




# COMPANY SERVICE AGREEMENT

Community Services #1 and **CONTRACTOR**



**CONTRACTOR APPOINTMENT AS A CONTRACTOR OF COMMUNITY SERVICES #1  
ABN 53 806 922 954**

**CONTRACTOR (Contractor)** has been appointed as an independent contractor of Community Services 1 ABN 53 806 922 954 (trading as Community Services #1) (**Company**). The terms and conditions of the appointment as follows:

**1. Term**

The agreement will commence on **DATE** and will continue until terminated in accordance with this agreement (the **Term**).

**2. Provision of services**

- (a) The Contractor will provide services to the Company which are described in Schedule 1 (the **Services**).
- (b) Every time the Company requires the Contractor to provide the Services, the Company will provide a service request to the Contractor in writing which outlines the details of the specific services required, including the times and the locations that the Contractor will provide the Services.
- (c) The Contractor acknowledges that:
  - (i) the Company is not bound to request the Contractor to provide any, or any number of, Services during the Term; and
  - (ii) the Company is entitled to allocate Services to the Contractor, or other contractors, in its absolute discretion.
- (d) The Contractor will use its best endeavours to commit to the provision of any requested Services, regardless of the length of the notice period, including (but not limited to) by the Contractor confirming whether it can provide the requested Services no later than two weeks prior to the date that the Services are required.

**3. Unacceptable personnel**

- (a) The Company may, upon reasonable grounds and by notice in writing to the Contractor, require the Contractor to remove a particular employee, subcontractor or agent from performing the Services. The Contractor must, as soon as practicable, cease providing the services of that employee, subcontractor or agent and replace that employee, subcontractor or agent with another employee, subcontractor or agent as may be reasonably acceptable to the Company.
- (b) The Contractor must not sub-contract the provision of Services without the prior written consent of the Company.

#### 4. **Liaising**

The Contractor must liaise with the person nominated by the Company with respect to all aspects of the Services. The Company will provide you with the name and contact details of the nominated person who may change at the discretion of the company. If the nominated person is to change, you will be notified by the Company.

#### 5. **Other work permitted**

- (a) The Contractor (including its employees, sub-contractors and agents) may engage in any other work and assignments during the Term provided that such other work or assignments do not involve a conflict with its duties and responsibilities to the Company.
- (b) For the avoidance of doubt with respect to clause 5(a), the Contractor agrees that if it agrees to provide certain Services to the Company then it will complete the provision of those Services and not cancel the provision of those Services to engage in other work and assignments for entities other than the Company.

#### 6. **Fees**

- (a) The Company must pay the Contractor at the rates as set out in Schedule 1 for providing the Services (**Fees**).
- (b) The Fees are exclusive of any goods and services tax imposed under The New Tax System (Goods and Services Tax) Act 1999 (**GST**). Where GST is payable on a supply made by the Contractor under this agreement, the Contractor may charge the Company an additional amount equal to the GST payable on that supply.
- (c) The Company must pay the Fees and any GST amount within 30 business days of receipt of a valid tax invoice from the Contractor. The tax invoice must include the Contractor's ABN, details of the Services performed, dates of performance, hours taken, identification of the particular person who performed the Services and the Purchase Order number quoted on the Purchase Order requesting those Services to be delivered.
- (d) Notwithstanding clause 6(c), and except for the circumstances outlined in clause 6(e), if the Contractor fails to issue an invoice to the Company within two (2) calendar months from the date that the Services have been provided, then the Fees and any GST amount stated on that invoice, will not be payable by the Company.
- (e) Notwithstanding clause 6(d), the Company will pay the Contractor the Fees and any GST amount stated on invoices that are issued to the Company more than two (2) calendar months from the date that the Services have been provided in the event that the Company is able to recover the Fees from a third party (including, but not limited to, NDIA, Medicare, and other Government agencies and departments).
- (f) The Company may dispute any tax invoice issued by the Contractor by notifying the Contractor of such a dispute and the reasons for the dispute. Both parties

undertake to use all reasonable endeavours to resolve any disputed invoices as quickly as possible and, in any case, not longer than 30 days after the date the invoice is issued. If the matter cannot be resolved, then clause 14 will apply.

- (g) Where it has been acknowledged that there has been an error on an invoice that has been issued, the party issuing the invoice will either cancel the original invoice and issue a new invoice for the correct amount or issue a credit note for the amount in error within five days of acknowledging such error.
- (h) The Fees may be reviewed every twelve (12) months and can only be varied by agreement in writing, between the Company and the Contractor.
- (i) The Contractor is solely responsible for paying its employees, sub-contractors and agents all remuneration and benefits including salary, superannuation, annual leave, sick leave, long service leave, and any other benefits to which they may be entitled as its employees, and for otherwise complying with the legislation and industrial awards which are applicable to its employees.
- (j) The Contractor will be responsible for all costs, taxes, duties, levies, payments and other outgoings and expenses (including but not limited to income tax, payroll tax, sales tax, superannuation guarantee charge, WorkCover charges, annual and other leave payments and loadings) incurred, or in consequence of the delivery, by the Contractor of the Services.

## **7. Contractor's obligations**

- (a) The Contractor must perform the Services in accordance with the requirements of this contract, and the service requests provided in writing.
- (b) The Contractor must inform the Company of any changes requested by a client to:
  - (i) the services to be provided to the client by the Company and/or the Contractor; and/or
  - (ii) the hours that any services are to be provided to the client by the Company and/or the Contractor.
- (c) The Contractor must inform the Company immediately of any change in the Client's health (physical and/or cognitive), ability or circumstances. This may be done verbally, and then followed up in writing.
- (d) The Contractor must provide to the Company a signed confirmation from the Client that they have received the services required. The Contractor is further required to report in writing on the services provided, to the Company at the completion of service provision.
- (e) The Contractor must perform the Services in a diligent and professional manner according to any standards that normally apply to the provision of such services, and must ensure that any employees, sub-contractors or agents involved in providing the Services do so in the same manner. If the Contractor breaches this obligation, it must resupply the Services at no cost to the Company.

- (f) The Contractor must inform the Company in writing of any and all complaints lodged against the Contractor, including the actions taken by the Contractor to resolve identified issues.
- (g) The Contractor must:
  - (i) comply with all quality, legislative and regulatory standards that apply to the Company from time to time for the Services being provided by the Contractor, including, but not limited to, the Home Care/Aged Care Standards, the Aged Care Quality Standards, standards set by the Australian Aged Care Quality Agency, NDIS Practice Standards, the National Principles for Child Safe Organisations, the National Safety, Quality and Health Service Standards, and relevant Codes of Conduct; and
  - (ii) ensure that all employees, subcontractors and agents comply with the requirements of this clause and in particular, ensure that a similar clause is included in any contracts or agreements between the Contractor and any subcontractors and agents.
- (h) The Company requires the Contractor to have the following documents, and internal policies and procedures in place:
  - (i) register and calendar of staff training and professional development;
  - (ii) complaint management and resolution system;
  - (iii) incident management, including for reportable incidents;
  - (iv) register of training that includes mandatory reporting of neglect, elder abuse; aged care standards (if providing aged care services)
  - (v) register of National Police Check for all employees, sub-contractors and agents of the Contractor;
  - (vi) Working with Children Check (NSW), and Working with Vulnerable People Check (ACT) for relevant employees, sub-contractors and agents of the Contractor;
  - (vii) register and examples of employee supervision and performance feedback;
  - (viii) appropriate Work, Health and Safety policies and procedures for all employees, sub-contractors and agents of the Contractor.
- (i) The Company may conduct an annual audit to ensure that the Contractor is complying with clause 7(e), and the Contractor, upon a request by the Company, agrees to provide the Company with access to all relevant information to assist with their conduct of such an audit.
- (j) The Contractor agrees to notify the Company of any changes to the documents, policies and procedures outlined in clause 7(h) as soon as reasonably practicable after the changes are made.

- (k) The Company can inspect the Services being performed by the Contractor at any time during the Term, to ensure that all standards required to be met under this agreement, are being met by the Contractor.
- (l) The Contractor must take out all insurances required by law including the insurances listed in Schedule 1. The insurances must be taken out for the minimum amount set out in Schedule 1 and must be maintained during the Term. If requested by the Company, the Contractor must provide the Company with a certificate of currency.
- (m) During the Term, the Contractor must ensure that all of its employees, sub-contractors and agents:
  - (i) have all the requisite qualifications, skills and training to deliver the Services in a competent and safe manner, including, but not limited to, a valid driver licence, and the right to provide the Services in Australia, and provide such evidence to the Company as required;
  - (ii) complete a satisfactory background check (including a Criminal Record Check, Working with Children Check (NSW), and a Working with Vulnerable People Check (ACT)). The Contractor agrees to provide the Company with all relevant information to allow such background checks to be conducted, must notify the Company of any change to their Criminal Record, Working with Children, or Working with Vulnerable People Check during the Term, and provides evidence of all completed background checks to the Company as required; and
  - (iii) comply with relevant policies, procedures and codes of the Company (as varied from time to time), including but not limited to, those policies regarding use of a private motor vehicle, and non-disclosure of Confidential Information (refer to clause 10).
  - (iv) Where applicable, have the required vaccinations, and provide such evidence to the Company as required.
- (n) The Contractor acknowledges that an unsatisfactory Criminal Record Check, Working with Children Check (NSW), or Working with Vulnerable People Check (ACT) of one of its employees, sub-contractors or agents may result in the termination of this agreement.
- (o) The Contractor's employees, sub-contractors and agents must wear a name tag when providing the Services.
- (p) The Contractor must act in good faith in all dealings with the Company and must not do anything that may be harmful to the reputation or interests of the Company.
- (q) The Contractor must provide the Services at its own cost and will not be reimbursed for any out of pocket expenses.
- (r) The Contractor (including its employees, sub-contractors and agents) must provide and use its own equipment when delivering the Services. The equipment

must be suitable for the work and must be maintained by the Contractor in good working condition, including any motor vehicle being registered and comprehensively insured.

- (s) The Contractor warrants that it has no authority to engage the services of any person as an employee, contractor or agent of the Company.
- (t) The Contractor will not bind the Company to any contract, or create any liability against the Company, in any way or for any purpose.
- (u) The Contractor, at its own cost and expense, must comply with all Acts, ordinances, rules, regulations, other delegated legislation, codes and the requirements of any Commonwealth, state and local government departments, bodies, and public authorities or other authority so far as these same may affect or apply to the Contractor or to the Services (including, but not limited to, the Privacy Act), and the Contractor indemnifies the Company from and against all actions, costs, charges, claims and demands in respect of any breach of this clause.
- (v) The Contractor must inform the Company of any data breaches, and under the requirements of the Notifiable Data Breaches Scheme, notify affected individuals, and the Office of the Australian Information Commissioner.
- (w) The Company will conduct an annual audit to ensure that the Contractor is complying with clauses 7(d), 7(i) and 7(r), and the Contractor, upon written request by the Company, agrees to provide the Company with access to all relevant information to assist with their conduct of such an audit.
- (x) If requested by the Company, the Contractor must provide the Company with evidence, or a Statutory Declaration, regarding its compliance with clause 7(d), 7(i) and 7(r).

## 8. Intellectual Property

- (a) The Contractor must disclose all intellectual property created by the Contractor and its employees, sub-contractors and agents in the course of providing the Services (**Intellectual Property**).
- (b) The Contractor assigns all its rights in existing or future Intellectual Property (as defined in clause 8(a)) to the Company. The Contractor will do all things and execute all documents necessary to secure the Company's ownership of the Intellectual Property.

## 9. Relationship

- (a) The relationship between the Company and the Contractor is that of a principal and an independent contractor, and nothing in this agreement constitutes or deems any employees of the Contractor to be employees of the Company.
- (b) Nothing contained in this agreement will constitute or be construed to be or create a partnership or joint venture between the parties or any of their respective affiliates, successors or assigns. The parties understand and agree



that this agreement does not make either of them an agent or legal representative of the other for any purpose whatsoever. No party is granted, by this agreement or otherwise, any right or authority to assume or create any obligation or responsibilities, express or implied, on behalf of or in the name of any other party, or to bind any other party in any manner whatsoever.

## **10. Confidentiality**

- (a) The Contractor must not, either during or after the Term, disclose any Confidential Information relating to the Company, except in the proper course of performing its duties under this agreement, as required by law, or with the previous written consent from the Company.
- (b) For the purposes of this clause, Confidential Information means all information concerning the Company including, without limitation:
  - (i) the Company's trade and business secrets;
  - (ii) information regarding the Company's clients;
  - (iii) the Company's clients and contact list (including without limitation client's telephone numbers);
  - (iv) pricing information of the Company;
  - (v) marketing information of the Company;
  - (vi) any information of a commercial, operational, technical or financial type which is not generally available to the public relating to the affairs or business of the Company or its clients; and
  - (vii) other information designated as confidential by the Company from time to time

except to the extent such information is in the public domain.
- (c) The Contractor and its employees, sub-contractors and agents must only use the Confidential Information for the purpose of performing the Services and must not use or attempt to use any such Confidential Information in any manner which may injure or cause loss to the Company.
- (d) The Contractor must, upon request from the Company, procure a confidentiality undertaking from any or all employees or sub-contractors or agents of the Contractor who provide Services under this agreement. The terms of the undertaking must be identical to the terms of this clause.
- (e) The Contractor will, and will ensure that its employees, sub-contractors and agents will, comply with all privacy obligations under any law or regulation.
- (f) At the end of the Term the Contractor must return any of the Company's Confidential Information in its possession or control or that of its employees and agents.



- (g) The obligations accepted by the Contractor under this clause survive termination or expiry of this agreement.

## **11. Indemnity**

The Contractor will indemnify the Company against liability for all loss, damage or injury to any person or property caused by the Contractor, or its employees or sub-contractors or agents, in the course of providing the Services. This clause survives the termination of this agreement.

## **12. Termination**

- (a) Either party may terminate this agreement by providing 90 days written notice to the other party.
- (b) Notwithstanding clause 12(a), the Company may terminate this agreement immediately, by providing written notice to the Contractor, if:
  - (i) the Contractor consistently refuses or fails to provide the agreed Services;
  - (ii) the Contractor, or its employee, sub-contractor or agent, has committed, or is under investigation for committing, a serious criminal offence;
  - (iii) the Contractor, or its employee, sub-contractor or agent, has breached the Code of Conduct (as outlined in Schedule 2).
- (c) Notwithstanding clause 12(a), either party may terminate this agreement immediately, by providing written notice to the other party if:
  - (i) there has been a serious breach of the terms and conditions of this agreement; or
  - (ii) the other party becomes (or there is reasonable ground to believe the other party is) bankrupt or insolvent, or the other party goes into liquidation or a receiver or trustee is appointed in respect of the other party's assets;
- (d) If at the end of this agreement the Contractor is owed Fees, the Contractor may give the Company an invoice for the Fees. The Company must pay the Contractor those Fees (provided they are properly invoiced) within 30 days of receiving the invoice.

## **13. Restraint**

- (a) During the Term and for a period of twelve months after the Contractor's engagement with the Company has been terminated for whatever reason, the Contractor agrees that it will not (and will ensure that its employees, agents and sub-contractors will not) directly or indirectly:
  - (i) canvass, solicit, approach, have dealings with or endeavour to entice from the Company, any person or organisation that was a client or supplier of the Company (or whose business or custom the Company was cultivating) during the twelve months prior to the termination of this agreement;

- (ii) canvass, solicit, approach, have dealings with, or endeavour to entice from the Company, any person or organisation that was a potential client, customer or supplier of the Company during the 12 months prior to the termination of this agreement;
  - (iii) accept from a person identified in clauses 13(a)(i) or 13(a)(ii) any business of the kind ordinarily forming part of the business of the Company;
  - (iv) canvass, solicit or endeavour to entice any employee or agent of the Company to terminate their contracts of employment or agency with the Company;
  - (v) employ or engage any employee or agent of the Company to terminate their contracts of employment or agency with the Company;
  - (vi) employ or engage any person identified in clauses 13(a)(i), 13(a)(ii), or 13(a)(iv);
  - (vii) attempt to, or actually interfere with, the relationship between the Company and any other person or entity who was a potential or actual client, customer, supplier or employee of the Company during the 12 months prior to the termination of this agreement;
  - (viii) induce any other person (or entity) to perform any of the acts specified in sub-clauses 13(a)(i), 13(a)(ii), 13(a)(iv), 13(a)(v), and 13(a)(vi).
- (b) The Contractor acknowledges that any breach by the Contractor of this clause would cause irreparable harm and significant damage to the Company and accordingly that the Company has the right to seek and obtain immediate injunctive relief in relation to any such breach. The Contractor will ensure that its employees, agents and sub-contractors will make the same acknowledgements.
- (c) The Contractor acknowledges that the covenants in respect of non-competition contained in this clause are fair and reasonable and that the Company is relying upon this acknowledgement in entering into this agreement. The Contractor will ensure that its employees, agents and sub-contractors will make the same acknowledgement.

#### **14. Dispute Resolution**

- (a) If there is a dispute arising between the parties about this agreement, or the rights and obligations of either party under the agreement, or an invoice issued by the Contractor or Company, the parties must do the following:
  - (i) a representative from each party must meet and try to resolve the dispute quickly and informally.

- (ii) if the parties cannot agree within ten (10) business days, either may give the other a notice requiring mediation by a mediator appointed jointly by the parties. The notice must state the matters in dispute.
  - (iii) each of the parties must co-operate fully with the mediator.
  - (iv) the parties may only commence legal proceedings when the mediator states in writing that it is no longer productive to continue the mediation.
- (b) Despite the existence of a dispute, the Contractor must (unless requested in writing by Company not to do so) continue to perform the Services.
- (c) This procedure for dispute resolution does not apply to an act relating to termination or legal proceedings for urgent interlocutory relief.

#### **15. General**

- (a) This agreement may not be assigned without the consent of both parties.
- (b) This agreement may not be changed or modified in any way except in writing signed by or on behalf of all the parties.
- (c) This agreement constitutes the entire agreement of the parties in respect of the matters dealt with in this agreement and supersedes all prior agreements, understandings, undertakings and negotiations in respect of the matters dealt with in this agreement.
- (d) This agreement is governed by, and is to be construed and take effect in accordance with, the laws of New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

Please sign below to acknowledge the Company's acceptance of the agreement set out.

Signed for the **Company** by its  
authorised representative

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Signature

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Date

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Print Name

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Position

Signed by the **Contractor** by its  
authorised representative

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Signature

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Date

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Print Name

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Position

## Schedule 1

### 1 Services

The Services will include:

- **SUPPORTS PROVIDED**

It is the expectation of the Company that all services delivered are done so in the very best interests of the client.

The Contractor is also required to provide the Company with signed confirmation by the client that they have received the required services.

Additional services or amendments to the services described above may be agreed upon in writing between the parties.

### 2 Fees (GST exclusive)

The Fees will be calculated as follows:

Fees will only be paid for time spent in the actual delivery of services and will not be paid for any travel time or preparation time.

### 3 Insurances

Workers compensation insurance for the Contractor's employees

Public liability insurance: \$20 Million

Professional Indemnity Insurance \$10 Million

## SCHEDULE 2 CODE OF CONDUCT

- For the purpose of Schedule 2:  
 “**Client**” means a recipient of the Services provided by the Company.  
 “**Contractor**” includes the Contractor’s employees, agents and sub-contractors.
  
- In the provision of Services, the Contractor will:
  - treat Clients, representatives of clients, other members of the organisation and community with respect and dignity;
  - provide support in a way that is sensitive to the culture, religion and background of the client and their family members or representatives;
  - not impose their cultural, religious or political beliefs or ethical values on the Client;
  - provide support in a safe and ethical manner, free from discrimination, bullying harassment, abuse and exploitation;
  - act professionally and in the best interest of the Client at all times;
  - maintain any written records or notes in an accurate, timely and legible manner;
  - (if an adverse event occurs) take appropriate and timely action, to minimise harm to the Client and any other individual involved. This may include having appropriate first aid available, contacting emergency services and reporting the event to the Company and the relevant authorities;
  - Inform the Company immediately of any changes to the Client’s health, ability or circumstances;
  - act ethically and honestly at all time when providing care and support or engagement with a Client;
  - not misinform, provide false or misleading information;
  - declare any conflict of interest to the Company;
  - not provide support while smoking, under the influence or in possession of alcohol or any unlawful substances;
  - not financially exploit the Client. This includes accepting gifts as part of care or support arrangement, or asking Client to give, lend or bequeath one or gift to benefit (directly or indirectly) the care or support worker;
  - not engage in behavior of a sexual nature;
  - not engage in harassing or bullying behavior;
  - not engage in physical fighting, disorderly conduct, use threatening or abusive language;
  - not perform any act that is in breach of anti-discrimination legislation;
  - not engage in a sexual or other inappropriate close personal, physically or emotional relationship with Client;
  - not willfully damage, destroy or steal property belonging to the Client, Client representatives, or any persons engaged by the Company;

- provide care and support in a safe manner and with regard to any relevant standards and legislation;
- act with due diligence and care with regard to all parties involved;
- keep confidential any personal and health related information of the Client;
- comply with any relevant privacy legislation around health records including the *Privacy Act 1988* (Cth) and any relevant state or territory legislation or regulations;
- inform the Company of any data breaches, and under the requirements of the Notifiable Data Breaches Scheme, notify affected individuals, and the Office of the Australian Information Commissioner;
- not carry out any personal care tasks not established within the remit of the work to be undertaken for example cutting the Client's toe nails;
- not smoke at the Client's residence, even if permitted by the Client or the Client's family;
- not sell any products to the Client or the Client's family;
- not solicit or accept any gift from the Client or the Client's family;
- not use the Client's residence to entertain or accommodate family, friends or pets of the Contractor;
- not attend to the Contractor's own affairs such as business, shopping or banking;
- not (except in an emergency) use the Client's telephone, facsimile or internet facilities for personal use or without the Client's prior approval;
- not do such other things as the Company shall advise in writing from time to time during the Term.