

Locum Health Terms and Conditions

for the Introduction of Permanent / Fixed Term Candidates and Locums

1 – DEFINITIONS

1.1 – In these terms the following capitalised terms shall have the following meanings:

- “Candidate”** means any individual who is Introduced by the Company to the Client whether verbally, in writing or in person (directly or indirectly), and regardless of whether otherwise known to the Client. This term includes the individual candidate and any personal service company set up by that individual. Candidate and the locum are the same terms.
- “Client”** The Client is the individual or organisation to which the Candidate is introduced.
- “Introduction”** An Introduction occurs when the Company forwards by email a curriculum vitae or information on a Candidate to a Client which identifies the Candidate. Introduction can be in any communication whatsoever i.e. telephone, written, indirect or directly.
- “Remuneration”** Remuneration means total salary package, including base salary and any other guaranteed earnings or other allowances payable to the Candidate.
- “Assignment”** means any work which is agreed to be carried out by the candidate for the Client as may be set out in the Booking Form (including any extensions or continuations of it, whether or not recorded in a Booking Form). All Assignments are subject to these terms whether or not they are confirmed in writing or in a Booking Form.
- “Booking Form”** means a document, in any form, which sets out the Client’s request for the services of a candidate for any period of time (including any amendments or updates agreed by email). The booking form is only to be used for an “assignment.
- “Direct Engagement”** and “Direct Engagement Fee” have the meaning set out in clause 11, the fee shall be calculated in clause 11.2 and 11.3
- “Relevant Regulator”** means in the case of candidates who have a regulatory body which governs there registration, pin or any other body.
- “The Company”** means Locumhr limited, Company Number (13146772), whose registered trading as “Locum Health” The company can also be changed at anytime by way of email correspondence from a @locumhealth.co.uk email address for any purpose. The company is not an employment business but is acting as an agent. The company has a URL of @locumhealth.co.uk

“Engagement”

means any contract, employment, engagement, use or confirmation of use of the candidate by the Client whatsoever including (without limitation) any contract of service or for services, consultancy, self-employment, partnership or Company made between the Client and the candidate (or any person, firm, company or other entity associated or connected with either of them) whether made direct or via an agent and (and “Engage” or “Engages” shall be construed accordingly); Engagement also means if the client contacts the candidate or the candidate contacts the client due to the company communicating with either the client or candidate

“the Fee”

means the fee payable by the Client to the Company in respect of the services provided by the candidate;

“Time Sheet”

This is a document that must be filled out on a weekly basis to confirm the hours worked in an “assignment” The timesheet is only to be used for an “assignment.”

1.2 – These terms set out the rights and obligations of the Company and the Client that will apply with effect from the date that the Client requests the Company to supply one or more candidate’s.

1.3 – These terms will govern all Assignments until they are terminated or both parties agree otherwise. They apply to any Introductions made after the date these terms are agreed.

1.4 – The Company is not an employment business nor an employment agent. The Company introduces candidate staff who are either self-employed workers or provide their services through personal service companies. The Company also provides other ancillary services including but not limited to payroll services, screening and introductions services. Such services are provided at an additional cost.

1.5 – If there is any conflict between these terms and the Booking Form, these terms shall prevail.

1.6 – These terms set out the entire agreement between the parties and shall prevail over the Client’s terms of business or purchase conditions as well as any former agreements between the Parties. These terms shall not change, alter or supersede any other agreement for any other services provided by the Company, which may be the subject of a separate agreement between the Company and the Client.

1.7 – No variation of these Terms shall be valid unless approved by a director or senior manager of the Company in writing.

2 – THE CONTRACT

2.1 The Client will be deemed to have accepted these Terms and Conditions by requesting the Company to undertake work on a vacancy; by requesting information on a candidate, or; when an Introduction leads to the Engagement of a Candidate

2.2 No variation or alteration to these Terms shall be valid unless agreed between the Company and the Client and is set out in writing.

2.3 These Terms are valid from date of delivery until superseded subject to clause 2.2

3 – THE COMPANY’S OBLIGATIONS

3.1 – The services to be provided by the Company shall be:

3.1.1 – primarily the introduction by the Company of Permanent and or candidate to provide services to the Client as set out herein; and

3.1.2 – ancillary services where required, including but not limited to a payments service in respect of payments of the pay rates to candidate’s, evaluating candidate’s capabilities, and taking references. Such services shall be provided subject to separate terms and an additional cost shall be agreed.

3.2 – The candidate’s will be independent contractors who are not employed, supervised, directed or controlled by the Company, or by the Client. The candidate’s provide no services to the Company. Accordingly The Conduct of Employment Agencies and Employment Business Regulations 2003 do not apply and the Company is not obliged to prepare any due diligence on the candidate. The Client may request the Company to procure due diligence documents from particular candidate, but responsibility for checking such documents remains with the Client and the Company cannot warrant the accuracy or completeness of such information or documents.

3.3 – Each Assignment agreed between the Company and the Client shall be a separate contract subject to these terms each time. For the avoidance of doubt, the client has to sign once for all contracts and introductions to be enforceable for any candidate introduced.

3.4 – The Client shall not make any payment to the candidate. The Company shall take payment in from the Client in respect of the Assignments and shall pay the candidate on behalf of the Client unless agreed in writing otherwise.

4 – The Client’s obligations

4.1 – The Client shall not contact the Candidate and shall direct all communications via the Company. The Client may deal direct with the Candidate during an Assignment, but any new Assignments or extensions to existing Assignments must be discussed with the Company not the candidate.

4.2 – The Client shall comply with all applicable statutes, byelaws, codes of practice and legal requirements in its treatment of the Candidate.

4.3 – The Client will provide proof of adequate insurance cover including employer’s liability, public liability, site/facility insurance during any period in which a Candidate works for the Client but for the avoidance of doubt obtaining professional indemnity cover shall remain the candidate’s responsibility.

4.4 – the Client will ensure that all candidates have been informed of and understand all health and safe policies in force at the Client’s premises and the Client will conduct and record any risk assessment that is deemed necessary.

4.5 – The Client shall:

4.5.1 – ensure that it does nothing to cause the Company to be in breach of applicable laws, acts and regulations;

5– The Client’s Obligations – Assignment Only (Locum)

5.1 – provide full details of the nature of the work and any particular health and safety requirements to the Company prior to agreeing the Assignment, and any requirements not notified to the Company before the Booking Form is agreed shall not be binding;

5.2 – inform the Company of any intention to increase the Candidate working hours or any other change in the work pattern as described on the Booking Form;

5.3 – ensure that the Candidate receives adequate rest breaks in accordance with all relevant legislation, and such breaks shall form part of the Assignment;

5.4 – inform the Company immediately if a) it is considering terminating its contract, or b) on becoming aware of any circumstances which could lead to the termination of such contract and of the identity of a potential transferee if relevant.

5.5 – The Candidate will submit a timesheet to the Client at the end of the day, the end of the week or the end of the Assignment as appropriate. The Client shall promptly verify and sign the timesheet, and any signature by or on behalf of the Client shall constitute confirmation that the Candidate has worked satisfactorily for the period indicated on the timesheet.

5.6 – Failure to sign the timesheet will not alter the Client’s liability to pay for the period worked. If a timesheet is not returned promptly to the Company, the Company shall invoice on the basis of its own understanding of the time worked.

5.7 – The Client shall be responsible for ensuring that only properly authorised individuals sign timesheets and deal with the Company. If a member of the Client’s staff signs a timesheet that shall be binding on the Client and the Client shall not be entitled to claim otherwise.

5.8 – The Client acknowledges that the Company shall not be responsible for supervising, monitoring or directing the candidate’s and that accordingly, only the Client is in a position to assess and insure against risks arising in, or relating to the period in which the Candidate worked for the Client (whether or not the candidate is a personal service company).

5.9 – The Client shall be responsible for ascertaining whether it is a public sector body for the purpose of IR35 and all related legislation. If the Client is a public sector body for the purposes of IR35, the Client shall take all reasonable steps to ensure that IR35 does not apply to the Assignment. The Client shall indemnify the Company, and keep it indemnified, against any costs, claims, damages or expenses which relate either to the Client being a public sector body, and/or to IR35 applying to the Assignment.

6 – Misconduct and under performance – Assignment only (Locum)

6.1 – Any act of misconduct or breach of the Relevant Regulator’s rules, policy, guidance or regulations by the candidate must be reported to the Company without delay.

6.2 – If a candidate’s performance proves to be unsatisfactory the Client shall inform the Company immediately by telephone with confirmation in writing within 48 hours.

6.3 – The Company shall notify the Client immediately if it discovers that the candidate is unqualified for the Assignment.

6.4 – The Client shall not be entitled to decline to sign a timesheet on the basis that it is dissatisfied with the candidate’s work.

7 – Remedies (including early termination) – Assignment only (Locum)

7.1 – If the underperformance of the candidate is serious enough as to warrant a report being made by the Client to the Relevant Regulator under clause 6, the Company shall charge for the work done by the candidate prior to the report, but shall make no further charge in respect of that candidate nor any cancellation fee. Otherwise, if no such report is made, any reduction or waiver of the Fee shall be at the Company’s discretion.

7.2 – If the Client notifies the Company prior to the beginning of an Assignment that it wishes to cancel it then:

7.2.1 If the notification is received 5 full business days or less before the beginning of the Assignment, the Client shall pay the Company the full Fee payable for the Assignment Form;

7.2.2 – If the notification is 6 business days or more before the beginning of the Assignment, the Client shall pay the Company 50% of the Fee payable for the Assignment Form.

7.3 – If the Client notifies the Company during an Assignment that it wishes to cancel then the Client shall pay the Company the greater of:

7.3.1 – the amount of the Fee that would otherwise have been paid for the Assignment in any given 4-week period; and

7.3.2 5 – times the relevant daily rate for the candidate’s as specified on the Booking Form (and for the avoidance of doubt if an hourly rate is specified then it shall be multiplied by 8 to define the daily rate).

8 – Fees and payment terms – Assignment only (Locum)

8.1 – The Company will agree the Fee with the Client in advance (in the Booking Form or otherwise). The Fee will be invoiced weekly.

8.2 – The Fee shall be due when the Client receives the invoice. Prompt payment of the fees shall be of the essence. If any payment is overdue by more than 14 days the Company shall be entitled to charge on an indemnity basis for all collection costs incurred as a result of instructing a solicitor or collection Company to recover the overdue payment.

9 – Direct engagement / Direct engagement fee

9.1 – If the Client Engages a candidate who was Introduced by the Company, without reference to the Company either:

9.1.1 – within 12 months of the Introduction if candidate is within the clients Country or 24 months if the candidate is outside the clients Country or needs to undergo further visa requirements.

9.1.2 – during an Assignment or within 12 months after an Assignment then the Company must notify the Client in advance in writing (which includes email), and shall pay the Company a “Direct Engagement Fee”.

9.2 – Where there has been an Introduction but no Assignment, the Direct Engagement Fee shall be 20% of the mean average annual fee payable for the three best-paid equivalent jobs on offer within 200 miles of the Client’s location on NHS Jobs <https://www.jobs.nhs.uk/> (if not available on NHS Jobs then <https://jobs.bmj.com/> or <https://www.bdjobs.com/>) where bandings and job roles are advertised, the calculation shall be based on the upper limit of those bandings. Where there are no

jobs advertised within 200 miles, the one job closest to the Client's location shall be used. The relevant time for the calculation shall be at the time the Company becomes aware of the Engagement. If roles are not advertised on NHS Jobs then we will take the first website on google with the relevant job role and calculate on the upper limit of the bandings.

9.3 – Where an Assignment has been agreed, the Direct Engagement Fee shall be 20% of the Fee that would have been payable if the Engagement had been arranged between the Client and the Company, on the terms of the most recent Booking Form but on a full time work basis, for a term of 12 months. If a candidate which the Company Introduced to the Client is subsequently introduced by the Client to a third party who engages the candidate (on any basis) within the periods referred to in clauses 9.1.1 and/or 9.1.2, the Client will be liable to pay a Direct Engagement Fee calculated on the basis set out in clause 9.2.

10 – Suitability and References

10.1 In making an Introduction to a Client the Company will ensure that:

- (i) the Candidate has given permission for their details to be submitted to the Client;
- (ii) all preliminary checks as to the suitability of the Candidate have been completed; and best endeavours have been made to ensure the Candidate is otherwise suitable for the engagement.

10.2 In return for the Fee the company shall ensure:

- (i) it provides one, maximum of two references, this is not necessary should the client want to obtain a reference or if the candidate starts without references;
- (ii) the Candidate has medical registration approved by the relevant Medical Board if applicable.

10.3 The Client shall take all necessary steps to satisfy itself as to the suitability of the Candidate before engaging such Candidate.

11 – INTRODUCTIONS

a. Introductions of Candidates are confidential. The disclosure by the Client to a third party of any details regarding an Candidate introduced by the Company which results in an Engagement with that third party within 12 months of the Introduction renders the Client liable to payment of the Fee as set out in **clause**

9.3 with no entitlement to any refund. For any applicants applying for a visa, the client may not contact the candidate within a 24 months period, a fee is payable as set out in **clause 9.3** with no entitlement to any refund.

b. An introduction Fee calculated in accordance with **clause 9.3** will be charged in relation to any Candidate engaged as a consequence of or resulting from an introduction by or through the Company, within 12 months from the date of the Company's Introduction (or 24 months if candidate is applying for a visa).

c. Where the amount of the actual Remuneration is not known the Company will charge a Fee calculated in accordance with **clause 9.3** on the minimum level of remuneration applicable for the position in which the Candidate has been engaged with regard to any information supplied to the Company by the Client and/or comparable positions in the market generally for such positions.

d. The avoidance of doubt, the company will not accept payment in accordance with clause 9.3 if there is evidence "direct engagement", all fee's will therefore be calculated in accordance of clause 9 to 9.3.

12 – LIABILITY

12.1 The company shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the company seeking a Candidate for the Client or from the Introduction to or Engagement of any Candidate by the Client or from the failure of the company to introduce any Candidate.

13 – JURISDICTION AND AUTHORISED SIGNATURE ONLY FOR AGREEING TO THESE TERMS

13.1 These Terms and Conditions are governed by the law of England and Wales. These terms are enforceable in any Country and not restricted to England and Wales.