



## **Service User Contract**

### **1. Contract**

- 1.1 This contract is made between Tendacare (“**Tendacare/We/Us**”) and the Client and/or the Representative named above and supercedes any earlier contract made between the parties. If the Client is paying the Fees by direct payments, please see clause 5.
- 1.2 If a Representative signs this Contract on behalf of the Client, he or she agrees to be bound by the obligations of the Client contained within it, including payment of the Fees. If a Representative signs as guarantor for payment of the Fees, then the Representative agrees to pay the Fees in the event of non-payment by the Client. We may pursue the Client and/or the Representative in the event of non-payment of the Fees.
- 1.3 This Contract becomes binding when signed by the Client and/or the Representative (as applicable). No variations to the Contract shall be binding unless agreed in writing by Susan J Smith of Tendacare.
- 1.4 The Client and/or the Representative each has the right to a cooling-off period of 14 calendar days from the date of signature of the Contract. Provided that we are not asked to provide the service during this period, the service may be cancelled without attracting any charges and we will refund any charges paid by you within a period of 14 days. Cancellation must be notified to us by letter, fax or email. Annexed to this Contract is a Notice of the Right to Cancel and a Cancellation Notice which can be used in the event that the Client and/or the Representative wishes to cancel the service.
- 1.5 If the Client and/or the Representative wishes the service to be provided before the expiry of the 14- day cooling-off period then they must request this by deleting appropriately after signing this contract. If the Client and/or the Representative subsequently cancels the Contract, notice must be given in accordance with clause 9.2. We will be entitled to charge for the Service provided up to the end of the notice period.
- 1.6 All notifications required under this Contract must be made to our office, not to the Client’s care workers.

### **2. The Services**

- 2.1 We will carry out an initial needs assessment with the Client. A written care plan detailing the Client’s requirements will be provided and will be reviewed as and when the Client’s needs change. The service will be provided in accordance with that care plan

and will commence on the date agreed with the Client and/or their Representative. The care plan remains our property and is to be returned complete, if and when care ceases.

- 2.2 The service can be amended at any time by mutual agreement. It is recognised that the Client's needs change and a reduction or increase in service may be necessary. We require 48 hours notice if you want to implement a change. Requests should be made by contacting the office Monday to Friday between 9am and 5pm. At this point a guarantor may be required.
- 2.3 We will formally review the Client's care plan:
  - 2.3.1 6 weeks after commencement of the service;
  - 2.3.2 every 6-12 months thereafter;
  - 2.3.3 at the request of the Client or Representative;
  - 2.3.4 if the Client's circumstances change;
  - 2.3.5 at the request of the provider;
- 2.4 If the Client's needs change or increase to a level, which cannot be met by us, we will endeavour to discuss alternative arrangements with the Client and/or their Representative, and agree a mutually acceptable solution. We will continue to provide the service during this period unless this places the Client or their care workers at risk in which case we can terminate the Contract under clause 11.2.

### **3. Care Workers**

- 3.1 We will try and ensure that the Client receives care from the same members of staff. However the Client accepts that due to sickness, holidays, absence and changes to the workforce, this may not always be possible.
- 3.2 The care worker aims to provide the visit within half an hour either side of the agreed time. Unfortunately due to incidents beyond our control e.g. Epsom Race days, traffic jams, flooding, this is not always possible. We will endeavour to keep the Client informed of any delay outside of that period by telephone.
- 3.3 The Client may request a change of care worker at any time in accordance with clause 2.2.
- 3.4 Each care worker who visits the Client will be informed of their needs and have access to a copy of the Client's care plan.
- 3.5 To ensure the safety and comfort of both the Client and care workers, it may be necessary for two care workers to provide the service. If this is the case, it will be documented in the care plan and our charges will be doubled
- 3.6 If a care worker fails to attend a scheduled visit or you are not satisfied with the standard of service you should telephone us without delay and follow our complaints policy.

#### **4. Client's Obligations**

- 4.1 The Client agrees not to request staff to carry out duties, which are not stipulated within the care plan. This is to ensure that suitable risk assessments can be carried out if required.
- 4.2 The Client is required to provide us on request with up-to-date, complete and accurate information about the Client and the names/contact details of any other agencies, clinics and GPs who are involved in the care of the Client. The Client must inform us as soon as possible in writing of any changes to this information.
- 4.3 The Client agrees to provide a safe environment and appropriate equipment to allow the care worker to carry out the service. This shall include:
  - 4.3.1 maintaining a generally clean and safe home free of risks and hazards;
  - 4.3.2 maintaining a safe route of access to and from their home;
  - 4.3.3 ensuring that any equipment supplied by the Client or a third party that is required to deliver their care is regularly maintained and inspected in accordance with all relevant safety requirements;
  - 4.3.4 providing items such as lifting and transfer aids, wheelchairs and other mobility aids; which hold a current safety inspection certificate.
  - 4.3.5 providing all domestic cleaning equipment such as vacuum cleaners, mops, irons etc; and
  - 4.3.6 informing us of any communicable diseases in the household.
- 4.4 In the event that any equipment is installed in the Client's home, the Client must notify us as soon as possible and allow us to carry out a risk assessment on the equipment. The care worker may not use the equipment to deliver care until such assessment has taken place.
- 4.5 The Client's telephone/email must not be used by care workers except for logging in/out using the freephone ezitracker telephone number. unless there is a medical emergency or the Client gives permission for this. We will not be responsible for the payment of telephone or internet bills.

#### **5. Direct Payments**

- 5.1 Where the Client has appointed a "suitable person" (under the Health and Social Care Act 2008), employed a third party to manage the arrangement of services or a third party is in receipt of direct payments on behalf of the Client, that third party should sign this agreement as the Representative.
- 5.2 The Client (or Representative, if applicable) must inform us immediately if:
  - 5.2.1 the Fees cannot be met as a result of termination of or a change in the amount of direct payments made to the Client; or

- 5.2.2 if the funding authority has notified the Client that they will no longer be eligible to receive direct payments or that their direct payments will be discontinued;
  - 5.2.3 if the identity of the person receiving direct payments on behalf of the Client changes;
  - 5.2.4 if the funding authority imposes any conditions on the payment of direct payments to the Client.
- 5.3 We are not responsible for managing the Client's personal budget or direct payments. Please note that the Fees remain payable for services provided by us even if the Client's direct payments are withdrawn.

## **6. Charges and Payment**

- 6.1 The rate of charge is set out on page 1 as per scale of charges (current). All bank holidays are charged at double the weekday rate according to the current scale of charges.
- 6.2 We will invoice for the service provided each month, in arrears, outlining the number of visits per month. This is a VAT exempt service so no VAT will be added. Payment is due within 30 days of the invoice date by internet transfer or cheque.
- 6.3 If the FA has agreed to pay all or part of the Fees, we will invoice the FA directly. We may have a contract with the FA to provide the service to the Client. If the terms of that contract conflict with the terms of this Contract, the terms of the contract with the FA will apply.
- 6.4 In the event of an invoice not being paid in cleared funds within 30 days of the due date, we reserve the right to charge interest at a rate of 4% above the base rate of the Bank of England plc accruing from day to day on the amount outstanding, from the date of the invoice until payment is received in full. We shall be entitled to charge for all reasonable costs directly incurred in recovering outstanding invoices.
- 6.5 We will be entitled to review and increase the charges on an annual basis and at any other interval if market forces indicate.
- 6.6 Unless the increase in Charges is because of a change to the service we will give the Client at least one month's notice of any increase. If the Client does not agree to the Charges, the Contract may be cancelled in accordance with clause 9.2.

## **7. Complaints**

- 7.1 Clients and their Representatives are encouraged to report any dissatisfaction with the service. A copy of the complaints procedure will be provided and can be found in the care plan.

## **8. Time-recording**

- 8.1 Diary sheets are kept as a log in the Client's home. Times are entered by our care staff as closely as possible to the time of arriving and leaving. The length of each call is

measured electronically using a free phone service from the Client's home and feeds through to our computer software to create the invoices.

## **9. Cancellation of the Service by the Client**

### *9.1 Cancellation of individual visits*

Individual visits may be cancelled by giving 24 hours notice to the office staff. Cancellations with less than 24 hours notice will be charged at the normal rate unless otherwise agreed with us. Individual visits cannot be cancelled without charge during the notice period required for cancellation of the entire service.

### *9.2 Cancellation of entire service*

Subject to clause 9.3, this Contract may be cancelled with a minimum of two weeks notice in writing. This period may be reduced at the discretion of the Manager. Where less than two weeks notice is given, we reserve the right to charge for the service which would have been provided, if the required notice had been given.

### *9.3 Exceptions*

Where a Client passes away, charges will be due up to and including the date of the last visit attended by the care worker.

Where a Client is unexpectedly admitted to hospital for an indeterminate period, we cannot guarantee to restart the package when the Client returns home. Wherever possible, packages will be restarted but occasionally due to lack of available resources there may be a waiting time.

Where a Client has a planned admission to hospital or generally requires a reduction in the service, it may not be possible to resume the original service on the same days or time.

## **10 Frustrated visits**

10.1 A frustrated visit occurs when a care worker attends the Client for a planned visit but has not been informed that it is not required or is refused entry. The visit will still be charged unless this is due to admission to hospital or death.

## **11 Cancellation by Us**

11.1 We may terminate this Contract for any reason on providing 7 days' notice in writing to the Client.

11.2 We may terminate this Contract immediately and without notice if:

11.2.1 an invoice is unpaid for 60 days or more;

11.2.2 the Client is abusive or uses threatening behaviour to a care worker;

11.2.3 where an identified danger notified to the Client/Representative has not been rectified.

## **12 Severe Weather**

- 12.1 In the event of severe weather, we will use reasonable endeavours to ensure that care workers are able to attend planned visits to the Client. However the Client agrees and acknowledges that in certain circumstances, the visit may be late or may have to be cancelled as a result. We will endeavour to keep the Client informed about any potential delay or cancellation but shall not be liable to the Client if the visit cannot take place. The Client will not be charged for a visit if it is cancelled due to severe weather.

## **13 Personal Finances**

- 13.1 Financial advice cannot be provided to Clients.

## **14 Insurance & Liability**

- 14.1 We hold full public indemnity and employee liability insurance. Our liability to the Client and/or Representative shall be limited to the extent of our insurance cover in respect of the claim. By signing this Contract the Client acknowledges that household liability cover is the responsibility of the Client and suggest that accidental damage is included.
- 14.2 The Client is responsible for obtaining adequate motor insurance in respect of any vehicle owned by or used in connection with our service to the Client, including having the necessary insurance in place if care workers are required to drive the Client's vehicle. The Client warrants that any vehicle that is used in connection with the service is in good repair and condition and is regularly and properly maintained.
- 14.3 We accept no liability, howsoever caused, for any losses, costs, damages, claims or expenses in connection with the dishonesty of a care worker.
- 14.4 We will not be responsible to you for any loss, damages, costs, claims, demands, expenses or liabilities of any nature arising out of the provision of the service under this Contract as a result of:
- 14.4.1 a breach by the Client of any term of this Contract and/or our rules and policies notified to the Client from time to time; and/or
  - 14.4.2 any information provided to us by the Client, the Representative or funding authority (if applicable) which is inaccurate, incomplete or out-of-date.
- 14.5 For the avoidance of doubt, our liability does not extend to cover damage to the Client's vehicle(s) or home unless this is due to an act or omission of a care worker. We will not be liable for any damage caused by operation of vehicles or equipment, which is in poor condition or in need of repair.
- 14.6 Nothing in this Agreement limits or excludes our liability
- 14.6.1 for death or personal injury resulting from negligence; or
  - 14.6.2 for any damage or liability incurred by the Client or Representative as a result of fraud or fraudulent misrepresentation.

## **15 Permanent engagement of our care workers**

- 15.1 If the Client or Representative directly engages a care worker supplied by us, the Client shall either engage the care worker for an extended 6 month period, in accordance with clause 15.2.1 or pay the fee set out in clause 15.2.2. In this clause “engage” means the employment or engagement of a care worker to provide services to the Client.
- 15.2 If the Client or Representative directly engages the care worker the Client must decide whether to:
- 15.2.1 continue to have the care worker supplied on the same terms as set out in this Contract for an extended period of 6 months from the date we receive notice of their intention to directly engage the care worker, following which the care worker shall be able to transfer to the Client’s employment without the payment of any fee; or
- 15.2.2 pay a fee of £2,500. For the avoidance of doubt the fee shall only be payable where the engagement occurs within 14 weeks of the date the care worker first provided the service to the Client or within 8 weeks of the care worker last providing the service. If there has been a break of more than 42 days between the first time the care worker provided the service and the last time the care worker provided the service, the latter date shall be deemed to be the start date of the 14 week period.

## **16 General**

- 16.1 We will keep records concerning the Client’s personal details as required by statutory regulations and any other personal information necessary to the proper care of the Client. This information will be kept confidential and safeguarded in accordance with data protection legislation.
- 16.2 This Contract is made in England and any dispute arising under it shall be governed exclusively by the laws of England and Wales.
- 16.3 This Contract together with the documents referred to in it, shall constitute the entire agreement between the Client, the Representative (if applicable) and us.
- 16.4 This Contract may not be assigned or transferred without our prior written consent.
- 16.5 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract. This means that anyone not party to the Contract cannot enforce it.
- 16.6 Tendacare is an employment business.



## **Service User Contract**

### **Key Details**

**Client's Full Name:**

**Address:**

**Start Date:**

**Date of Birth:**

**Funding Authority ("FA") (if applicable):**

**as per Scale of Charges [current]**

**Representative's Full Name:**

**Address:**

**Identity of Payer: Client/Representative/FA\***

\* delete as applicable

### **CLIENT**

**NB: Please make sure you have read the whole of this Contract before signing. You should take legal advice if you are unsure about anything.**

**Signed:**

**Date:**

**Name (please print):**

**I wish/I do not\* wish the service to be started during the 14-day cancellation period (see clause 1.5)**

\* delete as applicable

**REPRESENTATIVE**

You do not need to complete this section if you are the Client and have signed the Contract personally.

To the best of my knowledge and belief, the Client does/does not\* have legal capacity to enter into this Contract him/herself\*.

I sign this Contract:

1. [at the Client's direction and in his/her presence]\*
2. [as the person responsible for paying the Fees]\*
3. [as guarantor for payment of the Fees]\*
4. [as the Client's Attorney under an Enduring/Lasting Power of Attorney dated \_\_\_\_\_ registered at \_\_\_\_\_ on \_\_\_\_\_ under reference number \_\_\_\_\_ ]\* and
5. [as the Client's Receiver/Deputy under reference number \_\_\_\_\_ ]\*
6. [as the person appointed or engaged to manage direct payments on behalf of the Client]\*

\* Please amend/delete as appropriate. Only one of the above options normally applies in most cases.

**Signed:**

**Date:**

**Name (please print):**

**I wish/I do not\* wish the service to be started during the 14-day cancellation period (see clause 1.5)**

**\* delete as applicable**

**TENDACARE**

**Signed:**

**Date:**

**Name (please print):**

**Position:**

**Notice of the Right to Cancel**

If you wish to cancel the contract you must do so by letter to Tendacare or email to the person named below. You may use this form if you want to but you do not have to:

Susan J Smith  
Tendacare  
41 The Street  
Ashtead  
Surrey  
KT21 1AA  
Tel: 01372 272 240  
Email: suedobson@tendacare.co.uk

Notice of cancellation is deemed to be served as soon as it is posted, faxed or sent to the above address or in the case of an email from the day it is sent. To meet the cancellation deadline it is sufficient for you to send your notice before the 14 day period has expired.

.....  
**Cancellation Notice**

(Complete, detach and return this form if you wish to cancel the Contract)

Susan J Smith  
Tendacare  
41 The Street  
Ashtead  
Surrey  
KT21 1AA  
Tel: 01372 272240  
Email: suedobson@tendacare.co.uk

I/We give notice that I/we wish to cancel the contract signed on [ ] between me/us and [ ] (reference number [ ]).

Signed.....

Name and Address.....

.....

.....

Date.....