



Florence

Terms of Business

Information and Explanatory Notes:

Office hours are 09:00 to 17.30 hrs Monday to Friday. Outside office hours there is an emergency out of hours service. Calls to the main office numbers will reach a member of the on call team.

These Terms of Business are deemed to have been accepted by any person, organisation or company (Client) committing to purchase the services of the Provider.

1. Definitions and Interpretation

1.1 Definitions:

Agreement: has the meaning given to it in clause 2.1. **Authorised Representative:** the person other than the Client who has legal authority to represent the Client for the purposes of the Agreement, as identified in the Individual Service Agreement.

Care Worker: the individual supplied by the Provider to perform the Services on behalf of the Provider. Care Workers are employed by the Provider and not the Client.

Client: the person identified as such in the Individual Service Agreement, being the recipient of the Services.

Complaints Policy: the document setting out the Provider's complaints procedures, as appended to the Agreement, or as otherwise provided to the Client (or its Authorised Representative).

Consent to Care: the document setting out the initial assessment of the Client's care requirements and used to determine the Services to be provided. **Force Majeure**

Event: an event, circumstance or cause outside the reasonable control of the Provider, including any act of God, war, strike, civil commotion, fire, flood, pandemic or sudden ill health, injury (or other event) rendering a Care Worker unable to work. **Individual Service Agreement:** the document describing the Services, as agreed between the Provider and the Client (or the Client's Authorised Representative), and which incorporates these Terms of Business.

Live-In Care: where the Services are delivered by a Care Worker, who lives with the Client in the Client's home or place of residence.

Live-Out Care: where the Services are delivered by a Care Worker, who does not live with the Client in the Client's home or place of residence.

Needs Assessment: the document agreed between the Provider and the Client (or the Client's Authorised Representative) setting out the Client's specific care needs how they are to be supported.

Provider: the provider of the Services, being any of 'Florence Community Care' or 'Florence Staffing Ltd', whichever such entity is identified in the Individual Service Agreement.

Rota: the schedule agreed between the Provider and the Client (or the Client's Authorised Representative) setting out the dates and times for delivery of the Services, and the Care Worker(s) scheduled to deliver the same on behalf of the Provider.

Services: the package of care (comprising either Live-In Care or Live-Out Care) to be provided by the Provider to the Client as described in the Individual Service Agreement.

Shift: an individual shift as set out in the Rota.



1.2 Interpretation:

(a) Any reference to a party includes its personal representatives, successors and permitted assigns. (b) any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms. (c) Clause headings shall not affect the interpretation of the Agreement.

(d) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

2. Basis of Agreement

2.1 The Agreement (Agreement) is a binding contract between the Provider and the Client comprising: (a) the Individual Service Agreement;

(b) these Terms of Business;

(c) the Needs Assessment;

(d) the Rota; and

(e) the Consent to Care;

2.2 The Client Guide and the Complaints Policy set out additional information about the Services and the Provider's complaints procedures. These are policy documents (as opposed to contractual documents) and the Provider reserves the right to update these from time to time.

2.3 The Agreement relates to the provision, and overall management, of the Services (rather than the provision of a specific individual Care Workers).

2.4 The terms of the Agreement override any previous negotiations or agreement between the Provider and the Client (or the Client's Authorised Representative) in relation to the supply of the Services.

2.5 A variation of this Agreement (or any part of it) is binding only if agreed between the Client (or its Authorised Representative) and the Provider in writing.

3. Fees

3.1 The Fees payable by the Client are set out in, and/or are otherwise calculated by reference to the daily, hourly or weekly rates and/or other charges set out in, the Individual Service Agreement, but subject to any increases in the Fees effected from time to time in accordance with clause 3.2 and/or clause 5. Bank Holidays are charged at double the usual daily rate.

3.2 The Provider:

(a) is entitled to review and increase its Fees annually, following which the Provider shall give the Client (or its Authorised Representative) not less than 28 days written notice of any increase in the Fees, such increase to take effect on the expiry of such notice; and/or

(b) is entitled to review and increase the Fees from time to time to reflect any increase in the cost of providing the Services (other than as a result of any agreed changes to the Services in accordance with clause 5), for the purposes of which, the Provider shall give the Client (or its Authorised Representative) not less than 28 days written notice of any increase in the Fees, such increase to take effect on the expiry of such notice.

3.3 All Fees for scheduled Shifts shall remain payable (including during any termination notice period) except to the extent that any term of the Agreement provides otherwise.

3.4 All expenses for Care Workers accompanying the Client on holidays, days out or short trips out will be paid for by the Client. If the Care Worker pays any such expenses, the Client shall reimburse the Care Worker directly.

4. Authorised Representatives

4.1 If the Client is represented by an Authorised Representative for the purposes of the Agreement, the Client and the Authorised Representative (if the Authorised Representative has entered into the Agreement on behalf of the Client) hereby confirms that the Authorised Representative is authorised to enter into the Agreement on behalf of the Client and in the Client's name, and to bind the Client contractually, and to give and accept instructions on behalf of the Client, and to otherwise represent the Client for all purposes arising out of or in connection with the Agreement (including giving and/or receiving notices and other communications), and making or arranging payment on behalf of the Client.

5. Changes to Services

5.1 If any changes are required from time to time to the scope of the Services, such changes shall not be binding unless such changes (together with any changes to the Fees) are agreed in writing between the Provider and the Client (or the Client's Authorised Representative), and if so agreed, shall come into effect from the date agreed for such purposes (or immediately if no such date is agreed).

6. Payment

6.1 The Client must make full payment for the Services as invoiced by the Provider no later than 30 days following the date of the invoice.

6.2 If full payment is made on or before the 30th day after the date of invoice, no interest shall be charged. If full payment is not made within that period, interest shall accrue, and shall be payable, from the due date on the outstanding balance at the rate of 5% per annum above the Bank of England base rate from time to time, until payment in full is received.

6.3 The Client is not entitled to withhold payment of any invoice by reason of any right of set off or claim or dispute with the Provider, whether relating to the quality of the Services or otherwise.

6.4 The Provider has the right to suspend the performance of its obligations under the Agreement if the Client fails to make a payment in accordance with this clause 6. The Provider will notify the Client (or the Client's Authorised Representative) prior to any suspension.

6.5 If the Client, at any time during the Agreement, or within one year after the Agreement terminates, takes on a Care Worker provided by the Provider to the Client, the Client agrees to pay the Provider a Finder's Fee equal to 28 days care (at the applicable rate).



7. Performance

7.1 The Rota sets out the dates and times for scheduled Shifts. Dates and times indicated for the provision of the Services are given in good faith, but time shall not be of the essence, and late performance shall not entitle the Client (or its Authorised Representative) to terminate the Agreement.

7.2 If, for any reason the assigned Care Worker is not able to deliver the Services on behalf of the Provider, the Provider will notify the Client as soon as reasonably practicable to arrange a replacement Care Worker. 7.3 The Provider will endeavour to ensure the suitability of Care Workers provided to the Client. Whilst the Client's specific preferences will be taken into account, the Provider cannot discriminate on the grounds of age, gender, religion or nationality unless the role is defined as an exception in the Equality Act 2010 or in the Equality and Humans Rights Commission Employment Statutory Code of Practice guidance. 7.4 The Provider will use reasonable endeavours to provide appropriate cover if any Care Worker is unable through injury, ill health or other cause, to provide the Services on behalf of the Provider.

7.5 If the Client (or its Authorised Representative) notifies the Provider that it wishes to change a Care Worker for a scheduled Shift already scheduled on the Rota, the Provider will endeavour to resolve any difficulties between Client and the Care Worker, but if this is not possible, then the Provider may provide a replacement Care Worker, provided that it shall only be obliged to do so on the grounds of misconduct by the existing Care Worker, or if that Care Worker has put the Provider in serious breach of the Agreement.

7.6 The Provider reserves the right to charge the Client for travel expenses incurred in providing a replacement Care Worker if the Client (or its Authorised Representative) requested a change and the Provider provided a replacement without having any obligation to do so under clause 7.5.

7.7 All shifts cancelled without 48 hours notice will be charged. The Provider will work with the client to reschedule the allocation of hours when and if possible

7.8 If a Client cancels a Shift or amends the Care Rota without informing the Provider resulting in the scheduled Staff turning up for the shift, full charge for the Shift plus any travel will be charged.

8. Limitation of Liability

8.1 Nothing in the Agreement limits or excludes any liability which cannot legally be limited, including (without limitation) liability for: (a) death or personal injury caused by negligence; or (b) fraud or fraudulent misrepresentation;

8.2 Subject to clauses 8.2, 8.3 and 8.5, the Provider will indemnify the Client against: (a) personal injury or death wholly and directly attributable to the negligence of the Provider; and (b) loss or liability incurred by the Client and wholly and directly attributable to the negligence of the Provider.

8.3 Subject to clauses 8.1 and 8.4, The Provider's total liability to the Client:

(a) under the indemnities set out in clause 8.2 shall not exceed £10,000,000 in respect of any single claim; (b) to the extent that such liabilities fall outside the scope of the indemnities in clause 8.2 (as capped by clause 8.3(a)), shall not exceed the total Fees paid under the Agreement.

8.4 Subject to clause 8.1, the Provider shall not be liable for any indirect, economic, or consequential losses (howsoever arising) incurred by the Client under or in connection with the supply of the Services, or otherwise under this Agreement.

8.5 The Care Worker is not permitted to travel outside of the United Kingdom for or in connection with the Services. If the Client wishes to travel overseas then it will be responsible for making its own travel care arrangements.

9. Termination of Agreement

9.1 The Provider may terminate the Agreement with immediate effect, by giving written notice to the Client (or its Authorised Representative), if:

(a) the Client fails to make any payment required of it, by the due date for payment specific in clause 6.1; or

(b) a distress or execution is levied against the Client's assets and is not paid or discharged within 7 days; or (c) a receiver is appointed with respect to any of the Client's assets;

(d) a petition is presented for winding-up of or for an administration order to be made in relation to the Client;

(e) the Client becomes bankrupt or makes an arrangement with his or her creditors;

(f) if the Client has acted unreasonably (e.g. racial or sexual harassment or mistreatment of a Care Worker); (g) if the Client has acted unlawfully (e.g. drink driving, drug use, or other criminal acts);

(h) if the Client demonstrates they are unable to direct the Care Worker safely;

(i) if the actions of the Client have put, or have the potential to put, themselves or a Care Worker at risk;

9.2 Without prejudice to any separate right to cancel under clause 17.1, the Client or the Provider may terminate the Agreement by giving to the other, not less than 28 days written notice.

9.3 If the Client fails to give the Provider the agreed notice of termination specified in clause 9.2, the Client shall be liable to pay the same Fees as would have been due had the proper notice to terminate been given, provided that this clause 9.3 shall not apply to cancellations under clause 17.1.

9.4 On termination of the Agreement for any reason: (a) the Provider is immediately discharged from any further liability to perform under the Agreement; and

(b) the Client must pay the Provider on demand for all Services performed prior to termination;

(c) the Provider is entitled to collect and retain all care records provided or created by or on behalf of the Provider.

10. General

10.1 This Agreement and any claim or dispute arising in connection with it, shall be governed by, and construed in accordance with, the Laws of English and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation.

10.2 If any provision of the Agreement becomes illegal or void for any reason, the validity of the remaining provisions shall not be affected.



11. Exceptional circumstances

11.1 The Provider undertakes to use all reasonable endeavours to provide the Services in the event of a Force Majeure Event.

11.2 If the Provider is not able to supply the Services in accordance with the terms of the Agreement due to a Force Majeure Event:

- (a) the Provider will notify the Client as soon as is reasonably possible;
- (b) the Provider's duty to perform the Services shall be suspended for as long as the Force Majeure Event continues;
- (c) the Provider shall make a reasonable abatement in the Provider's Fee to reflect any non supply of Services during the Force Majeure Event (except to the extent that the Provider's ability to provide the Services is due partly or wholly due to the fault of the Client or its Authorised Representative);
- (d) the Provider shall not be in breach of the Agreement or otherwise liable for any failure or delay in the performance of its obligations due to a Force Majeure Event.

11.3 If a Force Majeure Event continues for more than two weeks, the Client may terminate the Agreement with immediate effect by giving written notice to the Provider.

12. Duration

12.1 The Agreement shall commence when the Individual Service Agreement is signed by both parties, and shall continue until it is terminated in accordance with the Agreement.

13. Data Protection

13.1 For the purposes of the Consent to Care, the Client (and/or its Authorised Representative) was provided with a copy of the Provider's Privacy Policy and its Data Protection Consent Form. The Provider's Privacy Policy and its Data Protection Consent Form (as signed by the Client or by its Authorised Representative) also form the basis upon which the Provider will process the Client's personal data for or in connection with the Agreement. Please refer to the Provider's Privacy Policy for details as to how the Provider will process the Client's personal data.

14. Complaints Policy

If the Client (or its Authorised Representative) has any concern or complaint concerning the Services or a Care Worker, the Client (or its Authorised Representative) should follow the procedures in the Complaints Policy. All verbal complaints must be followed up in writing. Complaints will be handled in line with the Provider's Complaints Policy.

15. Training

15.1 The Provider recognises the need for specialist training of Care Workers. Care Workers shall attend a Skills for Care compliant Induction Training programme before being assigned to work with the Client. New Care Workers may be required to shadow existing Care Workers until they are deemed to be and signed off as being competent.

15.2 Care Workers may require particular training in relation to the Client's specific needs, in order to fully fit the Client's comprehensive care needs. This will be assessed on a case by case basis.

16. Absences by the Client

16.1 If the Client does not require Services for any period during the term of the Agreement (e.g. a holiday) and notifies the Provider at least two weeks before that period commences, the Provider will not charge any Fee for that period of absence unless otherwise stipulated in the Individual Service Agreement.

16.2 If the Client requires urgent hospital or other medical treatment which is unscheduled or unplanned, and is not able to give two weeks' notice of absence (or any at all), the Provider will not charge any Fee for that period of absence. Not less than 48 hours notice will be required to re-instate the Services.

17. Cancellation

17.1 The Client is entitled to cancel the Agreement, without giving reason, within 14 days following the date the Agreement is entered into (Cancellation Period). Cancellation must be notified to the Provider in writing (including email) and will take effect immediately.

17.2 If, in the Individual Service Agreement, the Client has requested the Services to commence immediately (or otherwise within the Cancellation Period), the Client acknowledges that:

- (a) it will lose the right to cancel the Agreement once the Services have been fully performed; and
- (b) it will be required to pay for the Services performed up to cancellation.

18. Insurance

18.1 The Provider has comprehensive employer's public liability insurance. This policy provides cover to the Client and the Care Worker in relation to the Services.

18.2 In the event of any potential claim, the Client must notify us immediately and, if appropriate, request a claim form.

18.3 It is the responsibility of the Client to arrange appropriate motor insurance if they wish Staff to drive their vehicle.

18.4 It is the responsibility of the Client to ensure their home contents insurance includes third party liability and an extension covering care workers in the home. The Company cannot accept liability for losses of any kind that may result as a failure by the Client to arrange such insurance.

18.5 If the Client travels abroad with a Care Worker, they must notify the Provider in writing at least 14 days prior to travel and complete the Provider's Holiday Risk Assessment. The Provider's Insurance does not include Travel Insurance cover for Care Workers and so this must be organised by the Client.



19.1 For Live-In Care packages, the Client is required to provide board (accommodation and food or a food allowance of not less than the value indicated in the Individual Service Agreement) to the Care Worker at no charge to the Provider or the Care Worker, unless otherwise agreed between the Provider and the Client (or the Client's Authorised Representative).

19.2 For Live-In Care, each Care Worker is required to have a minimum two hours break per working day. Details of the Shifts and the allocated breaks are set out in the Rota. If an additional carer is required to cover any break period the Client must arrange this at an extra hourly charge with the Provider or they may engage an alternative service provider.

19.3 A separate bedroom with a bed and clean bed linen (and if possible a TV). This room is for the Care Worker's use only and will be regarded as their personal space.

20. Important Information for Clients

20.1 Clients have a responsibility to abide by the terms of the Agreement.

20.2 Clients should provide a healthy and safe working environment and not ask a Care Worker to do anything that could be considered by an objective outsider as being unreasonable or illegal.

20.3 Clients should inform the Provider immediately should they determine that the Staff provided is unsuitable, in which case clause 7.5 shall apply.

20.4 Clients should inform us immediately if any member of Staff appears to be unwell or if they have any reasonable doubt that the placement is likely to last until the agreed finish time or date.

20.5 Given the nature of the Services provided and the wide area of coverage, in the event of a Force Majeure Event (see clause 11), it may not be possible to provide cover at very short notice. Before such a situation occurs, the Client should make themselves aware of various local back up options which can provide cover at very short notice, e.g. family, friends, neighbours, direct nurses, local agencies or perhaps even the police, fire or ambulance services.

20.6 The Provider expects the Client to have high expectations of the Provider and the Services to be provided. Equally, the Provider's Care Workers will expect to be treated with respect and not to be exploited in any way. Any harassment, mistreatment or discrimination of any type will not be tolerated and will be treated very seriously.

20.7 The Client must notify the Provider of any changes to the care needs.

20.8 If the Client wishes a Care Worker to drive their vehicle they must arrange insurance. Clients should satisfy themselves that the assigned Care Worker holds a driving licence (with/without endorsements) acceptable to their relevant insurers.

20.9 Clients should contact their Home Contents Insurance provider to ensure their policy includes third party liability with extensions covering care workers in the home.

This Individual Service Agreement constitutes a binding agreement (Agreement) between the Provider identified in this document and the Client identified in this document, and which expressly incorporates the Provider's Standard Terms of Business (as attached to this Individual Service Agreement or as otherwise made available to the Client by the Provider). The Needs Assessment, the Rota and the Consent to Care (in each case as defined in the Provider's Standard Terms of Business) as referred to in the Provider's Standard Terms of Business also form part of the Agreement between the Provider and the Client.

Client Name:

Client/Deputy/Funder Signature/Approval:

Date:

Provider Name: Florence Staffing Ltd T/a Florence Community Care

Provider Signature (On Behalf of provider)

Date: