|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **C A R E C O N T R A C T** | | | | |
| regarding the person to be cared for: | | | | |
| Name: | | Address: | | |
| Date of birth: | | Email: | | |
| Telephone number: | | Fax: | | |
| 1. **Contractual partners' personal data** | | | | |
| * 1. **Client** | | | | |
| * **Person to be cared for** * **Representation on behalf of the person to be cared for**  (for example, legal guardian, legal representation, etc.) * **Another person in support of the person to be cared for** (for example, relative, person in a position of trust) | | | | |
| Name: | | Date of birth: | | |
| Address: | | In the case of representation, proof of the power of representation / health care proxy, power of attorney, ruling by the guardianship court (for example, appointment of a trustee):  (the proof must be enclosed as a copy) | | |
| Telephone number: | | Email: | | |
| Fax: | |
| * 1. **Contractor,** in the following **referred to as the** "care company" | | | | |
| Name/company: | | Date of birth / company registration number: | | |
| Address / main office: | | Email: | | |
| Fax: | | Telephone number: | | |
| 1. **Subject matter of the contract and the terms of the care contract** | | | | |
| The subject of the contract is care of the person to be cared for in their private home by an independent caregiver in Austria. The **Supplement./B1** (Supplementary list of duties) and the Supplement ./ B2 (Medical arrangements) are for further information and clarification; they **constitute an integral part of the contract**.   * 1. The carecompany declares that **the** occupation of personal care provision has been registered with the competent occupational authority in Austria and will not expire during the entire service period.   2. The contracting parties declare they have read the Supplement./B1 on the general rights and obligations of a care company and expressly agree to it.   3. The subject of the present contract is a service provision contract. The person to be cared for, or the client, is **not authorised to give instructions to the care company.**. The type of (proper) service provision is left to the care company. | | | | |
| 1. **Services** | | | | |
| * 1. **Services without existence of certain conditions** (Note: those services among the following that are to be arranged between the client and the contractor should be ticked) | | | | |
| * **Household activities** (Preparing meals, doing errands, cleaning, housework, ensuring there is a healthy indoor climate, taking care of plants and pets, laundry - washing, ironing, mending).   Exceptions from this are: | | | | |
| * **Support with day-to-day life** (organising the daily routine, helping with daily activities, a social function in the sense of providing companionship, making conversation, maintaining social contacts and accompanying to various activities).   Exceptions from this are: | | | | |
| * **Practical preparation of the person to be cared for for a change of location** (for example, moving house, relocation and transfer).   Exceptions from this are: | | | | |
| * **Other services not mentioned above** which may not be basic care services, or services such as medical, dental, physio-therapeutic, ergo-therapeutic, dietary, logopaedic, psycho-therapeutic or psychological health care-related activities, which are reserved exclusively for health care professionals. | | | | |
| **Documentation:** The care company must keep a housekeeping book recording services provided and expenses incurred. It is obligatory to retain the supporting documents for a period of two years. In the case of enquiries from the person to be cared for or the client, the care company must provide a copy of the housekeeping book or the supporting documents in exchange for payment. | | | | |
| * 1. **Services with existence of certain conditions** | | | | |
| **Note: The following activities may only be arranged without the presence of an order and instruction if, from a medical point of view, there are no circumstances which require an order or instruction .**  Such circumstances may include, for example, disturbances and diseases of the musculo-skeletal system as well as blood, heart, lung, diabetic, metabolic or infectious diseases, and also allergies, operations, or taking medication.  If, however, such a circumstance is present, one of the following nursing activities may only be agreed and carried out if ordered or in accordance with Supplement ./B2 with the assistance of qualified medical personnel (doctor or qualified health and nurse/qualified health and nursing staff)!  The person to be cared for or the client must ensure that the care company has been informed of all known and medically relevant circumstances prior to the agreement of the nursing activities mentioned here. | | | | |
| * **Yes,** the following circumstance exists:   **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Is there an appropriate arrangement, together with instructions from a medical professional?**   * **Yes,** thus, the following activities covered by it are agreed: * Help with oral intake of food and liquids as well as on taking medication * Help with personal hygiene * Help on dressing and undressing * Help with using the toilet or commode including assistance with changing incontinence products * Help with getting up, lying down, sitting down, and walking   Overall, \_\_\_\_\_\_\_\_\_\_\_\_\_ activities were marked.   * **No,** the services must be determined according to the Supplement/ B2 with the assistance of medical professionals. | | | | * **No, no such circumstances exist, so that no order or instruction** of a medical professional **is** required.   The implementation of the following nursing activities are therefore agreed upon without therapeutic or medical order and/or instruction:   * Help with oral intake of food and liquids,  as well as on taking medication * Help with personal hygiene * Help on dressing and undressing * Help with using the toilet  or commode including assistance with  changing incontinence products * Help with getting up, lying down, sitting down, and walking   Overall, \_\_\_\_\_\_\_\_\_\_\_\_\_ activities were marked. |
| 1. **Guidelines for action for everyday situations and emergencies** | | | | |
| * 1. In the case of emergency or obvious deterioration of the condition of the person to be cared for (for example, high fever, pain, illness, changes in eating, drinking or sleeping, restlessness, apathy, indigestion), the care company is obliged to notify the emergency contacts to be provided by the person to be cared for or the client. It must be ensured here that the emergency contacts that are to be provided consent to the processing of their data by the care company and that this is verifiable (documented in writing and signed by them), and that they are informed by the care company, in particular, with regard to Art 13 GDPR. | | | | |
| **First person to be contacted** (must be provided in every case) | | | | |
| Name: | | | e-mail: | |
| Address: | | | Telephone number: | |
| **Second person to be contacted** (cross-out field if not desired or not available) | | | | |
| Name: | | | e-mail: | |
| Address: | | | Telephone number: | |
| * 1. Both in the event of a recognisable deterioration of the condition and in the case of an emergency, all measures necessary in the situation for the well-being of the person to be cared for must be taken with due respect for their integrity and dignity. In particular, the care company shall, if necessary, notify emergency services.   In addition, the following shall be agreed upon in the case of emergency:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  The person to be cared for or the client is obliged to communicate all the information necessary for executing the guidelines to the care company and to ensure access to the living area of ​​the person to be cared for by the care company. | | | | |
| * 1. **Information on circumstances or specific features are to be taken into account in the agreed activities** (for example, allergies or intolerances): | | | | |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | |
| 1. **Period of performance / termination of the contract** | | | | |
| * 1. Start of the service is on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (DD.MM.YYYY). | | | | |
| * 1. Duration of the contract:  (please tick as appropriate) * The term of the contract is limited to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (DD.MM.YYYY) and ends without a period of notice being required. * The contract is concluded for an indefinite period of time (unlimited). | | | | |
| * 1. Other termination of the contract   The care contract ends at the latest with the death of the person to be cared for, in which case, the care company must reimburse, pro rata, any wages already paid in advance.  The care contract also ends upon insolvency or closure of the care company or with the demise of the care company (or upon the death of the sole trader).  The contract may be terminated by both parties (including in the case of a temporary contract), in each case **with a two-week notice period** **to the end of a calendar month**. | | | | |
| * 1. The service is provided in the following time frame / on the following days / at the following weekly intervals:   Each month, an average of \_\_\_\_\_\_\_\_\_\_\_ hours of care services are provided.  Additional observations: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  The implementation of the activities and the timing of the services provided must always be based on the needs of the person to be cared for (Supplement ./ B1) and, if necessary, should be coordinated with other, likewise commissioned care companies. | | | | |
| 1. **Cover if the care company is unavailable** | | | | |
| Cover for the care company is regulated as follows: (please tick as appropriate)   * Provision of the substitute care company by the care company:   The contractual services are provided by the same (substitute) care company if possible. If the care company is prevented from carrying out their duties (for example, due to illness of the employees), the care company is entitled to use a substitute care company. Contractual services can be carried out (in justified cases) by using a substitute option.   or,   * Provision of a replacement care company by the person to be cared for or by the client   NOTE: Nursing or medical activities may only be carried out by the substitute (substitute care company) after appropriate orders and instructions by a medical specialist in the specific case! | | | | |
| 1. **Wages and due dates** | | | | |
| * 1. The wage for performing the agreed activities (excl. VAT and cash expenses) is monthly:   **€ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**   * 1. Provided the care company is a small entrepreneur based in Austria (annual turnover not exceeding €35,000.00 net), it is generally exempt from VAT.   If the care company is not a small entrepreneur based in Austria, VAT may be applicable.  **€ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**   * 1. The total monthly amount to be paid is:  **€ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | | | |
| * 1. The care company is responsible for paying taxes and social security contributions.   2. Health products, medication and other similar items that are needed for the agreed care of the person to be cared for (incontinence products, medicines, bandages, etc.) are reimbursable cash expenses and will be reimbursed upon submitting the original receipts in the following periods \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (for example monthly, ¼ annually).   3. The care company carries out all activities independently and has no claim to wages if services are not performed (including when this is not the fault of the care company). If, however, services cannot be performed due to circumstances around the person to be cared for or the client, the claim to wages is maintained.   4. Expenses for equipment, the care company's own food supplies and travel are not reimbursable cash expenses. | | | | |
| * 1. The monthly wage **is due on the** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day (for example, "1st" or "15th" or "last”) of the respective month of service **provision** and must be paid as follows, with a 5-day grace period: (please tick as appropriate) * in cash upon issuing a payment confirmation, or * with debt-discharging effect only to the following bank account:   Account holder: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  IBAN / BIC: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | |
| * 1. The care company has authorised the placement agency \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to charge the monthly price on the day of the due date, to accept it with debt-discharging effect, to levy any interest and, if necessary, to collect the claim in court. | | | | |
| * Yes | * No | | | |
| * 1. If payment is in default, **default interest** of 4% per annum is estimated. Payments transferred on the due date are considered to be timely. | | | | |
| 1. **Information relevant to allowances** | | | | |
| * 1. Does the person to be cared for have a **care allowance**? | | | | |
| * Yes, the person to be cared for was  granted with notice by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ a care allowance of category \_\_\_\_. | | | * No | |
| * 1. Is there a **(specialist) medical confirmation** or a **substantiated confirmation** byother medical personnel who are called upon to assess the care requirements regarding the need for 24-hour care? | | | | |
| * Yes | * No | | | |
| If not, is there **a need for 24-hour care**? | | | | |
| * Yes | * No | | | |
| 1. **Care company's obligations to cooperate** | | | | |
| * 1. For the purpose of submitting an application/request for an allowance from the support fund for people with disabilities, the care company undertakes to submit the following evidence and documents to the competent authority:  1. a declaration that, on the basis of self-employment, compulsory insurance for the social insurance system of the occupational sector is based on the minimum contribution and the employment period of the care company is at least 48 hours a week, 2. Confirmation of the responsible social security institution through the registration of the care company (in the case of a care company from another EU member state, proof of the application for social insurance in that EU member state and the contributions made must be given), 3. residence registration document of the care company, 4. Proof in accordance with the Austrian Federal Nursing Care Act, if available, of  * theoretical training which essentially corresponds to that of a home care provider (or proof from a training institute of having completed a nursing course encompassing at least 200 hours of theory and practice); or * proper implementation of the care of the person to be cared for for at least six months (for the purposes of the Domestic Care Act or in accordance with §159 of the 1994 Trade Regulation Act); or * the performance of specific nursing and/or medical activities according to order and instruction and under the control of a qualified nurse or doctor (authorisation in accordance with § 3b or § 15 para. 7 of the Health and Nursing Act or in accordance with § 50b of the 1998 Medical Professionals Act) | | | | |
| 1. **Data protection declaration / agreement** | | | | |
| * 1. Personal data   In order to carry out the contractually agreed services, it is necessary for the person to be cared for and their representative or any client who is not the person to be cared for (hereinafter referred to collectively as the “data subjects”) to inform the care company of the data to be filled out in advance. If these data are not provided, this would result in the care company not being able to provide contractually agreed services. The “data subjects” also include any other person whose data may be collected and/or processed in the context of the conclusion of this contract.  The care company declares that it will only collect, process and use the personal data of the data subjects in so far as this is necessary to perform and transact the contractually agreed services based on this contract, and it shall do so in compliance with data protection and civil law provisions. The legal basis in this regard is provided by Art 6 para. 1 lit. b) and c) GDPR. This stipulates that processing is lawful if it is necessary to fulfil this contract concluded with the data subjects, or to carry out pre-contractual measures that take place at the request of the data subjects, or to fulfil a legal obligation. The latter point relates, in particular, to the clarification of medical orders (see Point 3.2. and § 1 para 4 of the Domestic Care Act), the creation of guidelines for action for everyday situations and emergencies and to the collaboration with the persons involved in the nursing and care (see Point 4. and § 5 ff. of the Domestic Care Act).  With regard to the processing of sensitive health data that may need to be carried out by the care company (see, in particular, Point 3.2.) this is admissible based on Art. 9 para. 2 lit. h) GDPR, which stipulates that the processing of these data, including for the purposes of care, treatment and management of systems and services concerning health and social affairs, is permissible – insofar as it is necessary and regulated by law (in this case, in particular, by the Health and Nursing Act and the Medical Professionals Act). In this context, it is pointed out that the care company is obliged to maintain secrecy, in particular in accordance with § 7 of the Domestic Care Act), concerning all matters that become known to it or which are entrusted to it in the course of its activities. This only does not apply if the care company has been released from its duty of confidentiality by the data subject in question or if there is a legal obligation to provide information.   * 1. Rights of the data subjects   The data subjects have the right at all times to access information about their stored personal data, the origin and recipients of that data, and the purpose of data processing, as well as a right to rectification of the data, to data portability, to object to or to restrict the processing, and to the blocking or erasure of no longer required or incorrect or illicitly processed data. The data subjects commit to notify the care company of any changes to their personal data. The data subjects have the right at any time to revoke any consent that they have expressly provided outside of this contract to the use of their personal data that goes beyond processing and transacting the contractually agreed services.  The care company named under Point 1.2. of this contract is responsible for collecting the data. The data subjects may assert their rights (e.g. provision of information, erasure, rectification, objection) to the responsible care company using the contact details specified under Point 1.2.  In the event that the data subjects are of the opinion that the processing of their personal data by the care company violates the applicable data protection law, or that its claims under data protection law are being, or have been, violated in any other way, it is possible to lodge a complaint with the data protection authority responsible in Austria as the supervisory authority.   * 1. Data security   The care company must take appropriate organisational and technical precautionary measures to protect the relevant personal data of the data subjects. These precautionary measures relate, in particular, to protecting against unauthorised, unlawful or even accidental access, processing, loss, use and manipulation. The care company must therefore ensure that the data are processed in such a way that adequate security of the personal data is guaranteed.   * 1. Transfer of data to third parties   In order to fulfil or undertake the services agreed in this contract, it is necessary for the data of the data subjects to be transferred to persons involved in fulfilling the obligations under Point 3. (Services), Point 4. (Guidelines for action for everyday situations and emergencies), Point 6. (Cover if the care company is unavailable), and Point 9. (Care company’s obligations to cooperate), or in Supplement ./2 (Need for medical orders). This concerns, in particular, the following categories of recipient, in connection with the services to be provided by them, in each case: medical institutions or specialist medical staff, care institutions, family members of the person to be cared for, rescue services, insurance providers, transport companies, authorities and contractual partners of the person to be cared for (e.g., placement agencies). However, the data must be forwarded exclusively on the basis of the GDPR, and any such forwarding shall be limited by the purposes required to fulfil this care contract or on the basis of any prior consent expressly received from the data subjects.  Some of the recipients of personal data represented in the aforementioned recipient groups may be located outside Austria and/or process the personal data abroad. The level of data protection in other countries may potentially not be the same as in Austria. The care company therefore declares that it will only transfer personal data of the data subjects to countries which the EU Commission has decided to have an adequate level of data protection, or will otherwise take measures to ensure that all recipients have an adequate level of data protection (in which case, the care company must conclude standard contractual clauses (2010/87/EC and 2004/915/EC) with the recipients). The care company must inform the data subjects in writing in advance if it intends to transfer data to a recipient in a third country that is not a member of the EU.   * 1. Announcement of data breaches   The care company must ensure that data breaches are detected at an early stage and that, if necessary, they are immediately notified to the data subjects or the responsible supervisory authority (data protection authority), including the particular data categories concerned.   * 1. Retention of data   The care company declares that the data of the data subjects will not be retained for longer than is necessary to fulfil contractual or legal obligations and to avert any liability claims. The criteria in this regard are the statutory periods for accounting, under tax and customs law, for contractual administration, under labour and employment law, and sector-specific periods (e.g. amounts to the obligation to retain a housekeeping book and the supporting documents for two years in accordance with § 160 of the Trade Regulation Act).   * 1. Further obligation of the care company to provide information   In the event that data of the data subjects is not collected by the care company itself (e.g, by the placement agency), the care company must pay heed to the notification obligation under Article 14 GDPR, which goes beyond the preceding data protection declaration. | | | | |
| 1. **General contractual provisions** | | | | |
| * 1. Declarations and notifications, etc. addressed to the care company – with the exception of notices ~~of~~ defect and declarations of withdrawal – must be in writing, thus a written document together with original signature, in order to be legally effective; transmission via fax or simple email is sufficient.   2. **Instruction on the right of withdrawal**: If the client has not given contractual statement in the business premises or on a market stand of the care company, or has not initiated the contractual relationship themselves, they may withdraw from a contract application or a contract within 14 days. The period begins with the issue of a document containing the name and address of the care company, as well as information on the right of withdrawal, the period of withdrawal, and the manner of exercising the right to rescind the contract, however, at the earliest upon implementation of the contract. A right of withdrawal does not apply if the client has established the commercial relationship with the placement agency themselves, or if no discussions have taken place beforehand, or in the case of contracts which are subject to the long-distance trading law or in the case of contractual declarations made by the client in the physical absence of the care company, unless the client was pressed to make these by the care company. The declaration of withdrawal may take place without any formal requirements. The deadline is met if the declaration is sent within the notice period. The client can also withdraw if the care company is in breach of the occupational regulations on collecting and receiving orders for services (§ 54 GewO 1994), as well as on seeking out private individuals and promotional events (§ 57 GewO 1994). It is pointed out that seeking out private individuals for the purposes of collecting orders for personal caregiving services is only permitted if this is expressly requested of the care company. The receipt of orders for such services is only permitted in the business premises or on the occasion of the permissible seeking out of private individuals in accordance with the previous sentence (§1 para. 3 of the Rules of Professional Ethics and Conduct for Personal Caregiving Services. Furthermore, the client may withdraw within a week if circumstances assured by the care company do not occur or only to a significantly lesser extent. Such circumstances are the participation or consent of a third party required for the provision of services, tax advantages, public funding and prospective loans. This right of withdrawal shall not be admissible if the non-occurrence of relevant circumstances in the contractual negotiations of the client was known or recognisable to them, if an exclusion from the right of withdrawal was negotiated in detail, or if the care company agrees with an appropriate adaptation of the contract. In the case of withdrawal, the reciprocal services received together with statutory interest must be repaid from the date of receipt and the necessary and useful expenses incurred in each case must be reimbursed or the use as well as a possible reduction in value must be paid. Damages claims remain unaffected.   3. For disputes arising from this contract, the agreed place of jurisdiction shall, in each case, be the competent court with in rem jurisdiction in whose judicial district the client’s place of residence is located.   4. This contract is exclusively subject to Austrian law.   5. One counterpart of this contract is drawn up. The original is given to the care company; the client receives a copy. | | | | |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Place, Date:

|  |  |
| --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Client's signature | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Care company's signature |