

## CIRCLE care home guide

### Licence Terms and Conditions

**This Agreement** is between:

1. The University of Kent whose registered address is The Registry, Canterbury, Kent CT2 7NZ, United Kingdom (“Licensor”); and
2. Licensee as defined in the CIRCLE (Creating Inclusive Residential Care for LGBTQ+ Elders) care home guide Registration Form (the “CIRCLE Registration Form”).

Together, (the “Parties”)

#### Background

- A. The Centre for Health Services Studies, at the University of Kent has developed the Guide and owns the Intellectual Property Rights therein. This includes the copyright in the work as defined below.
- B. Licensee wishes to acquire rights under the Guide in accordance with the provisions of this Agreement, as updated from time to time.

The Parties agree as follows:

#### 1. Definitions

In this Agreement, the following words shall have the following meanings:

**the Guide:** The printable or electronic guide including do’s and don’ts on how to provide LGBTQ+ inclusive care for older people living in a care home, accompanying documentation and any material relating to CIRCLE care home guide that may be made available from time to time;

**CIRCLE Registration Form:** The completed registration form outlining the Purpose, to which these Terms and Conditions are attached. The CIRCLE Registration Form together with these Licence Terms and Conditions constitute the whole Licence Agreement.

**Intellectual Property Rights:** Patents, rights to inventions, trademarks, service marks, registered designs, copyrights and

related rights, database rights, design rights, rights to use and protect confidential information, in each case whether registered or unregistered, including rights to apply for and be granted and applications for any of the above and any continuations, continuations-in-part, divisional applications, renewals or extensions of, and rights to claim priority from, those rights, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;

**Licence Period:** a period of two (2) years from the date of execution of this Agreement . The Licence Period may be extended with the written agreement of Licensor. Permission to extend the term of this Agreement must be sought by the Licensee three (3) months before the expiry of the Licence Period. If no extension has been agreed upon between the parties, this Agreement will automatically terminate at the second anniversary of this Agreement.

**Not-For-Profit Use:** Use of the Guide for the benefit of the public without financial gain. Examples of not-for-profit use: (1) A care home, local authority, school or registered charity wishes to use the Guide for staff supervision and development. (2) Use of the work by a not-for-profit business and non-fee charging application. (3) A care provider wishes to use the Guide in their services. Examples of for-profit-use would be any use of the Guide to generate income, e.g.: (1) Charging a third party a fee for using the Guide e.g. A software company incorporating the Guide into an application and charging a care home a fee or the inclusion of the Guide into an existing fee paying tool.

**Purpose:** Staff awareness, training and development

**Territory:** As set out in the CIRCLE Registration Form.

**Users:** Employees, independent contractors and residence of the Licensee.

## 2. Grant

- 2.1. *Licence.* In consideration of the acceptance of the provisions of this Licence, Licensor grants Licensee a non-exclusive and non-transferable licence, for Users to use the Guide solely within Purpose and for Not-For-Profit Use within Territory, for Licence Period.
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- 2.9 *Data.* Licensee must provide the Centre for Health Services Studies, if reasonably requested, with data to demonstrate the impact of the Guide. Data requested may include the context of use and the outcome, and/or a statement regarding the impact the Guide has had or is likely to have on policy, practice, quality of services, etc. as a result of use in the Purpose.

## 3. Warranties and Liability

- 3.1. *Disclaimer.* No warranty, condition, undertaking or term, expressed or implied, statutory or otherwise, is given or assumed by the Licensor, including without limitation as to non-infringement

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- 3.2. *Indemnity.* The Licensee shall indemnify the Licensor and its officers, directors, Council members, employees and representatives (together, the “Indemnitees”) against all third party Claims that may be asserted against or suffered by any of the Indemnitees and which relate to the use by the Licensee of the Guide. “Claims” means all demands, claims and liability (whether criminal or civil, in contract, tort or otherwise) for losses, damages, legal costs and other expenses of any nature whatsoever and all costs and expenses (including without limitation legal costs) incurred in connection therewith.
- 3.3. *Liability of Indemnitees.*
- a. To the extent that any Indemnitee has any liability in contract, tort, or otherwise under or in connection with this Licence, including any liability for breach of warranty, their liability shall be limited in accordance with the following provisions of this clause.
  - b. In no circumstances shall any of the Indemnitees be liable for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by the Licensee that is (a) of an indirect, special or consequential nature or (b) any loss of profits, revenue, business opportunity or goodwill.
- 3.4. *Saving.* Nothing in this Licence excludes any person’s liability to the extent that it may not be so excluded under applicable law, including any such liability for death or personal injury caused by that person’s negligence, or liability for fraud.

#### 4. **Termination**

- 4.1. *Breach.* The Licensor may terminate the Licence Period early by written notice if the Licensee fails to comply with any provision of this Licence, within 14 days of being required to do so in writing.
- 4.2. *Consequences of termination.* Upon termination the Licensee shall immediately stop using the Guide and shall certify to the Licensor within 5 days that the Licensee has removed all copies from its systems. The expiry or termination of the Licence Period is without prejudice to any other rights or remedies of either party under the Licence or at law and does not affect any rights or obligations which have arisen or accrued up to and including the date of expiry or termination. Clauses 3, 4 and 5 shall survive termination or expiry.

#### 5. **General**

- 5.1. *Data Protection.* Research and Innovation Support, a department of the University of Kent, will use your data for the processing of contracts. For further information on how your data will be used please see our privacy notice - <https://www.kent.ac.uk/about/assurance-and-data-protection/privacy-notices>. The Centre for Health Services Studies will use your data for licence processing and to demonstrate impact of the Guide.
- 5.2. *Assignment.* The Licensee shall not assign or otherwise transfer all or any part of this Licence, without the Licensor’s prior written consent.
- 5.3. *Law and jurisdiction.* The validity, construction and performance of this Licence shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties hereby submit, except that a party may seek an interim injunction in any court of competent jurisdiction.
- 5.4. *Entire Agreement.* This Licence constitutes the entire agreement and understanding of the Licensor and Licensee relating to the subject matter of this Licence. This Licence cannot be waived or varied except in writing signed by the Licensor. If the whole or any part of a provision of this Licence is void, unenforceable or illegal in a jurisdiction,

it is severed for that jurisdiction, unless it alters the basic nature of this Licence or is contrary to public policy.

5.5. *Third parties.* Except for the rights of the Indemnitees as provided in clause 3, who may in their own right enforce the provisions of that clause, this Licence does not create any right enforceable by any person who is not a party to it (“Third party”) under the Contracts (Rights of Third Parties) Act 1999, but this clause does not affect any right or remedy of a Third Party which exists or is available apart from that Act. The Parties may amend, renew, terminate or otherwise vary all or any of the provisions of this Licence, including clause 3, without the consent of the Indemnitees.

5.6. *Notices.* Any notices to be given under this Licence shall be in writing and sent

by mail or email only to the following addresses or to such other addresses as the Parties may specify from time to time in writing. They will be deemed to have been received 3 working days after posting or emailing.

**For Licensor:**

*Contract queries:*

[RIScontracts@kent.ac.uk](mailto:RIScontracts@kent.ac.uk) Research & Innovation Support, Rutherford Annexe, Canterbury, Kent CT2 7NX

*Centre for Health Services queries:*

[lssjcircleguide@kent.ac.uk](mailto:lssjcircleguide@kent.ac.uk)

**For Licensee:** As per the CIRCLE Registration Form.