

Terms and Conditions

LAST UPDATED: 4 July 2017

These Terms and Conditions together with our website Terms of Use and our Privacy Policy set out the basis upon which you may use www.carerbooking.com. They also govern your relationship with us when seeking a provider of home care support services through the website.

Please read these Terms and Conditions carefully. As part of the registration process you will be required to show that you have read and understood these Terms and Conditions by ticking a box on registration for the Website. We recommend that you print a copy of these Terms and Conditions for your future reference.

We may make changes to these Terms and Conditions from time to time. We may notify you of such changes by any reasonable means, including by posting the revised version of these Terms and Conditions on the Website. You can determine when we last changed these Terms and Conditions by referring to the 'LAST UPDATED' statement above. Your use of the Website following changes to these Terms and Conditions will constitute your acceptance of those changes.

1. About us

- 1.1. C.L.C.A. Company Limited is registered at Companies House under number 08326310; registered office: Moneybrook Lodge, Hereford Road, Shrewsbury, Shropshire SY3 9LB; trading address: Unit 11 Henry Close, Battlefield Enterprise Park, Shrewsbury, Shropshire SY1 3TJ.
- 1.2. We are an independent healthcare provider for nursing and domiciliary care. We are registered with the Care Quality Commission under registration number CRT1-1935854074. Our permitted business is arranging, advising on and helping in the set up and provision of care packages for children and adults with a variety of health and care needs in their own home.
- 1.3. www.carerbooking.com is a trading name of C.L.C.A. Company Limited. It provides an online platform whereby clients and those seeking care are able to register their details and in the majority of cases select, book and pay for a Carer online. We operate a 24 hour Call Centre service to assist with booking or where the care required is more complex and we need to discuss this with you.

2. Using www.carerbooking.com

- 2.1. All work we do through the Website is governed by these Terms and Conditions. They may not be varied unless agreed in writing by us. By using the Website, you confirm that you:
 - 2.1.1. understand and accept these Terms and Conditions, the Terms of Use and the Privacy Policy;
 - 2.1.2. are resident in the United Kingdom;
 - 2.1.3. are legally capable of entering into binding Agreements;
 - 2.1.4. are at least 18 years old.

3. Definitions and Interpretations

- 3.1. In these Terms and Conditions, the following definitions are used:

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|------------------------|---|
| Agreement | this agreement between you and us and all documents referred to in this agreement, your Care Plan and any other documents entered into between us and you in respect of the Services (as varied from time to time in accordance with this agreement). |
| Agreement Renewal Date | the initial 12 month anniversary of the Service Commencement Date and each 12 month anniversary thereafter for the duration of the Agreement. |

| | |
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| Bank Holiday | a bank holiday in England and Wales, details of which can be found at https://www.gov.uk/bank-holidays |
| Call Centre | C.L.C.A. Call Direct, Suite 202, Corporate Centre Building, 948 Aurora Blvd, Cubao, Quezon City, Philippines. |
| Care Plan | a written description, prepared by us, describing the nature and level of Services which you have requested we supply to you and we have agreed to supply to you, as amended from time to time. In the case of emergency care which we have agreed to provide such plan may initially be in oral form and shall, as soon as reasonably practicable, be provided in written form. |
| Carer | the person providing the Service. Where more than one person is providing the Service for you, "Carer" should be read as "Carers" in this Agreement and a reference in this Agreement to a "Carer" shall include a "Live-in Carer" (unless otherwise specified). |
| Client, you or your | the individual for whom the Service is to be provided and/or the person who enters into this Agreement on their behalf and/or any Third Party. |
| Commissioned Care | means our bespoke Service. |
| Expenses | all travel, subsistence, accommodation and agency costs incurred by us or our Carers in the delivery of the Service. |
| Fee or Fees | the fees for the Service (which shall include the Bank Holiday Fees) notified to you initially and as calculated in accordance with our Agreement or, in respect of emergency care, as agreed with you prior to the provision of such care and as amended in accordance with our Agreement from time to time. |
| Home | your home address from time to time. |
| Live-in Carer | a Carer who lives in your Home for a period of time to provide the Services pursuant to our Agreement. |
| Prescriptive Care | any Service where there is no Care Plan and the care being delivered is simply that which you have requested through our Website or Call Centre on an ad hoc basis. |
| Rota | a document setting out a list of our Carers together with the dates and shifts that they will be working to deliver the Service. |
| Rota Period | a minimum 4 week period. |
| Service Commencement Date | the date upon which we agree with you to commence delivery of the Service. |
| Service or Services | the managed homecare services to be provided by us to you at your Home (or if your Care Plan includes it) assistance with activities outside your Home, provided in accordance with our Agreement and set out in the Care Plan and which, where applicable, shall include any emergency care we agree to provide. |
| Specialist Nurse | an intensive care trained nurse or other highly skilled nurse of equivalent experience who has particular skills that are required to deliver care to the Client. |
| Term | the initial 12 months from the Service Commencement Date and each subsequent 12 month period for the duration of the Agreement in relation to our Commissioned Care Service. |
| Third Party | a party who is responsible for the delivery of the Services or payment of the Fees but who is not the Client. |
| we, our or us | C.L.C.A. Company Limited. |
| Website | https://www.carerbooking.com |
| Week | Monday to Sunday during the term for which the Services are provided. |

3.2. In these Terms and Conditions, unless the context requires a different interpretation:

- 3.2.1. the singular includes the plural and vice versa;
- 3.2.2. references to sub-clauses, clauses, schedules or appendices are to sub-clauses, clauses, schedules or appendices of these Terms and Conditions;
- 3.2.3. a reference to a person includes firms, companies, government entities, trusts and partnerships;
- 3.2.4. any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 3.2.5. "including" is understood to mean "including without limitation";
- 3.2.6. reference to any statutory provision includes any modification or amendment of it;
- 3.2.7. the headings and sub-headings do not form part of these Terms and Conditions.

4. Our services

- 4.1. Our mission is to provide an easy to use online platform for you to select, book and pay for a Carer with suitable experience and qualifications for your specific requirements. We are able to provide care services for a wide range of needs including, complex healthcare, domiciliary care, care for older people, childcare for those with special needs, etc.
- 4.2. The process for you to obtain care is broadly as follows:
 - 4.2.1. Step 1: You will be asked to click upon the Service that most accurately reflects your requirements. We will then ask you for some contact information (including your name, contact telephone number, email address and home address).
 - 4.2.2. Step 2: You will then be asked to answer some further questions and based upon your response, either our Call Centre will contact you to discuss your requirements or you progress to step 3 on the Website.
 - 4.2.3. Step 3: You will be asked some further questions and will then be offered a selection of Carers who are available to provide the Service that you seek. You will then be able to select a Carer and proceed to payment options.
- 4.3. Our Service is tailored to your requirements and budget. We can offer a Prescriptive Care Service whereby you select the level of care you require or can afford and we provide the Carers to deliver that Service. We also offer our Commissioned Care Service which is a bespoke package of care to meet all of your needs.
- 4.4. Regardless of which level of Service you select, when delivering the service:
 - 4.4.1. We will treat you with dignity and respect, ensure your privacy and allow you as much autonomy, independence and involvement in your care as you wish, subject to the health, safety and welfare of our Carers. We will encourage you to manage your own care as much as practicable.
 - 4.4.2. We will seek your consent or, if you do not have sufficient capacity to provide consent, the consent of your relative or other authorised representative before giving any personal care to you. The care we provide will be appropriate and safe and will be provided by suitable Carers.
 - 4.4.3. We will take appropriate steps to prevent you from being abused or subject to improper treatment and we will respond promptly to allegations of abuse. We will deal with complaints in accordance with our complaints procedure.
 - 4.4.4. We will provide the Services to you with all reasonable skill and care and in accordance with all statutory and regulatory obligations upon us.

4.4.5. Our Carers shall be suitably trained, sufficiently skilled, experienced and competent to deliver the Service.

5. **Commissioned Care**

- 5.1. We will offer care which reflects your needs and preferences as set out in your Care Plan and, in particular:
- 5.1.1. we will visit you and your Home to discuss your care requirements before we commence the Service or, in emergency situations, at the earliest opportunity;
 - 5.1.2. we will work with you, your family and any appropriate external social or health care professionals to carry out an assessment of your needs and preferences for care and treatment which we will record in a Care Plan;
 - 5.1.3. where possible, we will enable and support you to be involved in decisions about the planning of your care;
 - 5.1.4. we will design our care and services with a view to ensuring your wellbeing;
 - 5.1.5. we will make reasonable adjustments, where required and possible, to meet your individual needs;
 - 5.1.6. we will ensure that we have suitable facilities to meet your needs and ensure your safety; and
 - 5.1.7. we will regularly assess the risks to your health and safety of receiving care and do all that is reasonably practicable to mitigate such risks.
- 5.2. You will inform us and keep us informed of all information which may be relevant to the Care Plan including, but not limited to, your likes, dislikes, allergies, and lifestyle preferences, physical and medical conditions, including any information provided by any medical professional. You will inform us of any change to your Home address. Following such change, we may carry out a further assessment of your needs.
- 5.3. If you are unable to express your preferences due to lack of capacity (in accordance with the provisions of the Mental Health Act 2005) we will discuss and agree your care and your Care Plan with a relative or other authorised representative and act in accordance with your best interests when making decisions on your behalf (which will be in accordance with your Care Plan).
- 5.4. We will formally review the Care Plan:
- 5.4.1. on at least a 12 monthly basis thereafter;
 - 5.4.2. at your reasonable request;
 - 5.4.3. when it is apparent to us that your circumstances have changed; and/or
 - 5.4.4. at any other time as we consider appropriate or desirable.
- 5.5. We will review the Care Plan with you, your family (if requested) and, where applicable, any other appropriate external social or health care professionals and take all reasonable steps to ensure you understand the Care Plan. Provided you have sufficient capacity to do so, you shall use your best endeavours to participate in the review of the Care Plan.
- 5.6. If your needs change or increase to a level which cannot be met by us, we will tell you without delay, and will endeavour to discuss alternative arrangements, and agree a mutually acceptable solution with you. We will continue to provide the Service to you during this period (unless we have given you notice to terminate and our Agreement has been terminated).

- 5.7. As part of your Care Plan, we will agree the frequency of our visits to you and, if applicable, the days and times at which the Services will be provided to you. If you require any change to such agreed times you will need to inform us before the Monday in the Week prior to the Week in which the change is required to take effect and, in the event that such change results in a change to our Fees, arrange for the updated Fees to be paid at the same time as you notify us of such changes.
- 5.8. As part of your care we may be able to offer additional services and support for which you may be charged an additional amount. If, following consultation with us, you would like to try any of our additional services we may require that you enter into a separate agreement for these.

6. Prescriptive Care

- 6.1. We provide Prescriptive Care in accordance with the level of service that you have either selected on the Website or agreed with our Call Centre and paid for.
- 6.2. We do not undertake any clinical assessment or prepare a Care Plan. We and our Carers rely entirely upon the information that you have provided when booking the Service. You must ensure that the information you give to us is true, accurate, current and complete with regard to the care required and the Service you are booking.
- 6.3. It is your responsibility to provide a safe working environment for our Carers including safe equipment where this is required. Our Carers are required to undertake their own risk assessments of your Home and any equipment they reasonably consider is necessary for the safe delivery of the Service. You understand that our Carer may refuse to continue providing the Services if in their reasonable opinion either you or they are being placed at risk of injury.
- 6.4. You agree that our Carer will not be requested to provide Services beyond those that have been requested when you made the booking. If your actual requirements do not match the care that you have booked, you understand that our Carers may refuse to continue providing the Services.
- 6.5. You accept that by reason of the ad hoc nature of Prescriptive Care, we cannot guarantee to be able to find a suitable Carer for each and every booking that you make.
- 6.6. You accept that where your preferred Carer is unable to attend that we may send a suitable replacement Carer or we may cancel your booking and refund the Fee.
- 6.7. If we are not able to provide the Service we may be able to assist you in finding another agency to deliver the Service. You will be responsible for the costs incurred with any other agency and you will need to reach agreement with such agency direct in respect of those costs.

7. Our Carers

- 7.1. All our Carers are either employed directly by us or are self-employed professional domiciliary carers or nurses.
- 7.2. We will exercise reasonable care and skill to meet your individual needs as set out in the Care Plan or your booking request and to provide suitably trained, sufficiently skilled, experienced and competent carers to provide the Service.
- 7.3. In the event that it is necessary for a Carer to attend your Home at a different time and/or day to that agreed, we will give you as much notice as possible.
- 7.4. We will endeavour to supply a named Carer approved by you each time we supply the Service to you. However, sickness, availability and unforeseen events may require us to supply an alternative Carer. We will endeavour to give you as much advance notice as circumstances allow.

- 7.5. If a Carer fails to attend your Home, or you are not satisfied with the standard of the Service, You must notify us by telephone or email without delay. This does not affect your right to make a complaint in accordance with our complaints procedure.
- 7.6. Our Carers are not permitted to carry out certain tasks, including the following tasks:
- 7.6.1. heavy lifting of any kind, including lifting or moving you without appropriate equipment or a sufficient number of people to assist;
 - 7.6.2. household maintenance (including DIY tasks);
 - 7.6.3. buying or recommending any over-the-counter preparations such as aspirins or cough medicines; and
 - 7.6.4. any other tasks which they are not allowed to carry out pursuant to any applicable laws, regulations or policies.
- 7.7. Our Carers are made aware that they will only assist you with medication when authorised to do so and agreed as part of the Care Plan. All medication should be made available in their original packages and dose boxes arranged by the pharmacist. Medication record sheets will be completed by our Carer.
- 7.8. The Carer (or any other person employed or engaged by us) is not permitted to accept any gifts or tips. Please do not leave any items or money to the Carer (or any other person employed or engaged by us) in your will.
- 7.9. For the health and safety of our Carers, they are not permitted to deliver the Service if you or someone else is smoking or has been smoking in the area where the Service is to be delivered, until such time as our Carers (in their absolute discretion) consider it is safe for them to do so.

8. **Your Home as a workplace**

- 8.1. You will allow us access to your Home to provide the Services and provide a safe environment and appropriate equipment to allow the Carer to carry out the Service. This shall include:
- 8.1.1. maintaining a generally clean and safe home free of risks and hazards;
 - 8.1.2. maintaining a safe route of access to and from your Home;
 - 8.1.3. providing any equipment supplied by you, or a Third Party, that is required to deliver your care such as lifting and transfer aids, wheelchairs and other mobility aids;
 - 8.1.4. providing all domestic cleaning equipment such as vacuum cleaners, mops, irons etc.;
 - 8.1.5. informing us of any communicable diseases in the household; and
 - 8.1.6. ensuring that any equipment supplied by you, or any other party, that is required to deliver your care is regularly maintained and inspected in accordance with all relevant safety requirements.
- 8.2. We are required to ensure that your Home and equipment is safe to use for the provision of the Service. We will notify you if we find that your Home or equipment is not safe and, where possible, assist you with making any necessary changes.
- 8.3. An entry plan for your Home may be agreed with you, your relative or your authorised representative and if so will appear in the Care Plan.
- 8.4. Your telephone must not be used by our Carer except for the following reasons:
- 8.4.1. you or they have a medical emergency; or
 - 8.4.2. they have been given permission by you,

- 8.5. We will not under any circumstances be responsible for payment of your telephone bills.
- 8.6. In order to comply with the requirements of our statutory Regulator or to monitor the quality of the Service, it may be necessary, from time to time, for a member of our staff to observe, supervise, or work with the Carer in your Home. We will give you as much notice as possible if any person other than the Carer is to attend your Home and you will use your best endeavours to co-operate with us in respect of this.

9. **Live-in Carers**

- 9.1. Legally, Live-in Carers have various rights which include (without limitation) the following:
- 9.1.1. provision of a separate bedroom for them with suitable bathing and toilet facilities which are clean and in a good state of repair; and
 - 9.1.2. a minimum 2 hours break per day. This time off must be within daylight hours. If agreed at the time of assessment some of these hours may be banked to provide longer periods of time off on fewer days, but the minimum provision must be 14 hours over a 7 day week; and
 - 9.1.3. provision of ample food and clean bedding as well as adequate cleaning materials and protective clothing to carry out the Service properly.
- 9.2. We will discuss these requirements with you in detail and record these in your Care Plan.
- 9.3. If you are unhappy remaining alone for any period during which the Live-in Carer has their break then we will be happy to discuss alternative arrangements as part of your Care Plan.

10. **Fees**

- 10.1. Fees will be agreed with you prior to the delivery of the Service.
- 10.2. The Fees for our Prescriptive Care Service will be identified on our Website or by our Call Centre at the time of booking and you will be required to make payment of the Fee in order to complete the booking.
- 10.3. The Fee in respect of our Commissioned Care Service will be calculated based upon your needs and the level of care required in accordance with your Care Plan.
- 10.4. Where your care is funded by a Third Party, we may provide an initial estimated cost to deliver the Commissioned Care Service based upon their assessment of your needs. The estimate that we provide will detail average charges for different levels of Carer and for different shift patterns. This estimate is intended as a guide to the likely cost of the Commissioned Care Service. The estimate will be valid for 30 days. After we have met with you and undertaken our own clinical assessment of your needs any change to our initial estimate will be notified to you and/or the Third Party.
- 10.5. We reserve the right to charge you an initial one-off assessment fee for our time and expertise in assessing your needs and the appropriate Commissioned Care Service and preparing a Care Plan to meet those needs.
- 10.6. We reserve the right to charge a deposit in respect of the Fees if we consider (in our absolute discretion) it necessary. You shall only be entitled to a refund of the deposit if this Agreement is terminated in accordance with the provisions for termination in these Terms and Conditions and all Fees and Expenses are paid. You shall not be entitled to any interest on the refunded deposit.
- 10.7. The actual Fees that you will be required to pay, will be determined by:
- 10.7.1. the hours worked; and
 - 10.7.2. the shifts worked; and

- 10.7.3. the grade of Carer deployed; and
- 10.7.4. the mix of duties between different grades of Carer.
- 10.8. Unless we have agreed otherwise with you:
- 10.8.1. the minimum shift period for our Commissioned Care Service is 8 hours and our minimum Fee per shift will be based upon 8 hours, regardless of whether our Carer is requested to work a shorter shift;
- 10.8.2. the minimum shift period for our Prescriptive Care Service is 8 hours and our minimum Fee will be based upon 8 hours, regardless of whether our Carer is requested to work a shorter period.
- 10.9. In addition to the Fee, you will pay an amount equal to the amount of any Employers National Insurance contributions to be paid by us.
- 10.10. If you are in receipt of direct payments, a personal budget or a personal health budget, our Fees for providing the Service may be more than the funding you receive from your local authority or NHS Trust. In the event that there is a shortfall between our Fees and the money you receive from your direct payments, personal budget or personal health budget, it is your responsibility to meet these additional costs. We have no influence over the money you receive from any other body in respect of your care needs.
- 10.11. A signed time sheet will be deemed conclusive evidence that we are entitled to be paid for the hours worked as set out in that time sheet.
- 10.12. We will charge for and you will be liable for all Expenses. Travel costs will be charged at a rate of 25p per mile or for the actual cost of public transport. We will only use a taxi service if this is unavoidable due to specific circumstances, such as inclement weather to enable our Carers to deliver the Service. Where possible, we will seek your agreement to any travel costs which are not of a routine nature. If appropriate, we may be able to agree a cap on travel costs that we will not exceed without your authority.
- 10.13. All Fees and Expenses are stated exclusive of VAT or any other applicable tax. If VAT or any other applicable tax is properly chargeable on Fees and/or Expenses, then it shall be charged at the prevailing rate in force from time to time.
- 10.14. If for whatever reason (including staff shortages), we are not able to deliver the Service we shall notify you and/or the Third Party and provide you and/or the Third Party with an estimate of agency costs to cover those shifts that we are not able to cover. We will only book agency staff if you and/or the Third Party authorise us to do so and provide us with an authorisation code for payment.
- 10.15. We will be entitled to review and increase our Fees for the Commissioned Care Service on an annual basis and at any other interval if:
- 10.15.1. there is a change to the Service; and/or
- 10.15.2. the cost of providing the service increases; and/or
- 10.15.3. a change is necessary in order to comply with any applicable safety, regulatory or statutory requirements.
- 10.16. Unless the increase in our Fees is because of a change to the Commissioned Care Service, we will give you at least 4 weeks' notice of any increase in our Fees.
- 10.17. If you do not agree to our increased Fees and if we are not able to reach an agreement on the Fees for delivering the Commissioned Care Service, you or we may terminate this Agreement in accordance with the provisions for termination in these Terms and Conditions.

- 10.18. Unless we have agreed with you otherwise, we will deliver the Commissioned Care Service during periods when you are in hospital. If for whatever reason, we do not deliver the Service whilst you are in hospital, you will pay us our normal Fees based upon our Rota for that period.
- 10.19. If we are required to supply a Specialist Nurse, either at your request, or based upon a clinical assessment, our Fees will be higher. We will provide you with an estimate for this and ask you to agree our estimate beforehand.
- 10.20. If we provide the Service on a Bank Holiday or other public holiday our Fee will be 175% higher than our normal Sunday charge rate.
- 10.21. We will be entitled to charge our normal Fees when our Carers are booked on a Rota to provide the Service and the shift is cancelled by you.
- 10.22. We will be entitled to charge our normal Fees, based upon our Rota for that period, during any period of suspension of the Service in accordance with these Terms and Conditions.

11. **Invoices**

- 11.1. We will invoice you on a bi-weekly or monthly basis for the Commissioned Care Service. Our invoices are payable within 14 days, unless we have agreed otherwise.
- 11.2. Where more than one person or body is responsible for payment of our Fees, you agree that each such person or body shall be jointly and severally liable for payment of our full Fees and Expenses, regardless of who has been invoiced by us or any apportionment of Fees and Expenses in our invoice.
- 11.3. Invoices will include Expenses and Employers National Insurance Contributions.
- 11.4. Our Fees will be in accordance with our latest estimate, quote or any increase that we have notified you about.
- 11.5. In respect of Expenses, we will only charge for actual expenses incurred. We do not add any cost to this.
- 11.6. We may engage the services of a debt factoring company to collect the Fees and Expenses on our behalf.
- 11.7. We reserve the right, in the event that you have failed to pay an invoice we have raised, within 14 days of the date upon which it was raised, to;
- 11.7.1. suspend the delivery of the Service until payment has been made in full; and/or
 - 11.7.2. set off any amount owing to us against any deposit we hold; and/or
 - 11.7.3. charge interest from the date for payment of the invoice at the annual rate of 8% above the Bank of England base rate, on a daily basis and being compounded monthly until payment is made; and/or;
 - 11.7.4. charge an administration fee equivalent to 3% of the total value of the outstanding amount each full or part month that the invoice remains outstanding and being compounded monthly until payment is made; and/or
 - 11.7.5. add to the debt, any costs that we reasonably incur in recovering payment from you, including but without limitation, legal costs.
- 11.8. When making a payment, you will quote relevant reference numbers and the invoice number.

12. **Holiday cover**

- 12.1. Where our Carers are required to deliver the Service in locations other than your Home or other normal place of work, in addition to our normal charges, you will pay us the cost of travel, accommodation and subsistence,

associated with this. We will contact you before we incur this expenditure to inform you of the estimated costs and seek your agreement to this.

12.2. If you decline to incur the cost of us providing the Service whilst you are on holiday or otherwise away from your Home and we are unable to deliver the Service, you will still pay us our normal Fees based upon our Rota for that period.

13. **Communication**

13.1. We will operate a 24 hour telephone helpline through our Call Centre. This line can be used in relation to booking Carers, credit card payments and problems such as: your care needs changing, or your carer not arriving as expected. For the avoidance of doubt, this telephone number should not be used for medical or other emergencies.

14. **Safeguarding**

14.1. We shall ensure that all potential Carers or persons performing any of the Services who may reasonably be expected in the course of performing any of the Services to have access to or come into contact with children or other vulnerable persons and/or have access to or come into contact with persons receiving health care services:

14.1.1. are questioned concerning their convictions; and

14.1.2. obtain appropriate disclosures from the Disclosure and Barring Service (or other appropriate body) as required by law.

14.2. We shall take all necessary steps to ensure that such potential Carers or persons obtain standard and enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) and shall ensure all such disclosures are kept up to date.

14.3. We shall ensure that no person is employed or otherwise engaged in the provision of the Services without your prior written consent if:

14.3.1. the person has disclosed any convictions upon being questioned about their convictions;

14.3.2. the person is found to have any convictions following receipt of standard and/or enhanced disclosures from the Disclosure and Barring Service (or other appropriate body); or

14.3.3. the person fails to obtain standard and/or enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) upon request by us.

14.4. In addition, where the Services are or include regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 we:

14.4.1. warrant that it shall comply with all requirements placed on us by the Safeguarding Vulnerable Groups Act 2006;

14.4.2. warrant that at all times we have no reason to believe that any Carer is barred in accordance with the Safeguarding Vulnerable Groups Act 2006; and

14.4.3. shall ensure that no person is employed or otherwise engaged in the provision of the Services if that person is barred from carrying out, or whose previous conduct or records indicate that they would not be suitable to carry out, any regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 or who may present a risk to you.

14.5. We shall ensure that you are kept advised at all times of any Carer who, subsequent to their commencement of employment by us receives a conviction or whose previous convictions become known to us or whose conduct or records indicate that they are not suitable to carry out any regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 or may present a risk to patients, service users or any other person. We shall only be entitled to continue to engage or employ such Carer with your written consent and with such safeguards being put in place as you may reasonably request. Should you withhold consent we shall remove such Carer from the provision of the Services forthwith.

15. **Your obligations**

15.1. You shall:

15.1.1. pay us for the provision of the Services in accordance with the Agreement and our invoices; and

15.1.2. provide copies of or give us access to, any policies that are relevant to the provision of the Services; and

15.1.3. take all appropriate and necessary steps to ensure that the clinical assessment of your needs is kept up to date and that the Care Plan adequately reflects your assessed needs; and

15.1.4. keep us informed in a timely manner of all information which may be relevant to the Care Plan and the Service; and

15.1.5. ensure that any appropriate equipment or protective clothing required to deliver the Service, shall be provided as necessary; and

15.1.6. at all times act reasonably in your conduct with us, including responding in a timely manner to reasonable requests from us; and

15.1.7. at all times treat our Carers with dignity and respect and provide a safe environment for them to work so as not to subject them or allow them to be subjected to any sexual or racial harassment, excessive alcohol consumption or any other unreasonable or illegal behaviour or requests.

16. **Insurance**

16.1. We shall maintain in force at our own cost with a reputable commercial insurer an insurance policy in respect of public liability and professional indemnity at the minimum level as required by the then-current applicable laws or such other sum as our insurance brokers advise us is suitable for our requirements.

16.2. We require self-employed Carers to hold sufficient liability insurance policy at the minimum level as required by the then-current applicable laws or as directed by us.

16.3. You will ensure that, at all times during which the Services are being provided:

16.3.1. you have in place suitable building and contents insurance to cover accidental damage to your Home or its contents; and

16.3.2. where the Services include our Carer driving your motor vehicle that you have suitable motor insurance to cover damage caused by the use of the motor vehicle by the Carer to passengers, your vehicle and / or third parties or their property.

17. **Limitation of liability**

17.1. We are responsible for loss or damage that is a foreseeable result of our breach of this Agreement or us failing to use reasonable care and skill, but we are not responsible for any loss or damage which is not foreseeable.

Loss or damage is foreseeable if it is an obvious consequence of our breach or if it was contemplated by you and us at the time we entered into this Agreement.

17.2. Our total liability (including liability for costs and expenses in pursuing a claim) shall be limited to the level of insurance cover that we have in respect of any such claim made.

17.3. We do not exclude or restrict liability:

17.3.1. for death or personal injury resulting from our negligence; and/or

17.3.2. for fraud or fraudulent misrepresentation; and/or

17.3.3. in any other circumstances where liability may not be limited or excluded under any applicable law.

17.4. You shall have no right to claim losses, damages and/or other costs and expenses under or in connection with our Agreement whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any losses, damages and/or other costs and expenses claimed are in respect of:

17.4.1. extra costs incurred purchasing replacement or alternative Services; and/or

17.4.2. costs associated with advising, screening, testing, treating, retreating or otherwise receiving healthcare; and/or

17.4.3. the costs of extra management time; and/or

17.4.4. losses, costs, damages, claims or expenses in connection with the dishonesty of our Carers; and/or

17.4.5. indirect loss of any nature suffered or alleged; and/or

17.4.6. the action or failure of action by a Carer who is acting in a self-employed capacity and has relevant insurance cover in place.

17.5. You shall at all times take all reasonable steps to minimise and mitigate any loss for which you are entitled to bring a claim against us.

18. **Indemnity**

18.1. Where a claim is made against us and the circumstances giving rise to the claim or proceedings have been:

18.1.1. caused by any act or omission by, or on behalf of, or in accordance with the instructions of, the Client or the Third Party; and/or

18.1.2. caused by the Third Party or the Client failing to heed or adopt recommendations made to them, by us, in clinical assessments or otherwise;

you and/or the Third Party shall indemnify us and keep us indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings.

19. **Term and termination**

19.1. The Term for our Commissioned Care Service shall be an initial fixed period of 12 months from the Service Commencement Date.

19.2. The Term shall automatically be extended for a further fixed term of 12 months on the Agreement Renewal Date, unless you give us written notice of termination not less than 3 months prior to the Agreement Renewal Date or the Agreement has otherwise been terminated in accordance with these Terms and Conditions.

- 19.3. We reserve the right to suspend the provision of the Service with immediate effect in circumstances which, in our reasonable opinion, make the continued provision of the Service untenable. Such circumstances would include (but would not be limited to):
- 19.3.1. any failure by you to pay (or persistent late payment of) our invoices; and/or
 - 19.3.2. failure by you, or someone else to provide a safe working environment or appropriate equipment; and/or
 - 19.3.3. any form of verbal or physical abuse or harassment of our staff whilst delivering the Service; and/or
 - 19.3.4. unreasonable behaviour or requests that our Carer undertake unreasonable or illegal activities.
- 19.4. We may terminate the Agreement by 28 days' notice to you in writing, if:
- 19.4.1. you commit a material breach of the Agreement and fail to remedy this within 28 days of being given written notice to do so; and/or
 - 19.4.2. you fail to pay our Fees within the terms of the Agreement; and/or
 - 19.4.3. you fail to act on any risk or clinical assessment that in our reasonable opinion thereby puts the Client or our Carer in immediate danger; and/or
 - 19.4.4. you fail to take action to remedy any suspension event within a reasonable period of time which, in our reasonable opinion, make the continued provision of the Service untenable; and/or
 - 19.4.5. you and we are unable to reach an agreement on an increase in the Fees to deliver the Service and we are not prepared or able to continue delivering the Service for the current Fees.
- 19.5. You may terminate this Agreement by 28 days' notice in writing to us if:
- 19.5.1. we commit a material breach of the Agreement and fail to remedy this within 28 days of being given written notice to do so; or
 - 19.5.2. we convene a meeting of creditors or pass a resolution for winding up; or
 - 19.5.3. we and you are unable to reach an agreement on an increase in the Fees to deliver the Service and we are not prepared or able to continue delivering the Service for the current Fees.
- 19.6. Upon, suspension, expiry or early termination, you agree to pay us for the Services in accordance with the Agreement.
- 19.7. The suspension, expiry or earlier termination of the Agreement, for whatever reason, shall not affect any rights or obligations which accrued prior to such expiry or earlier termination.
- 19.8. The suspension, expiry or earlier termination of the Agreement shall not affect any obligations which expressly or by implication are intended to come into or continue in force on or after such suspension, expiry or earlier termination.
20. **Complaints**
- 20.1. We have in place and operate a complaints procedure which complies with the requirements of Regulation 19 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and Outcome 17: Complaints of the Care Quality Commission's Essential Standards of Quality and Safety.
- 20.2. We will provide you with a copy of our Complaints policy and procedure if you request this.

20.3. You shall inform us of complaints arising out of or in connection with the provision of the Services within 24 hours of the circumstances giving rise to that complaint occurring and shall keep us updated with any further issues arising.

21. **Confidentiality, publicity and privacy**

21.1. Where in the delivery of the Service, we or our Call Centre receive information which is confidential to you, we will endeavour to keep such information confidential and not disclose it to anyone without your consent, unless we believe that such disclosure is in your best interest.

21.2. You do consent to that disclosure:

21.2.1. in the proper delivery of the Service including to our Carers;

21.2.2. on a confidential basis to our auditors who make random checks of files;

21.2.3. to our insurers;

21.2.4. if required by our professional regulators or by law, such as a court order;

21.2.5. on a confidential basis to any external provider of administration services, including our Call Centre.

21.3. You agree that we may disclose sensitive personal data about our Carers and that such information is strictly confidential. You also agree that you will not disclose, either directly or indirectly, such information to any other person, company or firm for any reason unless such disclosure is required by law or our statutory regulator.

21.4. We and you agree not to issue any publicity material or information to the media about our relationship and the work we are doing without the other's consent, save where the information is already in the public domain.

21.5. We routinely use email to communicate, and whilst we have normal levels of security in place, you accept the risk that email communications may not be secure.

21.6. We comply with the law on data protection. For the purposes of our business we store and process information about you. We are able, in most circumstances, to supply you on request with copies of the information that we have about you. For example our Carer shall keep a daily record of the care you receive, any assistance with your medication and any other significant information.

21.7. We use the information you provide primarily for the provision of the Services and for related purposes including:

21.7.1. updating and enhancing Client records;

21.7.2. analysis to help us manage our business;

21.7.3. marketing;

21.7.4. statutory returns;

21.7.5. legal and regulatory compliance.

21.8. Our use of that information is subject to your instructions, our regulatory obligations, the Data Protection Act 1998, our duty of confidentiality and our Privacy Policy. Please note that in the provision of the Services, we may be required to give information to third parties and other professional advisers.

22. **Restraints**

- 22.1. You undertake that you will not (without our prior written consent) during the term of our Agreement and for the period of 12 months immediately following the last date upon which we delivered the Service under the terms of the Agreement:
- 22.1.1. interfere with, solicit, canvass or entice away (or endeavour to interfere with, solicit, canvass or entice away) any of our Carers who we introduced to you and/or the Client and who during the period of 12 months immediately preceding the termination date, were involved in the delivery of the Service to you and/or the Client; and/or
 - 22.1.2. will not contract with any third party in respect of the Service, where you have been given notice by us or are otherwise aware, that the third party has solicited our Carers in breach of the Agreement; and/or
 - 22.1.3. employ, engage or otherwise allow to work for you (as an independent contractor or through a third party or on any other basis), or offer to employ, engage or otherwise allowed to work for you, in any way any Carer who has been introduced to you by us, whether to perform the Service or for any other reason, other than via the Website and in accordance with these Terms and Conditions.
- 22.2. Any direct engagement by you or any third party of our Carers in breach of these Terms and Conditions shall render you liable to pay us a placement fee in respect of each Carer so engaged. The placement fee shall be calculated at 20% plus VAT of the actual gross annual earnings during the preceding 12 month period, of each individual Carer so engaged.

23. **General**

- 23.1. *Intellectual property:* We own the intellectual property rights in any work, document or other process we or our Carers create during the term of this Agreement.
- 23.2. *Equality and diversity:* We aim to be excellent in promoting equality and valuing diversity in the way we deliver our services and manage our Carers. We strive to be inclusive through respecting one another, promoting and achieving equality of opportunity, valuing diversity, and providing an accessible, responsive service to you. We operate an equal opportunities policy and make no discrimination on the basis of age, race, religion or belief, gender, gender reassignment, pregnancy and maternity status, sexual orientation, marital status or disability.
- 23.3. *Events outside our control:* We will not be liable or responsible for any failure to perform or delay in performance of any of our obligations for any reason outside of our reasonable control. For example, in some cases the carer may attend at other times than agreed due to emergency situations or disruption due to severe weather (and in which case, we will contact you to confirm alternative arrangements).
- You will not be liable or responsible for any failure to perform or delay in performance of any of your obligations for any reason beyond your reasonable control.
- 23.4. *Variations:* We may vary the Agreement and these Terms and Conditions in writing by giving you at least 7 days' notice. If you do not agree to the variation you may terminate this Agreement in accordance with the provisions for termination within these Terms and Conditions.
- 23.5. *Assignments:* We may transfer, assign, charge or deal in any other manner with all or any of our rights under this Agreement or may sub-contract any or all of our obligations under it. We will contact you to let you know if we plan to do this. If you are unhappy with such transfer, you may give us notice to end our Agreement in accordance with the provisions for termination within these Terms and Conditions. You may only transfer your rights and/or your obligations under the Agreement to someone else if we agree to this in writing.

- 23.6. *Entire agreement*: This Agreement contains the whole agreement between us and supersedes and replaces any prior written or oral agreements, representations or understandings between us relating to the subject matter of this Agreement. You confirm that you have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this Agreement excludes liability for fraud.
- 23.7. *Waiver*: No failure or delay by us in exercising any right, power or privilege under this Agreement will impair the same or operate as a waiver of the same nor will any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- 23.8. *Company, partnerships, etc.*: This Agreement will not constitute or imply any partnership, joint venture, company, fiduciary relationship or other relationship between us other than the relationship expressly provided for in this Agreement. Neither of us will have, nor represent that it has, any authority to make any commitments on the other's behalf.
- 23.9. *Severance*: If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision will, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and will not in any way affect any other circumstances of or the validity or enforcement of this Agreement.
- 23.10. *Announcements*: You will not issue or make any public announcement or disclose any information regarding this Agreement unless before such public announcement or disclosure, you furnish us with a copy of such announcement or information and obtain our approval of its terms. You will not be prohibited from issuing or making any such public announcement or disclosing such information if it is necessary to do so to comply with any applicable law or the regulations of a recognised stock exchange.
- 23.11. *Notices*: Any notice to be given by you under this Agreement must be in writing and sent by first class mail to the registered office and to our current trading address. Any notice to be given by us under this Agreement must be in writing and sent by first-class mail to your Home.
- 23.12. *Law and jurisdiction*: The validity, construction and performance of this Agreement is governed by English law and will be subject to the exclusive jurisdiction of the English courts to which the parties submit.
- 23.13. *Third parties*: For the purposes of the Agreements (Rights of Third Parties) Act 1999 and notwithstanding any other provision of this Agreement, this Agreement is not intended to, and does not give any person who is not a party to it, any right to enforce any of its provisions.