

August 24, 2022

## INDEPENDENT CONTRACTOR AGREEMENT

[INSERT DATE]  
INDIVIDUAL NAME  
[INSERT ADDRESS]

Dear FIRST NAME,

Whimble Care Inc. (“we”, “us”, “our”, “Whimble”) is pleased to engage you (the “Contractor” or “you”, “your”) to provide services on an independent contractor basis, on the terms and conditions set out below.

This agreement, once signed by the Parties, will constitute an independent contractor agreement (“Agreement”) governing the engagement (“Engagement”) between Whimble, the Contractor, and client requesting Services as third-party beneficiary (“Client”) (individually, a “Party”, and one or more Party as the “Parties”), that shall be binding on the Parties and their successors and assigns.

Reference is made to the Terms of Service, set out at <https://www.whimble.ca/terms-and-conditions>, which governs the contractual relationship between the Client and Whimble. The Parties acknowledge and agree that the Terms of Service are intended to supplement this Agreement, which is incorporated by reference herein. In the event of any conflict between the terms of this Agreement and the Terms of Service, the Terms of Service shall prevail, save and except for where this Agreement provides greater protection for Client, in which case the terms of this Agreement shall prevail.

1. **Term.** The term of this Agreement (“Term”) will begin effective [INSERT DATE] (“Start Date”) and remain in full force and effect unless it is terminated by either Party pursuant to the terms of this Agreement.
2. **Services.** The Contractor will provide the following Services to clients: personal care, housekeeping, errands, and other tasks reasonably related to the Services requested by client (the “Services”). We will contact you when and if a client requests services that you are able to perform. Upon your acceptance of such Service, you will be required to perform the Services in a timely manner. You have the right to decline to provide Services at your discretion.
  - 2.1. **Invoicing and Payment.** Whimble will pay the Contractor \$30 per hour of income generated from Services provided by the Contractor. The Contractor must confirm with Whimble their hours worked for accurate record keeping purposes. The Company will require an invoice from the Contractor on a weekly basis, stating the Client’s identification number, date, hours worked and services performed.
  - 2.2. **Dispute Regarding Fees.** The Parties agree to negotiate in good faith to resolve any disputes regarding invoices or fees payable or paid to Contractor.
  - 2.3. **Expenses.** Unless pre-approved in writing by Whimble, Contractor will be solely responsible for all expenses incurred in providing the Services. You will only be reimbursed for pre-approved expenses properly incurred in providing the Services, subject to the delivery of appropriate statements and receipts verifying such expenses.
  - 2.4. **Independent Contractor Status.** Whimble engages the Contractor on a non-exclusive basis to provide the Services as an independent contractor. You are entering into this Agreement as, and intend to continue to be, an independent contractor. In performing the Services under this Agreement, you: (i) will not be deemed to be Whimble’s employee, agent or representative for any purpose whatsoever; (ii) must not represent yourself as our employee, agent or

representative, without our prior written consent; (iii) will not be entitled to any employment rights or benefits from us, including without limitation, vacation pay, statutory holiday pay, overtime pay, sick pay, group health benefits, insurance benefits or any other benefit, payment or bonus plan of any kind that we may provide to employees; and (iv) you are entitled to use your own independent and absolute discretion in performing Services under this Agreement. The Parties acknowledge and agree that this Agreement does not create, and shall not be construed to create, a partnership, joint venture or employment relationship between them.

3. **Taxes.** Where required by law, you must register for the goods and services/harmonized sales tax (“**GST/HST**”) and your GST/HST registration number must be provided to us as a condition of payment. You further acknowledge and agree that (i) Whimble is not required to withhold income and other taxes or to make contributions for employment insurance, pension plans / social security, workers’ compensation or other similar levies with respect to any fees paid to you or to obtain workers’ compensation insurance on your behalf; and (ii) you are solely responsible for the collection and reimbursement of any applicable GST/HST. Notwithstanding anything stated to the contrary, we have the right to deduct or withhold from any sum payable to you any amounts required to be deducted or withheld under any law, ordinance or regulation.
4. **Contractor Representations and Warranties.** You hereby represent and warrant that:
  - 4.1. you will fully comply with all policies and procedures as are established by Whimble;
  - 4.2. you will perform all duties under this Agreement and the Terms of Service, including completing Services expeditiously and accurately recording and declaring to Whimble your hours worked after completing each Job with good faith.
  - 4.3. you are duly qualified and have the necessary skills and training to perform the Services; and such Services will be performed to client’s satisfaction and in a timely manner. All Services shall be provided in accordance with the highest degree of care and skill and the highest professional and industry standards;
  - 4.4. you will perform the Services in full compliance with all applicable statutes, laws, ordinances and regulations, and other licenses, business permits and certificates required to carry out the Services;
  - 4.5. you acknowledge and accept that Services are often required immediately. Upon accepting to provide Services, you will complete the Services by the completion date and time agreed upon by you and Whimble prior to you accepting to provide the Services.
  - 4.6. you are not a party to any agreements or arrangements, whether written or oral, which would prevent you from performing the Services;
  - 4.7. you will not incur any charges or obligate Whimble in any way whatsoever without obtaining our prior written approval;
  - 4.8. you will not engage in any business or activity that would prevent you from fulfilling your obligations under this Agreement;
  - 4.9. you will perform the Services yourself without the involvement of any third parties, unless Whimble has consented in writing to such third party’s involvement. Any such involvement shall only be for Services Whimble has approved;
  - 4.10. you have the right and ability to enter into this Agreement and to be bound by its terms;
  - 4.11. you are wholly responsible for complying with, and submitting the requisite filings and payments under applicable federal, provincial, municipal or local law.
5. **Compliance with Privacy Laws.** Contractor acknowledges and accepts that they may have access to client’s personal health information in the course of providing Services and are solely responsible for ensuring Contractor’s full compliance with federal and provincial privacy legislation, including the *Personal Health Information Act, 2004, S.O. 2004, c. 3, Sched. A* (“**PHIPA**”). Contractor acknowledges and accepts that they are the health information custodian and Whimble is the agent

and/or electronic service provider (as applicable), as such terms are defined in PHIPA. Contractor must not collect, use, disclose, retain or otherwise process personal health information or personal information except as permitted by applicable law, including PHIPA.

6. **Termination of Engagement.** Whimble may terminate this Agreement at any time for any reason by providing you with at least fourteen (14) days of prior written notice of termination. You may terminate this Agreement at any time for any reason by providing us with at least thirty (30) days of prior written notice of termination. We may immediately terminate this Agreement at any time for any material breach of the Agreement by you. Notwithstanding anything to the contrary contained in this Agreement, the termination of this Agreement for any reason shall not waive or alter any other rights or privileges that we may have under this Agreement.
7. **Non-Solicitation.** Both during the Engagement, and for a period of twelve (12) months from the last day of the Engagement (the “**Termination Date**”), you must not, directly or indirectly, in any capacity whatsoever on your own behalf or on behalf of any other person, firm, company or association (unless with our prior written approval): (a) solicit (or attempt to solicit) business from any of our clients, for the benefit of any business or individual (including the Contractor in their personal capacity) which is directly competitive with our on demand business, including without limitation, businesses engaged in providing (i) personal care, (ii) housekeeping and meal preparation, and (iii) errand assistance services to seniors; or (b) solicit or entice away (or attempt to solicit or entice away) any person or entity who is known by you to be employed or engaged by us as of the Termination Date, for the purpose of inducing such person or entity to end their employment or engagement with us.
8. **Confidential Information.** In performing the Services, you may have access to proprietary and confidential information including but not limited to any Personal Information or Personal Health Information belonging to a client or Contractor whether they be in written, graphic or oral form, that are now or hereafter owned, licensed or otherwise acquired by Whimble, or our clients, suppliers and others (which proprietary and confidential information is collectively referred to in this Agreement as “**Confidential Information**”). Both during and after the Engagement, you will not disclose or use (or make or retain in your possession or control copies of any Confidential Information, except in the course of carrying out authorized activities on our behalf or except as expressly authorized by us in writing.
  - 8.1. You may use or disclose Confidential Information that is or becomes: (a) public, other than through a breach of this Agreement; (b) known to you prior to the Engagement and with respect to which you do not have any obligation of confidentiality; or (c) required to be disclosed by law, whether under an order of a court or government tribunal or other legal process, provided that you inform us of such requirement as soon as you become aware of the requirement and in sufficient time to allow us to take such steps as are lawfully available to Whimble to avoid or limit such disclosure.
  - 8.2. Upon request at any time, and upon the cessation for any reason whatsoever of the Engagement, you will immediately deliver to us (or destroy, as directed), all originals and all copies of the Confidential Information, in whatever medium or form, that is then in your possession, custody or control.
9. **Indemnification.** Contractor agrees to indemnify and hold harmless Whimble from any and all claims, actions, causes of action, debts or demands (including any related liability for interest or penalties, and any related costs or expenses, including reasonable legal fees, incurred by Whimble) which may arise as a result of or in relation to: (i) Contractor’s breach of any of the representations and warranties set out in this Agreement; (ii) Contractor’s failure for any reason whatsoever to comply with, and submit the requisite filings and payments under, applicable federal, provincial,

municipal or local law; (iii) a determination by any government entity, agency, ministry or collecting body having jurisdiction that the relationship between the Parties is not an independent contractor relationship; (iv) Contractor's negligence or wilful misconduct in performing the services, which specifically includes any harm or injury caused to the client due to the actions or inactions of the Contractor; or (v) a breach of any of Sections 8 and 9 of this Agreement.

9.1. **Indemnity for Taxes.** In the event the Canada Revenue Agency or any provincial taxation authority should assess Whimble for failure to have withheld income tax, Canada Pension Plan or other similar payments or Employment Insurance payments from amounts payable to the Contractor pursuant to the provisions herein, the Contractor shall reimburse and save harmless Whimble for the entire amount assessed, including penalties, interest and other charges.

10. **Insurance.** Whimble shall not provide insurance coverage of any kind to you. You shall maintain in full force and effect a comprehensive or Professional Liability and/or Errors and Omissions liability insurance policy during the Term of this Agreement and shall make such a policy available for review at Whimble's request.

## 11. General Terms

11.1. **Currency.** All amounts payable under this Agreement are expressed in Canadian dollars, exclusive of applicable taxes (if any).

11.2. **Third Party Beneficiary.** Both Parties acknowledge and agree that Client is a third-party beneficiary to this Agreement.

11.3. **Choice of Law and Venue.** This Agreement shall be construed in accordance with and shall be subject to the laws of the Province of Ontario, and the federal laws of Canada applicable therein, without regard to conflict of laws principles.

11.4. **Severability.** If any provision of this Agreement is held by a court to be invalid or unenforceable, that provision is to be deleted, and the other provisions remain in effect and are valid and enforceable to the fullest extent permitted by law.

11.5. **Independent Obligations, Survival and Enforceability.** Each of the covenants and obligations set out in Sections 8, 9, 10, 12 and 14 will be construed as constituting obligations independent of each other and of any other obligations in the Agreement and will each survive the termination of this Agreement.

11.6. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and sets out the Parties' full understanding and agreement pertaining to their subject matter. This Agreement supersedes all prior agreements, understandings, negotiations and discussions between the Parties, whether oral or written.

11.7. **Modification.** This Agreement can only be modified, changed or amended pursuant to a written agreement signed by both Parties.

11.8. **Assignment.** Whimble may assign this Agreement or any of its rights under this Agreement to any third party, who will be bound by the terms and conditions of this Agreement. Contractor may not assign this Agreement or any of the Contractor's rights hereunder to any third party without obtaining Whimble's prior written consent.

11.9. **Execution in Counterparts.** This Agreement and any attachments may be executed by the Parties in separate counterparts each of which, when executed, shall be considered to be an original and all of which shall constitute the same agreement. This Agreement may be executed by electronic means and executed counterparts may be delivered by electronic delivery.

We are looking forward to working with you.

Yours truly,

**Whimble Care Inc.**

[name]

**CONFIRMATION, ACCEPTANCE AND CONSENT** I hereby represent and confirm that I: (i) have read and understand this Agreement; (ii) have had the opportunity to confer with an independent legal advisor if I so wished, in advance of signing below; and (iii) am not under any contractual or other legal obligation that prevents me from accepting this engagement or from abiding by the terms and conditions of this engagement as an independent contractor.

Signed: .....

[INSERT NAME]

Dated: .....

