



**COLDSTREAM**  
WEALTH MANAGEMENT

## **Sample Caregiver Agreement Overview**

### **Document Purpose, Limitations and Disclaimer:**

The following document is a Sample Caregiver Agreement being shared to assist those with disabilities (both clients and non-clients). Setting proper expectations and boundaries with someone you bring into your life as a caregiver is an important step in increasing the odds of a successful and happy outcome. This document is designed to present some of the major issues involved in preparing a caregiver agreement. It is NOT a substitute for consulting with an attorney. Your ultimate agreement is based on the individual facts and circumstances of your caregiver relationship.

This document is designed as resource for the community illustrating important sections of an Agreement to include when you hire assistance for your disability; however, as with all Agreements, you should have your own legal representation review, modify, and approve before using.

Coldstream Wealth Management is providing this **SAMPLE Agreement** for the benefit of the disability community. A Caregiver Agreement is an important part of hiring assistance for your disability needs. It is HIGHLY encouraged to work with your legal expert to review and customize this **SAMPLE Agreement** for your needs. This Sample Agreement is not intended to provide and should not be construed to constitute complete legal or tax advice.

# Sample Caregiver Agreement

I. **The Parties.** This Caregiver Agreement (“Agreement”) made \_\_\_\_\_, 20\_\_\_\_ is by and between \_\_\_\_\_ [“Recipient”] and \_\_\_\_\_ [“Caregiver”].

II. **Term of Agreement.** This Agreement shall commence on \_\_\_\_\_, 20\_\_\_\_ [“Effective Date”] and may be terminated by either party upon reasonable notice to the other party.

III. **Purpose.** The purpose of this Agreement is to set forth the terms and conditions under which Caregiver will assist Recipient with instrumental activities of daily living in order for Recipient to continue to live at home and prevent Recipient from moving to a residential or nursing care facility.

IV. **Employment Status:** The Caregiver shall be recognized as a: (check one)

W-9 Employee. This entitles the Caregiver to certain State and Federal rights in addition to being bound to certain withholdings. Caregiver will complete Form I-9 (available at [www.uscis.gov/forms](http://www.uscis.gov/forms)) and provide the required documentation verifying employment eligibility within 3 days of hire. Recipient will withhold the required Social Security & Medicare taxes from the Caregiver’s pay, along with income taxes per the Caregiver’s instructions on Form W-4 and state withholding form (if applicable). Recipient will pay Social Security & Medicare taxes as well as federal and state unemployment insurance taxes. Recipient will provide Caregiver with Form W-2 by January 31st after the calendar year concludes. Recipient will report Caregiver’s earnings to the Social Security Administration so that employee receives the appropriate credits. See Exhibit A for full-list of Caregiver’s Benefits.

1099 Independent Contractor. The Caregiver is acting of their own accord providing a service which recognizes the Caregiver as an Independent Contractor as defined under Federal and State law. Therefore, Caregiver shall bear all responsibility for the payment of Social Security and Medicare taxes as well as any other withholdings as required under Local, State, and Federal law. If the Caregiver decides at any time to obtain unemployment insurance they shall have the right to do so under their own accord.

***[Whether your caregiver is an employee or an independent contractor has important legal and regulatory implications. The determination of whether your caregiver is an employee or independent contractor is fact specific: based on the terms and conditions of the relationship between you and your caregiver. CONSULT WITH AN ATTORNEY BEFORE MAKING THIS DETERMINATION.]***

***[The answers to the provisions contained in Section V, VI, VII, and VIII, all potentially have an impact on the employee/independent contractor determination.]***

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**V. Compensation.** Recipient shall pay Caregiver \$\_\_\_\_\_  Hourly  Daily  Weekly  
 Annually.

**Caretaker's Commitment.** The Caretaker shall provide their services: (check one)

For at least \_\_\_\_ hours per week.

On an "as-needed" basis.

**Room and Board.** Recipient shall: (check one)

Provide room and board and pay for all related expenses

Pay Caregiver \$\_\_\_\_\_ per month for room and board, which consists of a proportional share of their mortgage/rent, taxes, insurance, heat, electricity, water, sewer, and groceries.

**Reimbursement.** Recipient shall reimburse Caregiver for all out of pocket expenses borne by Caregiver in connection with the services performed for the Recipient's benefit.

**Vehicle.** Expenses shall include mileage at the rate of \$\_\_\_\_\_ per mile.

**VI. Schedule.** The Caregiver: (check one)

**Shall not be bound to a schedule.**

**Shall be bound to the following \*schedule:**

Monday: \_\_\_\_:\_\_\_\_  A.M.  P.M. to \_\_\_\_:\_\_\_\_  A.M.  P.M.

Tuesday: \_\_\_\_:\_\_\_\_  A.M.  P.M. to \_\_\_\_:\_\_\_\_  A.M.  P.M.

Wednesday: \_\_\_\_:\_\_\_\_  A.M.  P.M. to \_\_\_\_:\_\_\_\_  A.M.  P.M.

Thursday: \_\_\_\_:\_\_\_\_  A.M.  P.M. to \_\_\_\_:\_\_\_\_  A.M.  P.M.

Friday: \_\_\_\_:\_\_\_\_  A.M.  P.M. to \_\_\_\_:\_\_\_\_  A.M.  P.M.

Saturday: \_\_\_\_:\_\_\_\_  A.M.  P.M. to \_\_\_\_:\_\_\_\_  A.M.  P.M.

Sunday: \_\_\_\_:\_\_\_\_  A.M.  P.M. to \_\_\_\_:\_\_\_\_  A.M.  P.M.

\*Schedule may change from time-to-time depending on the schedule and routine of the Recipient.

**VII. Services to be Performed.** Caregiver agrees to provide care to Recipient at \_\_\_\_\_ with a mailing address of \_\_\_\_\_, City of \_\_\_\_\_, State of \_\_\_\_\_.

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Services to be provided by Caregiver will include, but shall not necessarily be limited to:

**Transportation and errands:**

Driving Recipient to medical, dental, adult day care and other appointments and activities;

Shopping for groceries and other items needed by Recipient, and filling/refilling prescriptions;

- Running other errands for Recipient including but not limited to:

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**Meals:**

Preparing \_\_\_\_ meals per day as well as daily snacks for Recipient.

Purchasing or assisting to get groceries on behalf of the Recipient.

Acting as a companion at restaurants with the Recipient.

**Housework:**

Cleaning Recipient's living area;

Laundry and changing linens.

**Financial:** (if selected, may require a durable power of attorney)

Paying Recipient's bills, balancing Recipient's check book, making deposits, dealing with health insurance, and other paperwork.

Payment of: \_\_\_\_\_

**Administration of Medication:**

Ensuring the Recipient is taking all medications as prescribed;

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Assisting the Recipient with living and exercising routines;

**Assistance with Everyday Life:**

Transferring the Recipient from bed, chair, and toilet; ambulation, bathing, hygiene/grooming; toileting; eating.

Scheduling tasks, managing the Recipient's calendar, making appointments with health care services and managing everyday tasks (e.g. haircuts, dental, etc.)

Monitoring the Recipient for safety, including responding to alarm system to control wandering/fall risk.

Monitoring the Recipient's health and bringing health problems to attention of health care providers.

Assist in dressing and undressing.

Performing bowel program assistance.

Performing catheter changes.

Additional Tasks:

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Hereinafter known as the "Services".

**VIII. Vehicle.** The Caregiver: (choose one)

Shall be provided with a vehicle to perform the Services for the Caregiver.

Shall not be provided with a vehicle. Caregiver shall be reimbursed by the Recipient in accordance with the Internal Revenue Services (IRS) reimbursement rate per mile

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driven. Therefore, the Caregiver shall be required to maintain a mileage log and submit to the Recipient at the end of the payment period.

**IX. Social Media.** Caregiver understands that no information about his/her location, plans for the day, pictures of the Recipient or family members, associates, or friends shall be shared on any social media network. Caregiver will be required to not inform strangers or third (3rd) parties where he or she shall be spending their time during the day unless the Recipient grants consent. Recipient may only grant such consent if he or she is able to make conscious decisions on their behalf.

**X. Amendments.** This Agreement may be modified or amended under the condition that any such amendment is attached and authorized by the Parties.

**XI. Severability.** This Agreement shall remain in effect under the circumstance a section or provision is unenforceable or invalid. All remaining sections and provisions shall be deemed legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus, limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.

**XII. Governing Law.** This Agreement shall be governed under the laws in the State of \_\_\_\_\_.

**XIII. Entire Agreement.** This Agreement, along with any attachments or addendums, represents the entire agreement between the parties. Therefore, this Agreement supersedes any prior agreements, promises, conditions, or understandings between the Caregiver and Recipient.

\_\_\_\_\_  
Recipient Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Caregiver Signature

\_\_\_\_\_  
Date

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# EXHIBIT A

This Exhibit shall only be applicable if the Caregiver is considered a W-4 Employee under Section IV of this Agreement.

**I. Benefits.** The Caregiver shall be entitled to the following: (check applicable boxes)

**Health Insurance.** Recipient shall provide: (check one)

Complete Health Insurance Coverage

\$\_\_\_\_\_ per month attributable to Health Insurance.

**Retirement Benefits.** Recipient shall provide: (check applicable)

401(k) Eligibility

IRA

Health Savings Account

**Paid Time-Off.** Caregiver shall receive the following paid time-off: (check applicable)

Sick Leave - \_\_\_\_ days per year. Advance notice is requested for any appointments which may cause the Recipient undue hardship.

Vacation Time - \_\_\_\_ days per year. Caregiver must request to use vacation time at least 30 days in advance.

Holidays – The Recipient requires the Caregiver work on all federal holidays EXCEPT: \_\_\_\_\_

**II. Probationary Period.** During the initial \_\_\_\_ days of employment [“Probationary Period”], the Recipient may terminate this Agreement at any time without notice and without severance pay. Furthermore, the Benefits listed in Section I of this Exhibit shall not become effective until after the Probationary Period.

**III. Overtime Pay.** With very few exceptions, senior caregivers are classified as “non-exempt” workers, which entitles them to be paid for every hour they work. Overtime (time-and-a-half) must be paid for each hour worked over 40 in a 7-day workweek.

Generally, live-in employees are exempt from overtime requirements, however, the states of CA, HI, MD, MA, MN, ME, NJ and NY have special overtime requirements for live-in employees. Your caregiver is considered a live-in employee if their primary residence is the home of the person they are caring for, or if they work 120 hours or more per week

\_\_\_\_\_  
Recipient Signature

\_\_\_\_\_  
Date

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Caregiver Signature

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Date

SAMPLE

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## EXHIBIT B

Any dispute, claim, or controversy arising out of or relating to this Agreement, including the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in \_\_\_\_\_ before \_\_\_ arbitrator(s). The arbitrations shall be administered by \_\_\_\_\_ pursuant to the \_\_\_\_\_ Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude the parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

\_\_\_\_\_  
Recipient Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Caregiver Signature

\_\_\_\_\_  
Date

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## Appendix

### Additional Items to Consider:

Users of this sample information may also wish to discuss with their legal counsel the benefits of additional legal structures in addition to an Employee Agreement such as Limited Liability Corporations (LLC), Special Needs Trust, ETC.

SAMPLE

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# About the Content Creators

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Coldstream's DAS initiative delivers guidance by focusing on customized financial planning and strong advocacy. Settlement recipients and their families have already faced significant life-altering issues and financial challenges. We understand it is a mission critical requirement that their financial assets are guarded for the life-long known and unknown needs that are certain to emerge. Coldstream ensures that financial guidance and broad care is delivered in a compassionate and respectful manner, yet with candor that is often required when facing life-altering circumstances.

We have many years of experience in successfully guiding our clients living with disabilities and special circumstances through the emotional and financial complexities of sudden wealth. We work to ensure that their wealth supports their aspirations and that their situation is optimized. By providing these specialized services and taking the time to truly understand a family's individual needs and challenges, we build on the foundation of a shared vision of their future and help promote their success now and in the years ahead.

### Summary Services

- Capital Preservation & Personalized Planning
- Lump Sum & Structured Settlement Analysis
- Case Finalization Services
- Assistive Services & Equipment Provider Partnerships

Visit [www.coldstream.com/das](http://www.coldstream.com/das) for more disability resource information.



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