

OREGON CARE HOME CONSULTING LLC

GENERAL TERMS AND CONDITIONS

THESE GENERAL TERMS AND CONDITIONS (the “**General Terms**”) are between Oregon Care Home Consulting, LLC (the “**Company**”) and the Client. Each of the Client and the Company is, individually, a “**Party**”, and, collectively, the “**Parties**”.

THESE GENERAL TERMS AND CONDITIONS FOR CONSULTING SERVICES shall apply to all of the Company’s services whether proposed or provided, whether fully or partially delivered to the Client.

1. **DEFINITIONS.** Unless defined otherwise herein, the terms in this agreement shall have the meaning ascribed to them in this Section 1:

“**Client**” means the Individual, partnership, or entity entering the Service Agreement with the Company.

“**Confidential Information**” means any information related to the Project including but not limited to the Service Agreement, the Scope of Services or Compensation and information about the Client, the Client’s Facility, the Client’s financial information, or the Client’s residents, residential agreements, agreements with third parties related to resident care, or the Client’s employees which are disclosed directly or indirectly. The Confidential Information ceases to be Confidential Information if and when it is, or becomes: (1) generally available to the public other than as a result of an unauthorized disclosure under the terms of this Agreement; (2) has been independently disclosed or disseminated by others without violating the terms of this Agreement or the legal rights of any party; or, (3) otherwise enters the public domain through lawful means.

“**Compensation**” means the amount, currency, structure, and method of payment from the Client to the Company as described in the Service Agreement.

“**Project**” means any agreement, in whatever form, reached between the Company and the Client pursuant to which the Company agrees to render services to the Client in exchange for a fee plus costs.

“**Scope of Service**” means the section of the Service Agreement setting out the specific Project tasks, document review, inspections, assessments, reports, sample documents, or any other document, product or task that the Company or Client shall provide for the Company to perform the project.

“**Service Agreement**” means the Independent Contractor Service Agreement between the Client and the Company defining the Scope of Services, the Project, and the Services the Company shall render to the Client, as well as the Compensation for the Services, and Term of Services. The Services Agreement shall consist of these Terms and Conditions and any other documents (or parts thereof) integrated into the Service Agreement.

“**Subcontractor**” means either an affiliate, subsidiary, employee or independent contractor of the Company respectively, which is qualified to perform the applicable services as contemplated by the Service Agreement.

“**Project Term**” means the estimated duration for the Company to complete the project.

“**Trade Secrets**” means the whole or any portion or phase of any information, including a drawing, cost data, customer list, formula, pattern, compilation, program, device, method, technique or process, know how or knowledge, including service techniques, development programs, and customer relationships belonging to the Company and from which it derives independent economic value, actual or potential, from not being generally known to the public or to other persons and is subject to efforts that are reasonable under the circumstances to retain its secrecy, which the Company has appropriately protected under ORS 646.461 et seq.

2. **GENERAL.** These General Terms govern the Company’s provision of any services from or on behalf of the Company to the Client. These General Terms and the Service Agreement supersede any and all prior oral and written quotations, communications, agreements and understandings of the parties and any and all terms and

conditions submitted by the Client. The Company's failure to object to any terms and conditions set by the Client shall in no circumstance be construed as an acceptance of any of the Client's terms and conditions nor shall the Company's commencement of performance or delivery of services be construed as acceptance of any of the Client's terms and conditions. Any communication or conduct of the Client confirming an agreement for the Company's provision of services, as well as acceptance by the Client of any provision of services from the Company constitutes the Client's unqualified acceptance of these General Terms and Conditions.

Whenever the company exercises its discretion pursuant to these General Terms, and those in the Service Agreement, it may rely on its expertise in the field of home care facility management, the project complexity, the availability and ability of its employees, staff, and other independent contractors.

- 3. PERFORMANCE.** The Company shall determine the time, place, and manner in which and by whom (including subcontractors) the services will be provided, at its discretion. The Company shall complete the Project with reasonable skill, care and diligence in accordance with the Service Agreement. The Company has no authority to bind the Client to contracts or agreements with any third party. If, for any reason, the Client causes or is subject to a change in circumstances such that the Company cannot complete the Project as described in the Service Agreement, the Company may make any such amendments, at its discretion, as it deems necessary to complete the Project to the standards and specifications of the Service Agreement; any costs arising from such a change shall be the responsibility of the Client.
- 4. SUBCONTRACTORS.** The Company may, at its discretion, use the services of Subcontractors in performing the Project.
- 5. CLIENT'S OBLIGATION.** The Client shall cooperate with the requests of the Company to ensure timely performance of the Project and make all information the Company deems necessary to be able to carry out the Project available to the Company in the manner specified in the Service Agreement. The Client shall inform the Company of any facts and circumstances that may be relevant in connection with the execution of the Project. Client shall guarantee the correctness, completeness and reliability of any information provided to the Company.
- 6. FEES AND EXPENSES.** The Client shall pay to the Company the Compensation described in the Service Agreement. Unless otherwise stated in the Service Agreement, payment shall be due and owing upon the date described in the Service Agreement and prior to commencement of the Project, Payment shall be made in the form and amount described in the Service Agreement. Any costs arising from or related to any delays in the completing the Project as a result of the Client's failure to make available any of the information or documentation required under these General Terms, or information which is incomplete or incorrect shall be the Client's sole responsibility.
- 7. CONFIDENTIALITY.** The Company, its employees, and any subcontractors shall keep secret and not disclose any Confidential Information obtained by the Company, its employees, or subcontractors during the performance of the Project. Unless it has obtained the Company's written permission, the Client shall not publish or otherwise make available the contents of proposals, reports, presentations, memos, or other communications by the Company. The Client shall not disclose any of the Company's methods and work strategies without the Company's written permission. The Company shall not violate this Paragraph 7 if it can show, by a preponderance of the evidence, that the information described in this Paragraph 7 was previously a part of the public domain for reasons other than the Company's disclosure, or it appropriately disclosed the information to a third party or any regulatory authority, court or as otherwise required by law. The Company is permitted to use the Project as material for case studies, instructional scenarios, hypothetical situations, presentations, advertising materials, or other consulting Projects so long as such use does not identify the Client, its employees, subcontractors, or residents. The provisions of this paragraph 7 shall survive the Service Agreement, and completion of the project indefinitely.

8. Trade Secrets. The Client agrees that it will, at no time, utilize any Trade Secrets of the Company in a manner adverse to the Company's interests or disclose such information or secrets to any third Party who the Client knows, or has reason to know, may use the information or secrets in a manner adverse to Company. Client agrees that any and all intellectual property developed as a result of performing the services hereunder shall not constitute a work for hire, and all rights to any intellectual property shall be exclusive to the Company.

9. DISCLAIMER, LIABILITY AND INDEMNIFICATION. THE COMPANY, AND ANY MEMBER, OFFICER, EMPLOYEE, CONTRACTOR OR SUBCONTRACTOR THE COMPANY SELECTS TO PERFORM THE PROJECT, SHALL NOT BE LIABLE IF THE SERVICES PROVIDED OR THE RESULTS GENERATED BY HIM IN THE PROJECT, DO NOT RESULT IN THE DESIRED OUTCOME FOR THE CLIENT. THE COMPANY IS IN NO WAY A PARTNER, SUBSIDIARY, EMPLOYEE, CONTRACTOR, OR IN ANY OTHER WAY AFFILIATED WITH THE STATE OF OREGON OR ANY AGENCY OF THE STATE OF OREGON. THE COMPANY DOES NOT ISSUE, REVOKE, OR OTHERWISE HAVE ANY ROLE IN THE LICENSING, REGULATIONS, INSPECTION, OR OTHER MONITORING OF ANY IN-HOME CARE FACILITY IN THE STATE OF OREGON. NEITHER THE COMPANY, NOR ANY MEMBER, OFFICER, EMPLOYEE, CONTRACTOR, OR SUBCONTRACTOR THE COMPANY SELECTS TO PERFORM THE PROJECT, SHALL BE RESPONSIBLE FOR ANY LOSS, DESTRUCTION OR DAMAGE OF ANY NATURE (INCLUDING INJURY OR DEATH) INCURRED BY THE CLIENT, ITS EMPLOYEES OR THIRD PARTIES, RESULTING FROM THE USE OF THE PROJECT SERVICES OR MATERIAL, UNLESS IT CAN BE SHOWN THAT THE WILLFUL MISCONDUCT OF THE COMPANY WAS THE ACTUAL AND PROXIMATE CAUSE OF THE DAMAGE OR LOSS. THE CLIENT SHALL INDEMNIFY THE COMPANY FOR ANY LOSS OR LIABILITY AND DEFEND THE COMPANY FROM ANY NONPARTY LAWSUIT OR CAUSE OF ACTION ARISING OUT OF THESE GENERAL TERMS OR THE SERVICE AGREEMENT. EXCEPT FOR THE EXPRESS WRITTEN REPRESENTATIONS AND WARRANTIES MADE BY COMPANY IN THESE GENERAL TERMS OR THE SERVICE AGREEMENT, COMPANY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS OF ANY KIND, STATUTORY, EXPRESS OR OTHERWISE THAT MAY ARISE BY OPERATION OF LAW, COURSE OF DEALING, OR USAGE OF TRADE, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF FITNESS FOR A PARTICULAR USE OR PURPOSE, TO THE MAXIMUM EXTENT ALLOWABLE UNDER APPLICABLE LAW. ALL MATERIALS ARE PROVIDED "AS-IS". ANY ASSESSMENT AND ANALYSIS OF BEST PRACTICES FOR ADULT CARE HOME MANAGEMENT ARE FOR INFORMATIONAL PURPOSES ONLY, BASED ON INPUT INFORMATION KNOWN AT THE TIME, AND SUBJECT TO CHANGE AS INPUT INFORMATION CHANGES. COMPLIANCE WITH STATE, COUNTY, CITY, AND/OR MUNICIPAL CODE ("**APPLICABLE LAWS**") IS ESSENTIAL TO SUCCESSFULLY MANAGING ANY CARE HOME AND THE COMPANY HAS NO ABILITY TO ENFORCE COMPLIANCE WITH ITS ADVICE, USE OF ITS MATERIALS, OR APPLICABLE LAWS. NO REPRESENTATIONS OR WARRANTY, EXPRESS OR IMPLIED, ARE MADE AS TO THE ACCURACY OR COMPLETENESS OF ANY ANALYSIS, MATERIALS, OR ADVICE CREATED, IN WHOLE OR IN PART, BY COMPANY REGARDING ADULT CARE HOME MANAGEMENT, IS NOT INTENDED OR WRITTEN TO BE, AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE. FURTHER, COMPANY EXPRESSLY MAKES NO REPRESENTATIONS OR WARRANTIES THAT A CONSULTING PROJECT WILL RESULT IN SUCCESSFULLY OBTAINING A STATE LICENSE.

UNDER NO CIRCUMSTANCE, WILL THE COMPANY'S CUMULATIVE LIABILITY EXCEED THE COMPENSATION FOR THE PROJECT. IN ANY EVENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES OF ANY NATURE WHATSOEVER THAT MAY BE SUFFERED BY THE OTHER PARTY, EVEN IN THE EVENT OF A FUNDAMENTAL OR MATERIAL BREACH OR A BREACH OF THE FUNDAMENTAL OR MATERIAL TERMS OF THIS SERVICE AGREEMENT. IN NO EVENT SHALL COMPANY BE LIABLE OR RESPONSIBLE TO THE CLIENT OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER UNDER ANY LEGAL THEORY INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS OR LOSS OF OPPORTUNITY, LOSS OF GOODWILL, LOSS OF REPUTATION, THIRD-PARTY CLAIMS, OR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE HOWEVER CAUSED, EVEN IF COMPANY KNOWS OR SHOULD KNOW, OR HAS BEEN ADVISED, OF THE POSSIBILITY OF SUCH DAMAGES.

10. TERMINATION. The Company or Client may terminate the Service Agreement by mutual agreement, or written notice pursuant to the terms of the Service Agreement. Should the Company be unable to perform or complete the project due to unforeseen circumstances, or the failure of the Client to provide the necessary information accurately and in a timely manner, the Company may terminate the Service Agreement and the Project without penalty.

11. TERM. Any times or dates the Company sets forth in the Service Agreement for provision or completion of the services under the Project are estimates only and shall never be considered of the essence. Furthermore, the parties hereby acknowledge that the time schedule set out for the performance of the Project may change

during the course of said performance. In no event shall the Company be liable for any delay in providing these services.

- 12. INDEPENDENT CONTRACTOR.** It is the intent of the Parties that nothing in this Agreement be construed to create any form of employer-employee relationship, any partnership, subsidiary, affiliate, or any other joint venture or relationship. Neither the Company nor the Client shall direct the other regarding the method or means by which Contractor shall perform the services contemplated by this Agreement and each Party shall be permitted to act as an independent, for-profit, entity with its own expenses, insurance, equipment, employees and payroll.
- 13. NOTICES.** Any notice given under or pursuant to the Service Agreement shall be given in writing and shall be given by mail, certified mail, or by facsimile to the other party at the addresses in the Service Agreement, or to such other address as a party may by notice to the other have substituted therefore. Any such notice shall be deemed to have been received on the third (3rd) business day following the date of its mailing if sent by first class mail or on the next business day immediately following the date of transmission if sent by facsimile transmission.
- 14. GOVERNING LAW AND JURISDICTION.** All disputes arising from these General Terms or the Service Agreement shall be litigated in Washington County, State of Oregon, Circuit Court, and under the laws of the State of Oregon without giving effect to any conflicts of laws principles. Any matters filed in federal court shall be filed in the United States District Court for the District of Oregon located in Multnomah County, Portland, Oregon.