

TRUSTONTAP – ASSISTANT TERMS & CONDITIONS

Terms and Conditions

These terms and conditions will be deemed to have been accepted and agreed by an Assistant when you register with TrustonTap, each time a Booking is arranged and each time you enter into a Carer Client Contract.

1. DEFINITIONS

1.1 Words defined below in these terms and conditions shall have the meaning given opposite:

Assistant, you	Self-employed carers using the ToT Service to be introduced to Clients for the provision of Assistant Services;
Assistant Services	means the services provided by an Assistant to a Client pursuant to a Carer Client Contract and confirmed in the Booking Summary;
Booking	means a booking confirmed for Assistant services between an Assistant and a Client (through the Website or otherwise);
Booking Summary	means a summary of the Booking made through the ToT Service and issued to the Assistant and the Client;
Client	means an individual or individuals, health care professional, Local Authority, firm or company to whom the Assistant is introduced to through the ToT Service to provide Assistant Services;
Carer Client Contract	the contractual agreement or arrangement made direct between the Assistant and their Client when a Booking is made (a template for which can be found at https://www.trustontap.com/terms-of-use)
Engagement	means any period during which an Assistant provides Assistant Services to the Client;
Introduction	means the introduction of an Assistant to a Client through the ToT Service;
Ongoing Engagement	an Engagement of an Assistant for Assistant Services continuing for a selected amount of time per week on an ongoing basis of more than six weeks;
Personal Care	a regulated activity involving supporting people in their homes with everyday tasks like washing, bathing or cleaning themselves, getting dressed or going to the toilet;
Privacy Policy	means the privacy policy adopted by ToT from time to time and found here http://www.trustontap.com/Privacy-Policy ;
Registration Form	means the forms on the Website for registration and which must be completed to the satisfaction of ToT;
Short-Term Engagement	an Engagement for Assistant Services from a particular Assistant that has been booked for a period of six weeks or less;
ToT Service	means the services provided by ToT to Assistants including but not limited to search & matching, making Introductions, electronic messaging, facilitating Bookings between Assistants and Clients, marketing, timesheet management, compliance management, support services, collating and displaying feedback, invoicing and collecting payments on behalf of Assistants using the Website or otherwise and in accordance with these terms and conditions;
ToT Service Fee	the fee charge by ToT for ToT Service as set out in 5.2;
ToT, we, us or our	TrustonTap Limited (a company registered in England & Wales with company number 08869387);
Website	means http://www.trustontap.com ;
Vulnerable Person	means a person who needs assistance with day-to-day activities because of their age, illness or disability.

- 1.2 Definitions included in clause 1 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, non-binary and neuter forms.

2. INTRODUCTION

- 2.1. The Assistant will be deemed to have accepted and agreed to these terms and conditions (which will prevail over any other terms and conditions put forward by the Assistant), when any of the following events occurs:
 - 2.1.1. the Assistant uses the ToT Service; or
 - 2.1.2. a Client, or a third party acting on the Client's behalf, interviews the Assistant for an Engagement; or
 - 2.1.3. a Client Engages an Assistant in any capacity; or
 - 2.1.4. the Assistant begins work for a Client in any capacity; or
- 2.2. We provide the ToT Service to Assistants on the following terms and conditions, which are legally binding on all Assistants and shall supersede any other documentation or communication between the parties.
- 2.3. These terms and conditions include and incorporate the Privacy Policy.
- 2.4. We are classified as an 'introductory agency' (in line with guidance set out by the Care Quality Commission).
- 2.5. As an 'introductory agency' introducing self-employed carers to clients, ToT does not:
 - 2.5.1. employ Assistants;
 - 2.5.2. act as a care agency;
 - 2.5.3. guarantee the provision of work for you;
 - 2.5.4. make changes to a care plan;
 - 2.5.5. provide rotas to Assistants; or
 - 2.5.6. effect control over the delivery of Personal Care;
 - 2.5.7. replace an Assistant unless requested to do so by the Client.
- 2.6. This agreement does not give rise to a contract of employment between ToT and the Assistant.
- 2.7. The Assistant shall at all times be responsible for their own Bookings, Engagements, calendar, transport, training, professional fees, insurance, tools, equipment, consumables, support resources and tax.
- 2.8. We have the right to change these terms and conditions from time to time and we will always give you reasonable notice of any changes. Please refer to the Website for our latest copy of these terms and conditions. Such updated terms shall take effect when a new Booking or Engagement is entered into. Please refer to the Website for our latest copy of these terms and conditions.

3. REGISTRATION

- 3.1. Use of, and access to certain parts of the Website shall require you to register with us by completing a Registration Form to our satisfaction and participating in our registration process, which may include but not limited to, an interview and undertaking background checks.
- 3.2. By registering and using this site you acknowledge and represent that:
 - 3.2.1. You accept and will abide by these terms and conditions;
 - 3.2.2. you are 18 years old or over and have the right to form legally binding contracts under UK law; and
 - 3.2.3. all information provided by you is correct and accurate, including any stated requirements or specific needs, and that you will promptly inform us of any changes to the information provided by you, or if the information becomes inaccurate or out of date;
 - 3.2.4. it is your responsibility to form appropriate contracts with Clients;
 - 3.2.5. you have never been the subject of a complaint, restraining order or any other legal action involved with being arrested for, charged with, or convicted of any criminal offence involving violence, abuse, neglect, theft, fraud, dishonesty or any other offence that endangers the safety of others, and are nor have ever been on sex offenders register or

- similar list; and
- 3.2.6. you are legally allowed to work in the United Kingdom.

4. ASSISTANT OBLIGATIONS

- 4.1. The Assistant shall:
 - 4.1.1. enter into an appropriate written Carer Client Contract for the provision of Assistant Services to Clients;
 - 4.1.2. not engage in any conduct which is detrimental to the interests of ToT or would negatively affect ToT's relationship with the Client or is likely to bring ToT into disrepute;
 - 4.1.3. provide ToT, upon request, with satisfactory evidence of their identity, which shall include, but not be limited to, a certified copy of the Assistant's passport or Driving Licence and one proof of address;
 - 4.1.4. provide ToT with the names of two references for the Assistant and the Assistant agrees that ToT may approach them at any time for the purpose of obtaining references about the Assistant;
 - 4.1.5. provide ToT with any additional information necessary to demonstrate sufficient experience for working with a Vulnerable Person including but not limited to any details of training, qualifications and any authorisation which a Client may consider necessary, or is required by law.
 - 4.1.6. update their profile on the Website at least once a year or in the event of any information supplied in the Registration Form changing;
 - 4.1.7. provide upon request any information or certification relating to any experience, training qualifications and/or authorisations;
 - 4.1.8. inform ToT immediately should there be any reason or circumstance under which it would be detrimental to the interests of ToT, the Client or the Assistant for the Assistant to take up a particular position with a Client or to continue its engagement with ToT;
 - 4.1.9. respond to enquiries through the Website, by text or email from us and/or Clients promptly;
 - 4.1.10. in the event that the Assistant is unable to honour a Booking, notify ToT and the Client immediately they become aware of this;
 - 4.1.11. hold their own valid Public Liability Insurance of no less than GBP2,000,000 and provide ToT with the name of the Insurer, Policy Number and copy of the certificate (and again on each renewal);
 - 4.1.12. hold their own clear Enhanced DBS certificate dated within the last three years and provide ToT with a copy of this and subsequent certificates;
 - 4.1.13. refresh their First Aid, Manual Handling and Safeguarding Training once a year;
 - 4.1.14. submit accurate timesheets to ToT on a weekly basis for invoicing on the Assistant's behalf; and
 - 4.1.15. notwithstanding any provision to the contrary in the Carer Client Contract, shall appoint ToT as its agent to deliver invoices to the Client and to collect payment from the Client on its behalf.
- 4.2. The Assistant consents to the disclosure of all relevant information (which is required to progress any Introduction or which is requested by the Client) including but not limited to copies of qualifications, authorisations and/or references, by ToT to the Client.
- 4.3. The Assistant is free to undertake any other engagement or employment whilst registered with ToT.
- 4.4. The Assistant is not obligated to accept any Booking or Introduction offered to him or her by ToT.
- 4.5. In the event an offer of employment or permanent engagement is made by a Client to an Assistant other than through the Website and/or ToT Service, the Assistant shall inform ToT immediately and provide ToT with full details.
- 4.6. You represent to us and acknowledge that if within 24 months following the end of an Engagement you are engaged directly by a Client introduced to you by ToT without using the ToT Service, such Client shall incur a liability to us to for a placement fee £2,500 + VAT in lieu of any fee to be paid by the Client. ToT reserves the right to both charge the Assistant for the

- full value of the ToT Service Fees unpaid and to remove the Assistant from ToT's platform.
- 4.7. The Assistant warrants and represents to ToT that they are responsible for their own taxation affairs and will account to HMRC for any revenue arising from a Booking. The Assistant also warrants and represents to ToT that their tax status is self-employed. If in doubt, the Assistant will use the HMRC tool <https://www.gov.uk/guidance/check-employment-status-for-tax> and undertakes to inform ToT if their assessment is that they are not self-employed for tax purposes.
 - 4.8. The Assistant understands and acknowledges that ToT is classified as an 'introductory agency' (in accordance with guidance produced by the Care Quality Commission) providing a service introducing self-employed carers to Clients. As an introductory agency, ToT has no 'ongoing role' in the direction or control of any Personal Care provided as part of the Assistant Services. ToT is therefore unable to advise or direct changes to how Personal Care is carried out, for example frequency of visits, type of care provided or the way in which the Assistant gives Personal Care; ToT is unable to arrange rotas of Assistants on behalf of Clients; ToT is unable to replace an Assistant unless requested to do so by the Client, or third party acting on their behalf; ToT is unable to make changes to active care plans.
 - 4.9. The Assistant represents that as an individual providing Personal Care to a Client, or a related third party, without an agency or business involved in managing or directing the care provided, the Assistant is currently exempt from regulation by CQC.

5. TRUSTONTAP'S OBLIGATIONS

- 5.1. Through its Service, ToT shall:
 - 5.1.1. provide opportunities for Assistants to secure suitable Engagements together with such information as may be necessary for the Assistant to assess the opportunity;
 - 5.1.2. invoice Clients on behalf of the Assistant and use reasonable endeavours to collect payments; provided that ToT has made reasonable efforts to collect payments, ToT shall not be liable to the Assistant for any failure to collect payment.
 - 5.1.3. provide a means for Assistants to communicate with Clients, submit timesheets, view and store key documents;
 - 5.1.4. provide Assistants with legal templates that the Assistant may choose to use for their contracts with Clients and regularly review these documents;
 - 5.1.5. provide Assistants with a code of conduct template that the Assistant may choose to use;
 - 5.1.6. help the Assistant adhere to their obligations in clauses 4.1.11, 4.1.12, 4.1.13 by issuing them with reminders;
 - 5.1.7. collate and publish feedback from their Clients; and
 - 5.1.8. provide informal support to Assistants when needed.
- 5.2. For the ToT Service, the Assistant agrees to pay ToT 18% + VAT on any Assistant Services provided to Clients. ToT reserves the right to vary the rate for individual Assistants.
- 5.3. ToT reserves the right to delay payments to the Assistant should they fail to adhere to their obligations set out in clause 4
- 5.4. Notwithstanding clause 5.1, ToT shall be under no obligation to find an Engagement for the Assistant at any time.
- 5.5. An offer of Engagement is not made to the Assistant until details are received by ToT from the Client.
- 5.6. ToT does not accept any responsibility and shall not be liable for any loss suffered by the Assistant by reason of the Assistant's decision to resign from his/her current employment or any existing engagement before or after receipt of the ToT or Client's offer.
- 5.7. In accordance with requirements under the Care Act 2010, the Mental Capacity Act 2005 and the Safeguarding of Vulnerable Adults Act, ToT reserves the right to refer any instances of the exploitation or harm of Vulnerable Persons to the appropriate Local Authority's Adult Safeguarding Team and report this to the Disclosure and Barring Service and or the police as appropriate.

6. BOOKINGS AND HOURS

- 6.1. A Booking shall be made by the Client purchasing Assistant Services and such Booking will be subject to a Carer Client Contract.
- 6.2. Upon completing a Booking, the relevant Client and the relevant Assistant shall be issued with a Booking Summary by ToT.
- 6.3. The Assistant shall inform ToT through the Website, by email (sent to accounts@trustontap.com) or such other means as provided by ToT upon the Assistant Services being provided to the Client, and the Assistant shall include details of the date, the time and duration.
- 6.4. The Assistant shall use reasonable endeavours to provide Assistant Services at such times as are required by the Client (through the Website or otherwise).

7. DISPUTE RESOLUTION AND MEDIATION

- 7.1. The Assistant will attempt, in good faith, to resolve any dispute or claims arising out of or in relation to these terms and conditions and/or any Carer Client Contract promptly through negotiations between us and/or the relevant Client.
- 7.2. In the event the dispute is between the Assistant and a Client, and the matter is not resolved through negotiation the Assistant shall appoint ToT (or any third party nominated by ToT or its insurer) to act as a mediator (and not as an arbitrator) at no cost to the parties and the Assistant agrees to cooperate with us and assist ToT in good faith including providing ToT with such information and undertake such actions as may be reasonably requested by ToT.

8. TERMINATION OF THE RELATIONSHIP

- 8.1. The relationship between the Assistant and ToT may be terminated by the Assistant providing not less than two weeks written notice to ToT (whether through the Website, by email, or post). The Assistant will also give notice to any clients with a Booking with them as set out in the Carer Client Contract.
- 8.2. ToT may terminate the relationship between the Assistant and ToT immediately by providing notice of such termination to the Assistant.
- 8.3. In the event the terms and conditions are terminated in accordance with this clause 8, the provisions of clause 7, 8, 9, 10 and 11 shall continue to be binding between the Assistant and ToT.

9. DATA PROTECTION & PRIVACY

- 9.1. By using the ToT Service each Assistant consents that ToT may process personal data in accordance with ToT's Privacy Policy: <http://www.trustontap.com/Privacy-Policy> .
- 9.2. By using the Website or the ToT Service, the Assistant authorises ToT to carry out identity checks, right to work checks, obtain and check references, check training certificates, insurance and DBS certificates.

10. LIMITATION OF LIABILITY

- 10.1. ToT is not liable for any loss, damages, misrepresentation, injury, accident, claim, cost, charge, expense, action, demand or consequential losses whatsoever in any jurisdiction arising from or in any way connected with and/or Introduction and/or the provision of the Assistant Services by an Assistant.
- 10.2. To the extent permitted by law, ToT will not be liable for any loss, damages, misrepresentation, injury, accident, claim, cost, charge, expense, action, demand or consequential losses whatsoever in any jurisdiction arising out of or in connection with the use of the Website and/or the ToT Service. Each Assistant acknowledges that the decision to accept an offer of engagement is the sole responsibility of each Assistant and ToT gives no warranty, representation or undertaking as to the history, character, suitability, honesty of any Client nor

- as to the completeness, truthfulness or accuracy of any information provided by the Client.
- 10.3. The Assistant acknowledges the risks inherent in participating in an Introduction and hereby waives all rights to any claim for damages from, and relieves, releases, and forever discharges from any claim for damages, any and all of ToT and any person involved in creating, producing or distributing the ToT Service or information pertaining to the ToT Service. The Assistant agrees to indemnify and hold ToT harmless from and against any breach by the Assistant of these Terms and/or any Carer Client Contract and any claim or demand brought against ToT by any third party arising out of the Assistant's use of the Website and the ToT Service, including without limitation all claims, actions, proceedings, losses, liabilities, damages, costs, expenses (including reasonable legal costs and expenses) howsoever suffered or incurred by ToT in consequence of the Assistant's breach of these terms and conditions.
 - 10.4. ToT does not accept any liability for losses or damages caused by the temporary unavailability of the Service or any technical errors.
 - 10.5. ToT shall not be liable for any taxation (personal, corporate or otherwise) arising for the Assistant in relation to a Booking and each Assistant warrants and represents to ToT that they take responsibility and will account to HMRC for any income tax, National Insurance Contributions or other taxation that may arise following a Booking.
 - 10.6. Subject to clause 10.7, the Assistant acknowledges that ToT's total liability to you whether in respect of goods or services and whether based in negligence, breach of contract, misrepresentation or otherwise shall not exceed the value of the ToT Service Fee.
 - 10.7. Nothing in these Terms shall exclude or limit any liability which cannot legally be limited, including (but not limited to) fraud, death or personal injury caused by negligence.

11. CONFIDENTIALITY

- 11.1. Each party undertakes that it shall not at any time during this agreement, and for a period of two years after termination or expiry of this agreement, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by Clause 11.2.
- 11.2. Each party may disclose the other party's confidential information:
 - 11.2.1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 11; and
 - 11.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

12. GENERAL

- 12.1. This agreement is personal to the Assistant and the Assistant shall not be entitled to assign their rights or obligations or delegate its duties under this agreement without the prior written consent of ToT.
- 12.2. Any notice given to a party under or in connection with this contract shall be made through the Website.
- 12.3. Nothing in these Terms shall be construed as constituting a partnership or joint venture between the parties.
- 12.4. This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent

- misrepresentation [or negligent misstatement] based on any statement in this agreement.
- 12.5. Except as expressly provided elsewhere in this agreement, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
 - 12.6. If any term or provision of these terms and conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these terms and conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.
 - 12.7. This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
 - 12.8. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).