



Putting the *personal* back into personal shopping

STANDARD INDEPENDENT CONTRACTOR PERSONAL SHOPPER AGREEMENT (Albuquerque & Lawrence)

Article 1. The Parties

This Agreement is entered into by Carried Out, LLC (Carried Out) and _____
(Personal Shopper). Personal Shopper may enter into this agreement as an individual, LLC or other legal entity.

Article 2. Effective Date/Duration

This Agreement shall be effective on the date the Agreement is signed by the parties and shall remain in effect until terminated as set forth in Article 6.

Article 3. Purpose

Carried Out and Personal Shopper enter into this agreement to provide Personal Shopper the opportunity of providing personal shopping, pickup and delivery services to customers of Carried Out.

ARTICLE 3. READ NOW – IMPORTANT INFORMATION FOR PERSONAL SHOPPER

IMPORTANT: PLEASE REVIEW THIS AGREEMENT CAREFULLY. IN PARTICULAR, PLEASE REVIEW THE MEDIATION AND ARBITRATION PROVISIONS IN ARTICLE 7 AS THEY REQUIRE THE PARTIES TO RESOLVE DISPUTES ON AN INDIVIDUAL BASIS THROUGH MEDIATION AND, IF UNSUCCESSFUL, FINAL AND BINDING ARBITRATION.

BY ACCEPTING THIS AGREEMENT, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD ALL OF THE TERMS, INCLUDING THE MEDIATION AND ARBITRATION PROVISIONS SET FORTH IN ARTICLE 7, AND HAVE TAKEN THE TIME AND SOUGHT ANY ASSISTANCE NEEDED TO COMPREHEND THE CONSEQUENCES OF ACCEPTING THIS AGREEMENT.

Article 4. Personal Shopper

As a prerequisite to providing services pursuant to this Agreement, Personal Shopper agrees to the following terms and conditions:

- When providing services pursuant to this Agreement, The Personal Shopper understands and expressly agrees that they are (and shall be at any and all times) an **independent contractor** and not an employee of Carried Out.
- ✓ Personal Shopper shall have no claim against Carried Out hereunder or otherwise (i) for vacation pay, paid leave, retirement benefits, social security, workers compensation, health or disability benefits, unemployment insurance benefits or other benefits of any kind and (ii) for any and all costs whatsoever incurred by the Personal Shopper associated with their providing services pursuant to this Agreement.



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- ✓ The Personal Shopper understands and agrees that this means they will be solely responsible for paying all their own taxes including Medicare and Social Security and any other taxes required by the Federal, State, County or Municipal Governments and that Carried Out will not be withholding any tax from payments due and owing to the Personal Shopper.
- ✓ The Personal Shopper further understands and agrees that this means they will be solely responsible for any and all costs whatsoever (including but not limited to bond, liability insurance, vehicle upkeep and repairs, gas, traffic tickets, auto accidents, health insurance, supplies and equipment), damage to or loss of customer's goods) incurred by the Personal Shopper associated with their providing services pursuant to this Agreement.
- ✓ The Personal Shopper further understands and agrees that this means they will be responsible for paying any and all costs (including payment for services rendered and as set forth in the three preceding paragraphs) associated with using their employees or other persons to provide services pursuant to this Agreement.
- ✓ The Personal Shopper further understands and agrees that this means, as an independent business enterprise, they retain the right to perform services (whether personal shopper services or other services) for others and to hold themselves out to the general public as a separately established business and that nothing in this Agreement shall prevent them from engaging in similar arrangements with others and nothing in this Agreement prevents Personal Shopper from doing business with others.
- ✓ The Personal Shopper further understands and agrees that this means they have the right to perform services for other businesses, customers or consumers at any time, even if such business directly competes with Carried Out, and even during any time that they had previously indicated their availability to accept assignments from Carried Out.
- Prior to being dispatched to any shopping, pickup and/or delivery assignments from Carried Out, Personal Shopper shall:
 - ✓ Provide Carried Out with a completed IRS Form W-9.
 - ✓ Watch the Carried Out's introductory video and attend an orientation session.
 - ✓ Provide Carried Out with a current driver's license, proof of auto registration and proof of auto liability insurance for all persons providing personal shopping services pursuant to this Agreement.
 - ✓ Consent to and pass a background check.
 - ✓ Provide Carried Out with a surety bond in the amount of \$1,000.00 covering all persons providing fulfillment services pursuant to this Agreement and protecting Carried Out and the customers Personal Shopper will be working with.
 - ✓ By signing this Agreement, attest that they have all the equipment, supplies and personnel necessary to provide the personal shopping services contemplated by this Agreement.
 - ✓ By signing this Agreement, attest that they operate an **independently established enterprise** that provides personal shopping, delivery and other services, and that they satisfy all legal requirements and have all necessary licenses and permits necessary to perform the personal shopping services contemplated by this Agreement.
- Personal Shopper assignments shall be at the sole discretion of Carried Out and subject to customer demand. The Personal Shopper understands and agrees that they are not guaranteed a minimum number of assignments by Carried Out.



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- Personal Shopper shall be free to choose the number of hours and the days that they will be available to accept assignments from Carried Out. However, to minimize unnecessary intrusions in their daily life, Personal Shopper may at their discretion submit an availability schedule to Carried Out at the first of every month.
- Personal Shopper shall be free to accept or reject any assignment. However, once accepted, the Personal Shopper shall be contractually bound to complete the assignment in accordance with all customer specifications and in a timely, efficient, safe, and lawful manner. However if a Personal Shopper accepts an assignment to be fulfilled at a future date, the Personal Shopper may cancel such acceptance by giving notice to the Carried Out's dispatcher no later than 5pm two days prior to the scheduled fulfillment date. The two day requirement may be waived for good cause at the sole discretion of Carried Out.
- Personal Shopper agrees that a customer has the right to decline their services for any reason whatsoever even if Carried Out would otherwise offer Personal Shopper the Fulfillment Assignment.
- Personal Shopper shall have the sole right to control the manner, method or means they use to perform services pursuant to this Agreement. Personal Shopper shall be solely responsible for determining the most effective, efficient, and safe manner to perform the contracted services including determining the manner of shopping, pickup, delivery and route selection. Personal Shopper agrees to immediately notify Carried Out in writing at .Info@carriedoutllc.com if Personal Shopper's feels that Carried Out is interfering with their rights set forth in this paragraph.

As a corollary of their rights and responsibilities set forth in the above paragraph, Personal Shopper understands and agrees that they are responsible for any goods that are damaged or otherwise rendered unsafe while in their possession (including but not limited to thawing or melting frozen foods) and will replace such items upon request of the customer. Any refund to a customer in lieu of product replacement by Carried Out shall be charged back to the Personal Shopper and may be deducted from any payment that Carried Out would otherwise owe Personal Shopper. This paragraph shall survive any termination of this Agreement.

- Personal Shopper understands and agrees that even though they may ask Carried Out for assistance to help overcome a challenge with a specific purchase, pickup and/or delivery (i) Carried Out will only give suggestions to Personal Shopper about how to overcome the challenge (ii) Personal Shopper retains the right to make any final decision and (iii) said request and any suggested avenues to overcome the challenge do not abrogate the Personal Shopper's rights as set forth in the preceding paragraph. Except for giving suggestions to Personal Shopper, Carried Out shall not take any action to assist the Personal Shopper to overcome a challenge unless the Personal Shopper directs Carried Out to take the contemplated action. The provisions of this paragraph do not prohibit Carried Out from relaying customer complaints to Personal Shopper or resolving any dispute with a customer with whom Carried Out has a contractual relationship. Any dispute that Carried Out resolves with a customer may trigger the provisions set forth in the Indemnification Paragraph set forth below.
- Personal Shopper shall use personal customer information provided to them by Carried Out only for fulfilling personal shopping, pickup and delivery assignments pursuant to this Agreement and shall otherwise maintain the confidentiality of such information. This paragraph shall survive any termination of this Agreement.



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- Personal Shopper during the duration of this Agreement and for the 2 years immediately following its termination shall not outside of this Agreement (i) offer their personal shopping, pickup and delivery services to any of their Carried Out customers or (ii) participate in any plan to solicit their Carried Out customers for personal shopping and delivery services. This paragraph shall survive any termination of this agreement.
- Personal Shopper shall only use Carried Out's supplied payment card to purchase goods ordered by a customer and for no other purpose. This paragraph shall survive the termination of this agreement.
- Personal Shopper agrees that all payments owed to Personal Shopper by Carried Out pursuant to this agreement shall be made through Direct Deposit to the financial institution of Personal Shopper's choice.
- Personal Shopper shall be entitled to 100% of any gratuity paid by the customer upon delivery of a fulfillment order. This includes any gratuity paid directly to the Personal Shopper by a customer or when a gratuity is included along with the payment of any invoice by the customer. Carried Out will pay the Personal Shopper any gratuities that it receives on behalf of the Personal Shopper within 10 days of receipt.
- Personal Shopper shall follow all government mandates and/or CDC guidelines (whichever are the strictest) for protecting others from the COVID-19 virus or other communicable diseases.
- Personal Shopper shall protect the customer by wearing a mask and social distancing when interacting in person with a customer while the COVID-19 virus remains a threat to the community in which Personal Shopper is providing services (only operative as long as government mandated or CDC suggested).
- Personal Shopper shall indemnify, defend, and forever save and hold harmless Carried Out from and against any and all damages, claims, losses, demands, costs, expenses (including attorney's fees and costs), obligations, liens, liabilities, actions and causes of action, threatened or actual, which Carried Out may suffer or incur arising from Personal Shopper's acts or the breach of any agreement, obligation, warranty or representation made herein except to the extent such claims arise from the negligence or willful misconduct of Carried Out. This paragraph shall survive any termination of this Agreement.

Article 5. Carried Out

- Carried Out shall inform the Personal Shopper of potential fulfillment assignments by phone or text message as set forth in Attachment A.
- Upon Personal Shopper's completion of a fulfillment assignment, Carried Out shall pay the Personal Shopper as set forth in Attachment B.
- Carried Out shall not interfere with Personal Shopper's sole right to control the manner, method or means they use to perform services pursuant to this Agreement.

Article 6. Termination

- Except for Articles 7, 8, 9 and 12 and specific paragraphs set forth in Article 4 that survive termination, this Agreement may be terminated (i) without cause by Personal Shopper (ii) or with or without cause by Carried Out by giving a 5 day written notice to the other party by email or US Mail.



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- Carried Out may only terminate this Agreement without cause if it is updating its Standard Agreement for Albuquerque and/or Lawrence with amended terms that are applicable to all Personal Shoppers in Albuquerque and/or Lawrence operating under such agreement. Carried Out shall sign a revised Standard Agreement with Personal Shopper if they agree to the terms set forth in the revised Standard Agreement.
- Reasons why Carried Out may terminate this Agreement for cause are set out in Attachment C of this Agreement.
- Upon termination, Carried Out shall not owe Personal Shopper any reimbursement for any services rendered after the date of termination.
- Upon termination, the Personal Shopper shall return any Carried Out property in their possession including Carried Out's Payment Card. Carried Out may withhold any final payment due to Personal Shopper until the Personal Shopper has complied with the provisions of this paragraph.

Article 7. Mandatory Alternative Dispute Resolution

In the event that a dispute arises between the parties regarding (i) this Agreement (ii) their relationship including but not limited to payments or debits applied to Personal Shopper's Account (iii) termination of this Agreement for cause by Carried Out or (iv) all other aspects of Personal Shopper's relationship with Carried Out, past, present or future, whether arising under federal, state or local statutory and/or common law, including without limitation harassment, discrimination or retaliation claims and claims arising under or related to the Civil Rights Act of 1964 (or its state or local equivalents), Americans With Disabilities Act (or its state or local equivalents), Age Discrimination in Employment Act (or its state or local equivalents), Family Medical Leave Act (or its state or local equivalents), Federal Credit Reporting Act (or its state or local equivalents), Telephone Consumer Protection Act (or its state or local equivalents), or Fair Labor Standards Act (or its state or local equivalents), state and local wage and hour laws, state and local statutes or regulations addressing the same or similar subject matters, and all other federal, state or local claims arising out of or relating to Personal Shopper's relationship or the termination of that relationship with Carried Out, the parties shall resolve such dispute individually (**class action mediations and arbitrations are prohibited**) without litigation, utilizing the alternate dispute resolution procedures as set forth below.

Individual (non-class action) Mediation. The parties shall first attempt to mediate the dispute through the selection of a mutually agreeable mediator who shall conduct such mediation in confidence. The terms and procedure for mediation shall be arranged by the parties to the dispute.

Individual (non-class action) Arbitration. If good-faith mediation of a dispute proves impossible or if an agreed-upon mediation outcome cannot be obtained by the parties, the dispute may be submitted to arbitration in accordance with ground rules as agreed upon by the parties. Any party may commence arbitration of the dispute by sending a written request for arbitration to all other parties to the dispute. The request shall state the nature of the dispute to be resolved by arbitration, and, arbitration shall be commenced as soon as practical after such parties receive a copy of the written request.

Fees of Mediators and Arbitrators, Attorney Fees. The parties shall share equally the expenses of mediation and/or arbitration, including the fees of the mediator and/or arbitrator, and each party shall bear such party's respective attorneys' fees and *related* costs incurred in connection with mediation and/or arbitration.



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Venue. All mediations and arbitrations shall be held (i) at a site mutually agreed upon by the parties or (ii) electronically if requested by one of the parties.

Legally Binding on the Parties. All mediation agreements (signed) and arbitration decisions shall be final, binding and conclusive on the parties, and legal judgment may be entered based upon such agreement or decision in accordance with applicable law.

If a responding party refuses to participate in the arbitration process, the commencing party may, in lieu of using the arbitration process, file an individual (non-class action) court action to resolve the matter.

Article 8. Venue & Jurisdiction

For New Mexico Personal Shoppers, the venue for any legal judgement filed or legal action brought pursuant to this Agreement shall be the New Mexico District Court located in Albuquerque, NM which shall have jurisdiction over the parties and the matter. The parties waive any other venue/jurisdiction to which a party might be entitled by domicile or otherwise.

For Kansas Personal Shoppers, the venue for any legal judgement filed or legal action brought pursuant to this Agreement shall be the Kansas District Court located in Lawrence, KS which shall have jurisdiction over the parties and the matter. The parties waive any other venue/jurisdiction to which a party might be entitled by domicile or otherwise.

Article 9. Waiver

A party's (i) waiver of or (ii) failure to enforce a provision of this Agreement does not constitute a waiver of their right to do so in the future with respect to that provision, any other provision or this Agreement as a whole.

Article 10. Attachments

Attachments A, B and C attached to this Agreement are hereby incorporated into and made a part of this Agreement.

Article 11. Entire Agreement & Amendments

This Agreement represents the entire Agreement of the parties and it shall not be amended, modified or replaced except by a written instrument executed by the parties.

Article 12. Severability

If any provision of this Agreement is determined by a court or arbitrator to be invalid, unenforceable or otherwise ineffective, that provision shall be severed from the rest of this Agreement, and the remaining provisions shall remain in effect and enforceable.

Space Left Vacant on Purpose



Signatures

Execution of Agreement: In witness whereof, the parties sign and adopt this Independent Contactor Personal Shopper Agreement and accept its terms.

▪ **Personal Shopper**

Signature: _____

Printed Name: _____

Date: _____

Address _____

Email _____

Phone _____

▪ **Carried Out, LLC**

Signature: _____

Title _____

Printed Name _____

Date: _____

Address: NM 400 Gold Ave. SW Suite 700, Albuquerque, NM 87102
KS 888 New Hampshire #415, Lawrence, KS 66044

Email: Info@carriedoutllc.com

Phone: NM (505) 592-9015
KS (913) 433-3496



INDEPENDENT CONTRACTOR PERSONAL SHOPPER AGREEMENT

Attachment A

Communications

This Attachment outlines the communication link between Carried Out and the Personal Shopper and the Customer and the Personal Shopper in the course of fulfilling a customer's order.

❖ Carried Out and Personal Shopper Communication

- When a Customer requests services, Carried Out (unless a customer has requested a specific Personal Shopper) will send a group text to all its Personal Shoppers indicating that an assignment is available. Carried Out will assign the fulfillment order to the first Personal Shopper to respond in the affirmative.

Carried Out will provide the selected Personal Shopper with customer membership status, contact information, preferred method of communication and other pertinent information.

- If a customer has requested a specific Personal Shopper, Carried Out will call or text the Personal Shopper with the opportunity to fulfill the order. If Personal Shopper fails to return the call or text within five minutes unless otherwise communicated, Carried Out will assume that the Personal Shopper is unavailable and will revert to the group text methodology set forth above.

If Personal Shopper accepts the assignment, Carried Out will provide Personal Shopper with customer membership status, contact information and preferred method of communication.

- Concierge Membership Program Members have the option of calling their Personal Shopper directly to place an order.
- Personal Shopper may call Carried Out if they encounter a challenge and wish Carried Out's assistance in fulfilling an assignment (optional contact).
- After a fulfillment assignment is completed, Personal Shopper will text Carried Out with the required Paperwork as set forth in Attachment C of this Agreement.

❖ Customer and Personal Shopper Communication

- Personal Shopper will call Customer to make initial contact and introduce their self. During this conversation, Customer may verbally provide Personal Shopper with their shopping list.*
- Concierge Membership Program Members have the option of calling their Personal Shopper directly to place an order.
- Customer will text or email Personal Shopper with shopping list (if not already given verbally over the phone).*
- Customer may call or text Personal Shopper with any forgotten items (optional contact).

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- Prior to check out, Personal Shopper will call or text customer (i) to check if customer needs additional items (if not already communicated) (ii) for instructions if an item customer ordered is not available from the store that they selected (if not already communicated) and/or (iii) if the Personal Shopper has any remaining questions about the customer's order.
- If the customer hasn't previously given instructions, Personal Shopper will call or text customer for instructions when they are ready to deliver an order.*
- If an order is not delivered in person, Personal Shopper will call or text customer when the order has been delivered.*
- For home to home deliveries, Personal Shopper will call, text or email customer when delivery has been made.*
- The customer may call or text the Personal Shopper after delivery if they have any questions about their order.

*Customer's preference – verbal, text or email



INDEPENDENT CONTRACTOR PERSONAL SHOPPER AGREEMENT

Attachment B

Payments to Personal Shopper

- Upon the Personal Shopper's successful completion of a fulfillment assignment and their submission of the appropriate paperwork as set forth below, Carried Out shall pay Personal Shopper a Fulfillment Fee equal to at least the following: 15% of the purchase cost of the delivered goods (including purchased directly by customer) + \$5.00 for each additional stop if multiple stops are required to fulfill an assignment except as follows:
 - ✓ A flat fee of \$15.00 if the purchase cost is under \$100.00 + \$5.00 for each additional stop if multiple stops are required to fulfill an assignment.
 - ✓ A flat fee of \$15.00 for prescription fulfillment assignments unless the delivery is part of a larger order + \$5.00 for each additional stop if multiple stops are required to fulfill an assignment. If the prescriptions are part of a larger order, the cost of prescriptions is not added into the computation for determining the Personal Shopper's Fulfillment Fee.
 - ✓ A flat fee of \$15.00 for each home to home delivery.
 - ✓ A flat fee of \$15 + 5.00 for each additional stop if the Personal Shopper can't find any of the items that the customer ordered at the shops the customer requested the Personal Shopper to search.

▪ Paperwork

Upon completion of a fulfillment assignment, Personal Shopper shall send a text to Carried Out including the customer's name and address, and confirming that delivery (or unsuccessful search) has been made and -

- ✓ For groceries and other merchants - a legible picture of the itemized purchase receipt for any goods purchased on behalf of or paid by the customer.
- ✓ For Alcohol - even though this is only a pickup and delivery since the customer must order and pay for the alcoholic beverages themselves, a legible picture of the itemized purchase receipt for any alcoholic beverages picked up and delivered on behalf of the customer.
- ✓ For Prescription only orders - A legible picture of the pharmacy bag showing the name of the pharmacy in which the drugs were delivered and a legible picture of the itemized purchase receipt for any prescriptions purchased on behalf of the customer.
- ✓ For Home to Home deliveries - A legible picture of the item or items being delivered on behalf of the customer.
- ✓ For unsuccessful searches – A statement indicating that the search was unsuccessful and the name of the shops that the Personal Shopper searched at the request of the Customer.

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▪ Payments

Payments to the Personal Shopper for services rendered will be sent via Direct Deposit every Friday that is not a bank holiday in Albuquerque or Lawrence. In such instances, payments will be processed on Monday of the following week.

Payment requests submitted after noon on Thursday will be processed on Friday of the following week.

Personal Shopper should expect payments to be credited to their account within 3-5 days from the date of submission. Any discrepancies in payment should immediately be brought to the attention of Carried Out.

Personal Shopper will be issued a monthly summary of all payments made to the Personal Shopper during the month and a Federal Tax Form 1099 for the current calendar year by January 31st of the following year.



INDEPENDENT CONTRACTOR PERSONAL SHOPPER AGREEMENT

Attachment C

Reasons Why Carried Out May Terminate This Agreement for Cause

We at Carried Out place a high value on community and offering local entrepreneurs an opportunity to start up and grow their own businesses. We are also dedicated to providing *Concierge Level* customer service.

Because we value our business relationship with our Personal Shoppers, we want to be clear, upfront, and transparent about the kinds of activities that can lead to this Agreement being terminated by Carried Out for cause.

Reasons Why Carried Out May Terminate This Agreement for Cause

- **Failure to maintain an average monthly customer rating of 4 gold keys.**

Carried Out asks its customers to rate each personal shopping experience on a scale of 1-5 gold keys. These ratings give our customers the opportunity to help ensure that each purchase and delivery meet our *Concierge Level* customer service standards.

Personal Shoppers that (i) are late, (ii) deliver orders with missing or damaged items, (iii) for grocery items, purchase non-fresh produce or out of date items or deliver thawing or melting frozen foods (iv) fail to follow customer instructions or (5) behave unprofessionally typically receive lower ratings.

- **Failure to Maintain a safe environment.**

Unacceptable behaviors include but are not limited to -

- ✓ **Violence or inappropriate behavior, including abusive language** - Exhibiting objectively unsafe behavior, including physical or verbal assault of a customer, merchant or any other person.
- ✓ **Use of alcohol and drugs** – Fulfilling a shopping assignment while under the influence of alcohol or drugs.
- ✓ **Discrimination or harassment** - Carried Out is committed to providing services free from discrimination and harassment and therefore prohibits discrimination and harassment by or directed at Personal Shoppers, merchants, customer or Carried Out employees because of race, color, sex, gender, national origin, ancestry, religion, creed, physical or mental disability, marital status, sexual orientation, age or any other basis protected by federal, state or local law.
- ✓ **Unsafe driving** - Exhibiting objectively unsafe conduct while fulfilling a shopping assignment, including texting and driving, not pulling over before examining or accepting a shopping assignment opportunity, and failing to be conscientious while using navigation apps. Carried Out evaluates all accidents taking into consideration relevant facts and circumstances.

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- ✓ **Failure to properly check customer ID for age-restricted orders.**
- ✓ **Failure to comply with the law** - Violating any local, state or federal law while fulfilling a shopping assignment, including any applicable criminal or traffic laws. This includes but is not limited to theft of the goods meant to be delivered, and damage to or theft of any third party property.
- **Using this Agreement to participate in or further any criminal activity.**
- **Failure to pass a background check** – Carried Out annually and randomly conducts background checks on all Personal Shoppers with whom we make agreements.
- **Unauthorized use of your Carried Out supplied Payment Card.**
- **Failure to provide any services pursuant to this Agreement during any 12 consecutive months.**
- **Providing information that is fraudulent or misleading** - Providing false or misleading information (i) on your application or when answering interview questions (ii) in response to any Carried Out Inquiry and (iii) to Carried Out that would have been grounds for terminating this Agreement if the true facts had been communicated.
- **Tampering with deliveries or failing to maintain standards of food and prescription safety** - including but not limited to: using, consuming, or tampering with a customer order; failing to use an insulated hot or cold bag when necessary to safely transport deliveries.
- **Failure to follow Government mandates and/or CDC guidelines (whichever are the strictest) for protecting others from COVID-19 or other communicable diseases.**
- **Failure to protect the customer by not wearing a mask and/or not social distancing when interacting in person with a customer while COVID-19 remains a threat to the community in which you are providing services (only operative as long as government mandated or CDC suggested).**
- **Violating any other terms of this Agreement.**