

Third-Party Contractor Agreement

Parties

Third-Party Contractor			
Service Providers Name / Organisation Name		ABN	
Legal Trading Name		Contact Name	
Email		Phone Number	
Client Details			
Consumers Name		Contact Details	
Authorised Representative Name		Contact Details	

Agreement Details

Job Agreement			
Job Description – explain service provision details		Length and Frequency of Services?	
Is / Are the Service/s Recurring in the Consumers Home?		Are Travel / Transport Services offered?	
Is this a once-off / ad-hoc Service?		Rate per hour	
Is the service recurring in a Clinic or Medical Facility?		Charge - price per km	
Qualified Work – is a qualification required to perform this service – add details:		Have you been engaged by a Coordinator? Please list them here:	

1. Home Care Services

- a. The Service Provider agrees to supply the Home Care Services to the Consumer from the Commencement Date in accordance with these Terms and Conditions.
- b. The Home Care Services are to be supplied at the Frequency and Quantity and in accordance with any other requirements as set out in the Services Form, as may be amended in writing by the Consumer and the Service Provider from time to time.
- c. The Home Care Services are to be supplied directly by the Service Provider or their Personnel (who have been approved by the Consumer in writing prior to the provision of the Home Care Services), as the case may be.
- d. Notwithstanding the supply of any of the Home Care Services by the Service Provider's Personnel, the Service Provider remains ultimately responsible and liable for the delivery of the Home Care Services in accordance with these Terms and Conditions.
- e. At any time, the Consumer may request additional units of the Home Care Services. Prior approval in writing must be requested and obtained from Trilogy Care by both the Consumer and the Contractor before invoices will be processed for payment where they exceed the agreed amount as stated in this Agreement.
- f. Any additional units of the Home Care Services requested under clause 1.e, will be paid at the lower of:
 - i. the Fees as set out in the Order Form for each additional unit; or
 - ii. the Service Provider's then current standard prices, for each such additional unit,
- g. At any time, the Consumer may request further Home Care Services, which the Service Provider may agree to provide in its discretion.
- h. Any further Home Care Services requested and agreed to be provided under clause 1.g will be paid at the Service Provider's then current standard prices, or as otherwise agreed in writing between the Consumer and the Service Provider.

2. Service Provider's obligations

- a. The Service Provider must ensure that the Home Care Services are performed:
 - i. in a proper, diligent, and competent manner;
 - ii. with due care and skill required of a competent professional service provider (experienced in carrying out services similar to the Service Provider) and in a timely and professional manner;
 - iii. at all times in compliance with the Aged Care Act, Aged Care Quality Standards and all applicable laws, awards, and regulations;
 - iv. in accordance with the Consumer's Policies and Procedures; and
 - v. in accordance with all reasonable directions and requirements of the Consumer.
- b. The Service Provider must ensure that they comply with all Privacy Laws and must take all reasonable measures to ensure that the Personal Information of the Consumer provided to it is protected from misuse, loss, unauthorised access, or disclosure.
- c. The Service Provider must ensure that it keeps adequate records of the Home Care Services provided to the Consumer and for a period of seven (7) years thereafter and, if requested to do so, immediately provide copies of such records to the Consumer or the Consumer's Representative and of all correspondence or other material arising from or in connection with the provision of the Home Care Services.
- d. The Service Provider must ensure that it is in possession of all Documentation, for either itself or its Personnel who provide the Home Care Services (as applicable), prior to the performance of the Home Care Services and shall provide evidence of such Documentation to the Consumer or the Consumer's Representative on request.
- e. The Service Provider must ensure that it and its Personnel comply with any reasonable direction of the Consumer in relation to the requirements for access to the Premises.
- f. The Service Provider must as soon as possible upon becoming aware, notify Trilogy Care:
 - i. of any breaches or allegations of breaches of the Aged Care Act, Aged Care Quality and Safety Commission Act, Serious Incident Response Scheme, Aged Care Code of Conduct or the Aged Care Quality Standards against the Service Provider or its Personnel; or
 - ii. where any of its Key Personnel or employees becomes a Disqualified Individual.

3. Role of Consumer's Representative

- a. The Service Provider acknowledges that it has been informed that the Home Care Services to be provided to the Consumer relate to those services to be provided pursuant to the Consumer's Home Care Package managed by the Consumer's Representative.
- b. The Service Provider must ensure that the Consumer's Representative is permitted to have access to any account the Consumer has with the Service Provider, including to provide oversight over the engagement between the Consumer and the Service Provider.
- c. The Service Provider must permit the Consumer's Representative to attend any meetings or sessions between the Consumer and Service Provider in relation to the supply of the Home Care Services.
- d. The Service Provider must ensure that it informs the Consumer's Representative of the matters under clause 2.f at the same time as the notification to the Consumer.
- e. The Service Provider acknowledges and agrees that the Consumer's Representative shall have all rights to act on behalf of the Consumer under these Terms and Conditions, including the right to schedule, coordinate, communicate, request, and negotiate the Home Care Services to be provided to the Consumer by the Service Provider as well as to suspend or terminate any Home Care Services.

4. Fees and invoices

- a. All invoices will be issued in accordance with the terms and conditions including the fee structure as set out in this Agreement. All relevant fees and charges are to be clearly explained within this Agreement and invoices will at no time exceed the stated amount or lengths of services mutually agreed by the Parties within.

- b. A current dated fee schedule or price list is to be attached to this Service Agreement which clearly defines the cost breakdown for any and all services provided. This must include additional fees and charges if applicable for general hours worked, public holidays, weekends, overtime, minimum service provisions and all terms and conditions as required to be met by the Service Provider at any given time.
- c. All invoices relating to Fees shall be invoiced to and in the name of the Consumer, with a copy of the invoice to be provided to the Consumer Representative at the same time if such a request is in place at the time of creating this Agreement.
- d. All invoices relating to Fees must:
 - i. sufficiently detail the Home Care Services provided and any resulting amount due;
 - ii. attach any relevant verifying documentation; and
 - iii. be invoiced in accordance with GST Law.
- e. The Consumer or their Authorised Representative shall arrange payment for all correctly recorded invoices for Home Care Services rendered, which have been approved by the Consumer within thirty (30) days after receipt of the invoice for all undisputed amounts.
- f. The Service Provider acknowledges and agrees that the payment for the Home Care Services by the Consumer's Representative is merely from the funding available from the Consumer's Home Care Package and that the Consumer and not the Consumer's Representative remains ultimately liable for any shortfall or amounts not coverable under that funding.

5. Variation, suspension and termination

- a. Subject to clause 1.g, the Consumer may, in its sole discretion, without liability to the Service Provider, vary, suspend or otherwise terminate any of the Home Care Services by providing two weeks written notice to the Service Provider.
- b. Notwithstanding clause 5.a, the Consumer agrees to otherwise comply with any cancellation policy of the Service Provider which has been previously notified to the Consumer within this agreement, except that the Consumer shall have no liability to the Service Provider where it provides no less than twenty-four (24) hours' notice of cancellation of any of the Home Care Services scheduled to be provided.
- c. The Service Provider acknowledges and agrees that any notice under clause 5.a and 5.b may be given on behalf of the Consumer by the Consumer's Representative.
- d. The Service Provider acknowledges and agrees that at any time their fee structure requires review, that a new Service Agreement will be created for both parties to review and sign at which time this completed Agreement will be provided to Trilogy Care within 24 hours. Any invoices containing updated payment amounts will not be paid until a signed and completed Service Agreement is provided to Trilogy Care and the dates correspond with the new Agreement being signed by both parties.

6. General

- a. Relationship between the Parties:
Nothing in these Terms and Conditions may be deemed to constitute an employment relationship, a partnership, joint venture, agency or other legal relationship between the Consumer, the Consumer's Representative, and the Service Provider other than that of supplier and purchaser of services.
- b. Insurance
 - i. The Service Provider must ensure that it and its Personnel who provide the Home Care Services have in effect, at its own cost and expense, appropriate insurance and for such amounts a prudent provider providing the Home Care Services would have in place, including, but not limited to:
 - 1. professional indemnity; and
 - 2. workers' compensation insurance as required by law.
 - ii. The Service Provider must provide a copy of the certificate of currency for such insurances to the Consumer or the Consumer's Representative promptly on request.
- c. Severance

If the whole or any part of a provision of these Terms and Conditions is void, unenforceable or illegal it is severed. The remainder of these Terms and Conditions continue to have full force and effect.

d. Governing law and jurisdiction

These Terms and Conditions are governed by the laws of the State of Queensland in the Commonwealth of Australia. Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland and the courts of appeal from them.

e. Waivers

- i. Waiver of any right, power, authority, discretion, or remedy arising on a breach of these Terms and Conditions must be in writing and signed by the party granting the waiver.
- ii. A party may not rely on any conduct of another party as a defence to exercise of a right, power, authority, discretion, or remedy by that other party.
- iii. This clause 6.e may not itself be waived except in writing.

f. Assignment and subcontracting

- i. The Service Provider must not assign its rights or obligations under these Terms and Conditions without the prior written consent of the Consumer.
- ii. Subject to paragraph (c), the Service Provider may only subcontract the performance of any part of its obligations under these Terms and Conditions to:

1. persons appropriately skilled and qualified (including, where relevant, holding all required insurances and registrations) to provide the Home Care Services; and
 2. persons (where not employed by the Service Provider) who hold a valid and current ABN registration.
- iii. The Service Provider must first inform the Consumer and Consumer Representative of its intention to subcontract part or all of its obligations under these Terms and Conditions and the Consumer and Consumer Representative may reasonably reject any proposed subcontractors which do not comply with the requirements set out in paragraph (b).
 - iv. Any subcontracting by the Service Provider does not relieve the Service Provider of its obligations and the Service Provider remains ultimately responsible and liable for the performance of its obligations under these Terms and Conditions.

g. Precedence

These Terms and Conditions prevail to the extent of any inconsistency in respect of any of the Service Provider's terms and conditions for the supply of the Home Care Services.

7. Definitions

Aged Care Act means the *Aged Care Act 1997* (Cth) including any regulations and principles made under that Act, as varied from time to time.

Aged Care Quality and Safety Commission Act means the *Aged Care Quality and Safety Commission Act 2018* (Cth) including any regulations and principles made under that Act, as varied from time to time.

Aged Care Quality Standards means the standards as set out in Quality-of-Care Principles 2014 as amended from time to time.

Code of Conduct means the Code of expected conduct of Workers. Providers and Key Personnel as determined and governed by the Aged Care Quality and Safety Commission as set out within the Aged Care Code of Conduct as amended from time to time.

Commencement Date means the date so specified in the Services Form.

Consumer's Policies and Procedures means the policies and procedures of the Consumer in relation to the delivery of the Home Care Services as amended from time to time.

Disqualified Individual has the meaning given to that term in the Aged Care Quality and Safety Commission Act.

Documentation means the registrations and other qualifications which the Service Provider and/or their Personnel (as the case may be) are required to hold, for the performance of the Home Care Services, including, without limitation:

- i. a current federal police check and, in the event the Third-Party Worker has lived overseas in the last ten (10) years, an appropriate international police check;
- ii. appropriate references;
- iii. verification of qualifications;
- iv. copies of registrations and licences;
- v. a driver's licence or other government issued identification;
- vi. first aid certificate (if applicable);
- vii. insurance as reasonably required by the Consumer for the Service Provider and/or their Personnel to perform the Home Care Services;
- viii. Vaccination records (if requested by the Consumer); and
- ix. as required under this Aged Care Act,

Fees means the fees payable for the Home Care Services.

GST Law has the same meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Home Care Services means the personal care services and other personal assistance to be provided by the Service Provider as set out in the Services Form, as amended from time to time.

Home Care Package means the government approved package of services including the Home Care Services of the Consumer managed by the Consumer's Representative.

Key Personnel has the meaning given to that term in the *Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022*

Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in writing or digitally, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Personnel means the Service Provider's officers, employees, agents, and contractors (as applicable).

Privacy Law means all applicable privacy laws relating to the Service Provider's collection, use, disclosure, or handling of Personal Information, including, without limitation the *Privacy Act 1988* (Cth).

SIRS or Serious Incident Response Scheme means all applicable mandatory reporting incidents relating to the Service Providers requirements to meet such regulations as laid out in the SIRS for Home Services as determined by the Aged Care Quality and Safety Commission and legislated within the *Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022*

Additional Terms of Consumer**Additional Terms of Provider****Rates – Attached Schedule to be signed by Consumer / Authorised Representative to acknowledge receipt****Signature****Contactator/
Service Provider****Consumer/
Consumer
Representative****Print Name****Print Name****Date****Date**