to ensure compliance with the provisions of this Agreement.

The parties hereto agree that by reason of the Employer's and Employee's unique knowledge and association with the business of Client, all restrictions contained in this section are all necessary and fundamental to the protection of the legitimate interests of Client and are reasonable and valid. It is understood and agreed that the covenants contained herein shall subsist even if the rest of this Agreement shall be terminated for any reason whatsoever and are severable for such purpose.

6.04 The Employer and Employee assign to the Client the copyright and a

licence to use any of Client's procedures, policies, opportunities, projects, publications, reports or potential developments that the Employee may have worked on in connection therewith, or may have been responsible therefore. The Employer and Employee further waive their moral rights to any such procedures, opportunities, projects, publications, reports or potential developments which the Employee may work on or develop as part of her work with the Client.

7.0 INDEMNIFICATION

7.01 The Employer agrees to defend, indemnify and save harmless Client, its servants agents and individuals against all actions, causes of action, suits, claims, assessments, costs, damage and damages of any kind whatsoever, including reasonable legal fees which Client may suffer as a result of the negligent act or any negligent act or omission of the Employer or the Employee, or those persons authorized to act on their behalf as a result of the performance of the terms and conditions of this Agreement.

The Employer its officers, directors, employees, and agents shall not be liable for any incidental, direct, indirect or consequential damages, injury or any loss of use or profit of the Client arising out of or in any way related to the services under this Agreement.

7.02 The Employer undertakes and agrees to defend and indemnify Client and hold Client harmless, at the Employer's sole expense, from and against all claims, demands, suits, losses, costs, damages and expenses Client may sustain or incur by reason of:

- a) Any claim or finding that the Employee is an employee of or is in any employment relationship with Client or entitled to any employment benefit of any kind;
- b) Any liability on the part of Client under the *Income Tax Act*, *Employment Insurance Act*, *Workplace Safety and Insurance Act*, or any other statute (including, without limitation, any employment benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments or to make any related interest or penalties, by virtue of the Employee being considered to be an employee of Client.

8.0 INSURANCE

8.01 Client shall keep in force throughout the term of this Agreement the following policies of insurance:

- Commercial and General Liability Insurance which insures against claims for personal injury, property damage or loss, including acts or omissions of its individuals, subcontractors, agents and invitees arising from this Agreement. Such coverage shall include but not be limited to blanket contractual liability, premises liability, occupier's liability, non-owned automobile liability and cross liability and severability of interest provision. The limit of such policies shall not be less than two million dollars (\$2,000,000) and the Employee shall be included as an additional insured on the policy.). Premiums payable under such policy shall be paid in full by the Client.
- Professional Malpractice liability insurance in an amount not less than one million (\$1,000,000) per occurrence in respect of all claims, actions, damages adjustments or costs arising out of a breach of professional duty by Client or its respective officers, servants and agents or any of them in connection with the activities of the Employee.

8.02 The Employer shall keep in force throughout the term of this Agreement the following policies of insurance:

- The Provider shall obtain insurance coverage in the amount of Two Million Dollars (\$2,000,000.00) for general liability and automobile insurance. The coverage provided by the policy will not be changed or altered in any way nor cancelled by the Employer until after 30 days written notice of such change or cancellation has been personally delivered to the Client.
- Professional Liability Insurance, to an inclusive limit of not less than two million dollars per occurrence for each claim of negligence arising directly or indirectly from the professional services rendered by the Employer, its officers, agents or employees.

8.03 Certificates of Insurance originally signed by authorized insurance representatives shall be delivered to Client prior to the execution of the Agreement and for all policy renewals thereafter during the term of the agreement within sixty (60) days of their renewal date. The Certificates of Insurance shall contain a provision that the insurer shall not cancel, or materially change coverage as would affect this Agreement without providing Client a minimum of thirty (30) days prior written notice.

9. SEVERABILITY

9.01 If any provision or portion of any provision in this Agreement shall be held by a Court of competent jurisdiction to be unenforceable, invalid or illegal,

such provision or such portion of the provision shall be severable and shall be deemed to be completed and the remaining provisions or portions shall remain valid and binding.

10. GOVERNING LAW

10.01 This Agreement shall be construed in accordance and governed by the laws in force in the Province of Ontario and as interpreted by the Courts of that Province.

11. BINDING EFFECT

11.01 This Agreement shall be binding upon the parties, their heirs, executors, administrators, successors and assigns provided that this Agreement shall be personal to the Employee and may not be assigned by her.

12. NOTICE

12.01 Any notice required or desired to be given hereunder shall be delivered in person or sent by prepaid registered mail addressed as follows:

a) To Client at

City Manager
City of London
300 Dufferin Avenue
P.O. Box 5035
London ON N6A 4L9
Telephone 661-2500 ext. 1804

b) To Employer at

Brent Gingerich, CEO
peopleCare Inc.
28 William Street North
Tavistock ON N0B 2R0

or at such other address as may be furnished in writing from time to time by either party to the other. Any notice mailed as aforementioned by registered mail shall be deemed to have been received three (3) business days after the posting thereof.

13. TIME OF THE ESSENCE

13.01 Time shall be of the essence in the performance of obligations pursuant to this Agreement.

14. HEADINGS

- 14.01 The headings in this Agreement are for convenience and reference only and shall not form part of this Agreement.

15. CONFLICT OF INTEREST

- 15.01 The Employer and Employee shall disclose in writing to the City Manager any outside interests and commitments that may generate a conflict of interest before commencing work under this Agreement and thereafter upon any such outside interest or commitment coming to the Employer's or Employee's attention. "Conflict of Interest" means a situation in which the interests of the Employer or Employee or its staff or any outside interest or commitment of the Employer or Employee comes into conflict, or appears to come into conflict with the interests of the Client. The City Manager shall review the conflict promptly after disclosure by the Employer or Employee and shall give the Employer or Employee notice under clause 12 of his determination in writing as to whether any outside interest or commitment raises a potential conflict of interest with respect to the projects identified in Schedule A and the decision of the City Manager shall be final. Disclosures of conflicts by the Employer or Employee to the City Manager shall be kept confidential except to the extent necessary to review, consider and resolve any conflict and as permitted by the *Municipal Freedom of Information and Protection of Privacy Act*. A conflict of interest may be resolved by the Employer or Employee ceasing to carry out a portion of the work identified in Schedule A upon the written direction of the City Manager or by the termination of the Agreement in accordance with section 2.

16. AMENDMENTS

- 16.01 No provisions of this Agreement shall be amended, altered or waived except by further written agreement between the parties. No waiver of a provision of this Agreement shall operate as a waiver of any other provision or of the same provision on a future occasion.

17. ACKNOWLEDGEMENT

- 17.01 The parties acknowledge having read and understood the terms and conditions of this Agreement.

IN WITNESS WHEREOF the parties have duly executed this Agreement in the presence of a witness.

SIGNED, SEALED AND DELIVERED this _____ day of December, 2012
in the presence of

(Name of Witness))
)
)

Signature of Witness

)
) _____
) Carol Bradley

For: peopleCare Inc.
)
)
)

Per: _____
Brent Gingerich, CEO

For: The Corporation of the City of London

PER: _____
Joe Fontana
Mayor

PER: _____
Catharine Saunders
City Clerk