

**CONFIDENTIALITY AGREEMENT**

**THIS CONFIDENTIALITY AGREEMENT (“the Agreement) (the “Execution Date”)**

**BETWEEN:**

Suite 5 , Benjamin Holloway House, West Quay, Bridgwater, Somerset, TA6 3HW  
(the “Employer”)

Dementia Care TLC

OF THE FIRST PART

-AND-

**OF**  
(the “Employee”)

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OF THE SECOND PART

**BACKGROUND:**

1. The Employee is currently or may be employed as an employee with the Employer for the position of Community Care Worker. In addition to this responsibility or position (“the Employment”), this Agreement also covers any position or responsibility now or later held with the Employer.
2. The Employee will receive from the Employer, or develop on behalf of the Employer, Confidential Information as a result of the Employment (the ‘Permitted Purpose’).

**IN CONSIDERATION OF** and as a condition of the Employer employing the Employee and the Employer providing the Confidential Information to the Employee in addition to other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to the Agreement agree as follows:

**Confidential Information**

1. All written and oral information and materials disclosed or provided by the Employer to the Employee under this Agreement is Confidential Information regardless of whether it was provided before or after the date of this Agreement or how it was provided to the Employee.
2. The Employee acknowledges that in any position the Employee may hold, in and as a result of the Employee’s employment by the Employer, the Employee will, or may, be making use of, acquiring or adding to information about certain matters and things which are confidential to the Employer and which information is the exclusive property of the Employer.

3. 'Confidential Information' means all data and information relating to the business and management of the Employer, including by not limited to, the following:
- a. 'Customer Information' which includes names of customers of the Employer, their representatives, all customer contact information, contracts and their contents and parties, customer services, date provided by customers and the type, quantity and specification of products and services purchased, leased, licensed or received by customers of the Employer;
  - b. 'Intellectual Property' which includes information relating to the Employer's proprietary rights prior to any public disclosure of such information, including by not limited to the nature of the proprietary rights, production data, technical and engineering data, technical concepts, test data and test results, simulation results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets);
  - c. 'Marketing and Development Information' which includes marketing and development plans of the Employer, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of the Employer which have been or are being discussed;
  - d. 'Business Operations' which includes internal personnel and financial information of the Employer, vendor names and other vendor information (including vendor characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, and the manner and methods of conducting the Employer's business;
  - e. 'Product Information' which includes all specifications for products of the Employer as well as work product resulting from or related to work or projects performed or to be performed for the Employer or for clients of the Employer, of any type or form in any stage of actual or anticipated research and development;
  - f. 'Production Processes' which includes processes used in the creation, production and manufacturing of the work product of the Employer, including by not limited to, formulas, patterns, moulds, models, methods, techniques, specifications, processes, procedures, equipment devices, programs and designs;
  - g. 'Service Information' which includes all data and information relating to the services provided by the Employer, including by not limited to, plans, schedules, manpower, inspection and training information;
  - h. 'Proprietary Computer Code' which includes all sets of statements, instructions or programs of the Employer, whether in human readable or machine readable form, that are expressed, fixed embodied or stored in any manner and that can be used directly or indirectly in a computer ('Computer Programs'); and report format, design or drawing created or produced by such Computer Programs; and all

documentation, design specifications and charts, and operating procedures which support the Computer Programs;

- i. 'Computer Technology' which includes all scientific and technical information or material of the Employer, pertaining to any machine, appliance or process, including by not limited to, specifications, proposals, models, designs, formulas, test results and reports, analyses, simulation results, tables of operating conditions, materials, components, industrial skills, operating and testing procedures, shop practices, know-how and show-how;
  - j. 'Accounting Information' which includes, without limitation, all financial statements, annual reports, balance sheets, company asset information, company liability information, revenue and expense reporting, profit and loss reporting, cash flow reporting, accounts receivable, accounts payable, inventory reporting, purchasing information and payroll information of the Employer; and
  - k. Confidential Information will also include any information that has been disclosed by a third party to the Employer and is protected by a non-disclosure agreement entered into between the third party and the Employer.
4. The individual requirement for privacy will be respected at all times and all information relating to individuals will be treated in a confidential manner.

The organisation recognises the right of Service Users to be left alone, undisturbed and free from intrusion and public attention. The Service User also has a right to privacy with regard to both his/her personal affairs and belongings.

All Service Users have the right to be alone or undisturbed and to be free from public attention or intrusion into their private affairs.

Any building or equipment fault which reduces the privacy of any Service User must be reported to the Employer.

Staff will not discuss Service Users or their affairs within earshot of anyone not directly concerned with their Care. Discussion of Service Users and their affairs will be for the purposes of managing and improving their care, and not as entertainment, e.g. gossip.

Records will be designed, used and stored in a manner which ensures privacy.

Records will be made available to the Service User's principal Carer and family according to the wishes of the Service User.

In shared accommodation, where the Service User lives with someone who is not their partner e.g. in a shared household:

- In shared accommodation, each Service User's personal rooms will have a lock fitted which is appropriate to their needs, and the Service User will be provided with a key unless a documented Risk Assessment indicates that this is inappropriate. Decisions in this respect will be recorded in the Service User's Care Plan and signed as agreed by the Service User or their Personal Representative.

- Particular attention will be given to preserving privacy in the use of bathrooms, toilets and when dressing and undressing. At the same time, health and safety and personal risk management will be considered and discussed.
5. Confidential Information will not include the following information:
    - a. Information that is generally known in the industry of the Employer;
    - b. Information that is now or subsequently becomes generally available to the public through no wrongful act of the Employee;
    - c. Information that the Employee rightfully had in their possession prior to receiving the Confidential Information from the Employer
    - d. Information that is independently created by the Employee without direct or indirect use of the Confidential Information; or
    - e. Information that the Employee rightfully obtains from a third party who has the right to transfer or disclose it.

#### **Confidential Obligations**

6. Except as otherwise provided in this Agreement, the Employee must keep the Confidential Information confidential.
7. Except as otherwise provided in the Agreement, the Confidential Information will remain the exclusive property of the Employer and will only be used by the Employee for the Permitted Purpose. The Employee will not use the Confidential Information for any purpose that might be directly or indirectly detrimental to the Employer or any of its affiliates or subsidiaries.
8. The obligations to ensure and protect the confidentiality of the Confidential Information imposed on the Employee in this Agreement and any obligations to provide notice under this Agreement will survive the expiration or termination, as the case may be, of this Agreement and those obligations will last indefinitely.
9. The Employee may disclose any of the Confidential Information:
  - a. To such of their agents, representatives and advisors that have a reasonable need to know for the Permitted Purpose provided that:
    - i. The Employee has informed such personnel of the confidential nature of the Confidential Information;
    - ii. Such personnel agree to be legally bound to the same burdens of confidentiality and non-use as the Employee;
    - iii. The Employee agrees to take all necessary steps to ensure that the terms of this Agreement are not violated by such personnel; and
    - iv. The Employee agrees to be responsible for and indemnify the Employer for any breach of this Agreement by their personnel.

- b. To a third party where the Employer has consented in writing to such disclosure; and
- c. To the extent required by law or by the request or requirement of a Court of Law, a regulatory body, or an administrative tribunal.

**Avoiding Conflict of Opportunities**

- 10. It is understood and agreed that any business opportunity relating to or similar to the Employer's current or anticipated business opportunities coming to the attention of the Employee during the Employee's employment is an opportunity belonging to the Employer. Accordingly, the Employee will advise the Employer of the opportunity and cannot pursue the opportunity, directly or indirectly, without the written consent of the Employer.
- 11. Without the written consent of the Employer, the Employee further agrees not to directly or indirectly, engage or participate in any other business activities which the Employer, in its reasonable discretion, determines to be in conflict with the best interests of the Employer.

**Non-Solictitation**

- 12. The Employee will not, during the term of this Agreement and for a period of two (2) years after the termination of this Agreement, directly or indirectly, employ or solicit for employment any person who is now employed or retained by the Employer or any affiliate of the Employer without the written consent of the Employer, which consent may not be unreasonably withheld.

**Ownership and Title**

- 13. The Employee acknowledges and agrees that all rights, title and interest in any Confidential Information will remain the exclusive property of the Employer. Accordingly, the Employee specifically agrees and acknowledges that the Employee will have no interest in the Confidential Information, including, without limitation, no interest in know-how, copyright, trade marks or trade names, notwithstanding the fact that the Employee may have created or contributed to the creation of the same.
- 14. The Employee does hereby waive any moral rights that the Employee may have with respect to the Confidential Information.
- 15. The Confidential Information will not include anything developed or produced by the Employee during the term of this Agreement, including but not limited to intellectual property, process, design, development, creation, research, invention, know-how, trade name, trade marks or copyright that:
  - a. Was developed without the use of any equipment, supplies, facility or Confidential Information of the Employer;
  - b. Was developed entirely on Employee's own time;
  - c. Does not relate to the actual business or reasonably anticipated business of the Employer;
  - d. Does not relate to the actual or demonstrably anticipated processes, research or development of the Employer; and

- e. Does not result from any work performed by the Employee for the Employer.
16. The Employee agrees to immediately disclose to the Employer all Confidential Information developed in whole or in part by the Employee during the term of the Employment and to assign to the Employer any right, title or interest the Employee may have in the Confidential Information. The Employee agrees to execute any instruments and to do all other things reasonably requested by the Employer (both during and after the term of the Employment) in order to vest more fully in the Employer all ownership rights in those items transferred by the Employee to the Employer.

### **Remedies**

17. The Employee agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any failure to maintain the confidentiality of the Confidential Information in breach of this Agreement cannot be reasonably or adequately compensated for in money damages and would cause irreparable injury to the Employer. Accordingly, the Employee agrees that the Employer is entitled to, in addition to all other rights and remedies available to it at law or in equity, and injunction restraining the Employee and any agents of the Employee, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.

### **Return of Confidential Information**

18. The Employee agrees that, upon request of the Employer, or in the event that the Employee ceases to require use of the Confidential Information, or upon expiration or termination of this Agreement, or the expiration or termination of the Employment, the Employee will turn over to the Employer all documents, disks or other computer media, or other material in the possession or control of the Employee that:
- a. May contain or be derived from ideas, concepts, creations or trade secrets and other proprietary and Confidential Information as defined in this Agreement; or
  - b. Is connected with or derived from the Employee's services to the Employer.

### **Notices**

19. In the event that the Employee is required in a civil, criminal or regulatory proceeding to disclose any part of the Confidential Information, the Employee will give the Employer prompt written notice of such request so the Employer may seek an appropriate remedy or alternatively to waive the Employee's compliance with the provisions of this Agreement in regards to the request.
20. If the Employer loses or fails to maintain the confidentiality of any of the Confidential Information in breach of this Agreement, the Employee will immediately notify the Employer and take all reasonable steps necessary to retrieve the lost or improperly disclosed Confidential Information.
21. Any notices or delivery required in this Agreement will be deemed completed when hand-delivered, delivered by agent or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.

22. The address for any notice to be delivered to any of the parties to this Agreement is as follows:
- a. Dementia Care TLC: Suite 5, Benjamin Holloway House, West Quay, Bridgwater, TA6 3HW
  - b. Employee's Home address of:

### **Representations**

23. In providing the Confidential Information, the Employer makes no representations, either expressly or impliedly as to its adequacy, sufficiency, completeness, correctness or its lack of defect of any kind, including any patent or trade mark infringement that may result from the use of such information.

### **Termination**

24. This Agreement will automatically terminate on the date that the Employee's Employment with the Employer terminates or expires, as the case may be. Except as otherwise provided in this Agreement, all rights and obligations under this Agreement will terminate at that time.

### **Assignment**

25. Except where a party has changed its corporate name or merged with another corporation, this Agreement may not be assigned or otherwise transferred by either party in whole or part without the prior written consent of the other party this Agreement.

### **Amendments**

26. This Agreement may only be amended or modified by a written instrument executed by both the Employer and the Employee.

### **Governing Law**

27. This Agreement will be construed in accordance with and governed by the laws of the Country of England.

### **General Provisions**

28. This is the essence in this Agreement.
29. This Agreement may be executed in counterparts.
30. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.
31. The clauses, paragraphs and subparagraphs contained in this Agreement are intended to be read and construed independently of each other. If any part of this Agreement is held to be invalid, this invalidity will not affect the operation of any other part of this Agreement.
32. The Employee is liable for all costs, expenses and expenditures including, and without limitation, the complete legal costs incurred by the Employer in enforcing this Agreement as a result of any default of this Agreement by the Employee.

33. The Employer and the Employee acknowledge that this Agreement is reasonable, valid and enforceable. However, if a court of competent jurisdiction finds any of the provisions of this Agreement to be too broad to be enforceable, it is the intention of the Employer and the Employee that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable, bearing in mind that it is the intention of the Employee to give the Employer the broadest possible protection to maintain the confidentiality of the Confidential Information.
34. No failure or delay by the Employer in exercising any power, right or privilege provided in this Agreement will operate as a waiver, nor will any single or partial exercise of such rights, powers or privileges preclude any further exercise of them or the exercise of any right, power or privilege provided in this Agreement.
35. This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns as the case may be, of the Employer and the Employee.
36. This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise.