



## **Loan Equipment Agreement – Assistive Technology Team**

### ***SUMMARY***

This document sets out the terms and conditions for a contract between you (the Client) and the Assistive Technology team of Barnsley Hospital NHS Foundation Trust (the Trust).

This agreement allows you to use the Equipment the Trust has provided free of charge.

You should note that you will be responsible for caring for the Equipment and this includes backing up any personal or other data that you might store on the Equipment such as photographs.

The Assistive Technology Team will be responsible for keeping the Equipment in good working order.

You should read this document to make sure you understand what your obligations will be, and ask any questions where you do not understand prior to signing the contract. You or a Nominated Representative will be asked to sign on the last page to confirm that you fully understand and agree to the terms of the contract.



The latest version of this loan agreement, as published on the Trust's website, applies to all of the Equipment provided to you by the Trust. In accepting this Equipment, you agree to be bound by the terms of this agreement. If you do not wish this loan agreement to apply you must use the contact details below to contact the Trust.

Barnsley Assistive Technology Team

Telephone: 01226 432159

Email: [barnsley.at@nhs.net](mailto:barnsley.at@nhs.net)

Website: [www.barnsleyhospital.nhs.uk/assistive-technology/](http://www.barnsleyhospital.nhs.uk/assistive-technology/)

## **BACKGROUND**

- A. The Assistive Technology team of the Trust can provide equipment to Clients in their homes if the Client meets the necessary criteria.
- B. The Trust has agreed to loan the Equipment (listed in Schedule 1) free of charge to the Client on the terms and conditions set out below.



- C. The Trust is the legal owner of the Equipment at all times.
- D. The Trust agrees to install and maintain the Equipment where it is required.
- E. The Client agrees to take reasonable care of the Equipment including backing up any personal data or other data stored on the Equipment.
- F. The Client agrees to allow The Trust to maintain the Equipment as required.
- G. The Client agrees to be the data controller and is responsible for all data stored on the Equipment.
- H. This agreement sets out the terms and conditions for the Loan of the Equipment ("**Agreement**").



***This Agreement is made between:-***

**BARNSELY HOSPITAL NHS FOUNDATION TRUST:**

Postal address: Assistive Technology Team, Barnsley Hospital

NHS Foundation Trust, Gawber Road, Barnsley, S75 2EP.

Email address: [barnsley.at@nhs.net](mailto:barnsley.at@nhs.net)

Phone: 01226 432159

**AND**

**Name (“Client”) :** .....

Postal address: .....

Email address: .....

Phone: .....

**OR**

**Name (“Nominated Representative”):** .....

Postal address: .....

Email address: .....

Phone: .....



A Nominated Representative will be used where either:

1. The Client lacks mental capacity [as defined under the various Mental Health Acts or the Mental Capacity Act 2005] to enter into a contract, or the Client is a minor.
2. The Client is physically impaired to the extent that they cannot physically sign this agreement (the client still retains responsibility for the Equipment under the agreement).
3. The Client is a resident in a care home (either nursing or residential or respite care) or the Equipment is provided for use at an institution such as a school. The manager or senior staff member of this institution may sign this agreement.



***IT IS AGREED as follows: -***

**1. Use of the Equipment**

- 1.1. The Trust will loan the Equipment listed in Schedule 1 (the “**Equipment**”) to the Client.
- 1.2. The Client will only use the Equipment for the purpose it is intended, and not for any other purpose without the prior approval of the Trust.
- 1.3. The Equipment is intended to assist the Client in their day to day activities in their home and other settings for a specified reason. The Client must not rely solely on the Equipment to remedy, assist or solve their personal health or personal safety needs.  
  
It is the Client’s responsibility to ensure they have alternative support in the event that the Equipment is unavailable for use for any period of time.
- 1.4. The Trust will be responsible for the maintenance and backup of the software which enables the Equipment to be used for its intended purpose.



- 1.5. The Trust will not be responsible for personal information stored on the Equipment. It is the Client's responsibility to ensure that any personal information stored on the Equipment by the Client is backed up and can be retrieved in the event that the Equipment breaks or malfunctions and is unable to be repaired, or in the event that routine maintenance causes these data to be deleted from the Equipment. This includes, but is not restricted to: photographs, videos, documents, messages, contact information and program or app settings.
- 1.6. The Client is considered to be the data controller of any Personal or Sensitive data stored on the Equipment such as names, addresses, or passwords. The Client should consider the possibility that the Equipment, and any personal data, may be lost, stolen or corrupted.
- 1.7. Whilst undertaking maintenance/backup of the Equipment the Trust may have to backup some personal data that is stored in the software which enables the Equipment to serve its intended purpose. These data will be stored securely on the Trust's network storage for the



purposes of restoring the Equipment to working order if required. These data are not disseminated in any other way. The data stored may include, but are not restricted to: photographs used as part of communication software, words and phrases stored as part of communication software, email addresses and phone numbers stored as part of communication or control software.

1.8. The Trust recognises that certain pieces of equipment will facilitate access to the internet. The Trust is not the Internet Service Provider ('ISP') and will not be responsible for any website or web services accessed or data that is downloaded, stored, disseminated or used for immoral or illegal purposes.

1.9. The Trust reserves the right to report any data that is downloaded, stored, disseminated or used for immoral or illegal purposes on its equipment to the Police and to assist the Police/Crime Prosecution Service in any of their subsequent enquiries. The Trust also reserves the right to notify appropriate authorities and the Trust's Safeguarding Team if there is any material downloaded, stored,





disseminated or used that may give rise to a safeguarding concern. These data may be observed as part of both planned and unplanned maintenance of the Equipment.

1.10. The Client will not allow the Equipment to be used by any person, other than the Client.

1.11. The Client will use and care for the Equipment in accordance with the training and instructions given by the Trust.

1.12. The Client will not modify or alter the Equipment in any way.

1.13. The Client will not damage the Equipment in any way. If equipment is damaged the Trust will review the circumstances and decide either to repair the equipment, replace the equipment like for like, offer alternative equipment, or withdraw the equipment from the Client.

## **2. Duration**

2.1. Subject to the Client complying with the obligations under this Agreement, the Trust agrees to loan the Equipment for as long as:



2.1.1. The Client has the need for the purpose which it was provided; and

2.1.2. The Client lives within the commissioning area of the Trust.

(the “Term”)

### **3. Payment**

3.1. The Equipment is loaned to the Client free of charge.

3.2. The Trust reserves the right to recover the cost of repair or replacement from the Client if the Trust determines that the Equipment has been, lost, sold, disposed of, or damaged (deliberate or otherwise) by the Client.

### **4. Ownership and Return of the Equipment**

4.1. The Equipment shall remain the property of the Trust at all times.

4.2. The Client, or their representatives, will grant the Trust (or their agents) permission and the necessary access to recover the Equipment at the end of the Term or in the event this Agreement is terminated.



4.3. The Trust will use reasonable endeavours to recover the Equipment within 3 months of being notified that the Equipment is no longer required or the end of the Agreement however terminated.

4.4. The Trust (or their agents) will use reasonable endeavours to make good any damage caused by the recovery of the Equipment.

## **5. Installation, Maintenance and Repair**

5.1. The Client will contact the Trust using the details on page 1 of this agreement and report if the Equipment becomes damaged or develops a fault.

5.2. The Trust may use agents (external contractors) to install, maintain and repair the Equipment. The Client's contact details and information about the required installation will be passed on to these agents for the purposes of carrying out this work. Agents are bound by confidentiality contracts prohibiting them from sharing this personal data.



- 5.3. The Trust, or their agents, will install, maintain and repair the Equipment to the required safety standards as agreed in the maintenance schedule of the Equipment.
- 5.4. The Client, or their representatives, will grant the Trust (and their agents) permission and the necessary access to install, maintain and/or repair the Equipment.
- 5.5. The Trust will contact the Client using the details on record to make arrangements for installation, repair and/or service visits.
- 5.6. If equipment is repeatedly damaged the Trust may decide to withdraw some or all of the Equipment. The decision to withdraw the Equipment will be approved by the Trust's ethics committee.

## **6. Insurance**

- 6.1. The Trust will insure the Equipment against product liability.
- 6.2. The Client must inform their home insurance provider in relation to the Equipment being installed and/or being used in their property. The Client shall be entirely responsible for



notifying their insurers and ensuring they have sufficient home insurance cover in place to cover their use of the Equipment at the property and for any loss or damage to the Equipment.

6.3. The Trust may seek to recover loss or damage to the Equipment from the Client's home insurance providers.

6.4. In the event of a claim for harm caused by the Equipment, the Client or their representatives should give notice to the Trust using the details on page 1 of this agreement.

## **7. Limitation of Liability**

7.1. Nothing in this Agreement limits or excludes either party's liability for:

7.1.1. Death or personal injury;

7.1.2. Any fraud or for any sort of liability that, by law, cannot be limited or excluded; or

7.1.3. Any loss or damage caused by a deliberate breach of this Agreement.



7.2. The Trust will not be responsible for equipment installed by a third party that is used in conjunction with the Equipment provided and is and will not be responsible for any damage and/or personal injury that may occur as a result of equipment that it is not responsible for.

7.3. The Trust accepts no liability for damage to the Client's property where the Client has not sought the permission of their insurance provider prior to the installation of the Equipment.

7.4. Subject to clause 9.1, the Client agrees to indemnify the Trust from and against all liability and expenses (including legal costs) however arising from damage to property or injury, economic or consequential loss relating to the Client's possession or use of the Equipment or any breach by the Client of this Agreement.

## **8. Termination of this Agreement**

8.1. The Client or Nominated Representative may terminate the Agreement at any time by giving 3 months written notice to the Trust that they no longer require the Equipment.



- 8.2. The Trust may terminate the Agreement with immediate effect by giving written notice to the Client:
- 8.2.1. If the Client is in breach of this Agreement; or
  - 8.2.2. If the Trust considers the Premises unsafe or unsuitable for either its staff, its agents, or the Equipment; or
  - 8.2.3. If a healthcare professional informs the Trust that the Equipment should no longer be used by the Client.
- 8.3. If equipment is repeatedly damaged the Trust may decide to withdraw some or all of the equipment provided. A decision to withdraw equipment will be approved by the Trust's ethics committee.
- 8.4. For the avoidance of doubt, deliberate damage to, or theft of, the Equipment will entitle the Trust to terminate the Agreement and to seek to recover the cost of repair or replacement from the Client.
- 8.5. Unless terminated under clause 8.1, 8.2, or 8.3, this Agreement, and the Client's right to use the Equipment, will end on the expiry of the Term.



## 9. Waiver of Rights

9.1. If a party fails or delays to exercise or enforce its rights under this Agreement that delay will not affect its right to enforce the obligation or constitute a waiver of that right.

## 10. Entire Agreement

10.1. In accepting the Equipment, the Client agrees to be bound by the terms of this Agreement. The Client or Nominated Representative must contact the Trust if they object to any of these terms.

10.2. This Agreement replaces any previous agreements between the parties whether written, oral or implied. The latest version of this agreement can be found on the Trust website: [www.barnsleyhospital.nhs.uk/assistive-technology/resource/equipment-loan-agreement/](http://www.barnsleyhospital.nhs.uk/assistive-technology/resource/equipment-loan-agreement/) .

10.3. This Agreement constitutes the entire agreement between the parties and both parties acknowledge that it has not entered the Agreement on any basis other than those expressly stated in this Agreement.





## **11. Notices**

11.1. Any notice sent to the Client must be sent by prepaid recorded delivery, post or by electronic mail to the addresses kept by the Trust on file.

11.2. Notices will be deemed received by the addressee within 48 hours of posting or 24 hours if sent by email on a working day (Mon-Fri 0900-1700).

11.3. Notice for termination may be given by telephone or email by the Client or the Nominated Representative via the contact details listed on page 1.

## **12. Assignment and Third Party Rights**

12.1. The parties may not assign or transfer this Agreement.

12.2. It is agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that this Agreement is not intended to and does not give to any person who is not a party to this Agreement any rights to enforce any provisions contained in this Agreement.

## **13. Illegality**



13.1. If any provision or term of this Agreement becomes or is declared illegal, invalid or unenforceable for any reason whatsoever, such terms or provisions will be deemed to be deleted.

#### **14. Choice of Law**

14.1. This Agreement shall be governed by and interpreted in accordance with English Law.



## Signatures

A Nominated Representative will be used where the Client lacks mental capacity [as defined under the various Mental Health Acts or the Mental Capacity Act 2005] to enter into a contract, the Client is physically impaired to the extent that they cannot physically sign this agreement (the client still retains responsibility for the equipment under the agreement), if the client cannot understand the agreement, or if the Client is a minor.

Signed for and on behalf of **BARNESLEY HOSPITAL NHS FOUNDATION TRUST** by: -

Signature: .....

Name: .....

Position: .....

Date: .....



Signed for and on behalf of **THE CLIENT** by: -

Signature: .....

Name: .....

Capacity (Client or  
Nominated  
Representative): .....

Date: .....

**Attachments**

***Schedule 1: Equipment Issue Form (Inventory)***