

Client terms of business

For the supply of nurses

1. Definitions

1.1. In these Terms of Business the following definitions apply:-

“Assignment” means the period during which the Locum is supplied by the Employment Business to render services to the Client;

“Client” means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 requiring the services of the Locum;

“Employment Business” means Medical Staffing of Suite 1, Wrest Park Business Centre, Capability House, Wrest Park, Silsoe, Bedfordshire, MK45 4HR

“Locum” means the individual who is introduced by the Employment Business to render services to the client

“Engagement” means the engagement, employment or use of the Locum’s services or the services of any officer, employee or representative of the Locum, directly by the Client or any third party or through any other employment business on a permanent or temporary basis whether under a contract of service or for services; an agency, licence, franchise or partnership arrangement; or any other engagement

“Introduction” means (i) the Client’s interview of an officer, employee, or representative of the Locum, in person or by telephone, following the Client’s instruction to the Employment Business to supply a Locum or (ii) the passing to the Client of information which identifies a Locum and which leads to an Engagement.

“Transfer Fee” means the fee payable in accordance with clause 8.5.2 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

“Relevant Period” 6 months from the day after the Locum was last supplied by the Employment Business to the Client.

“Introduction Fee” means the fee payable in accordance with clause 8.6 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

“Remuneration” includes fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, and all other payments taxable, (and, where applicable, non-taxable) payable to or receivable by the Locum for services rendered to or on behalf of the Client.

- 1.2. Unless the context otherwise requires, references to the singular include the plural.
- 1.3. The headings contained in these Terms are for convenience only and do not affect their interpretation.

2. The Contract

- 2.1. These Terms constitute the contract between the Employment Business and the Client for the supply of the Locum services and are deemed to be accepted by the Client by virtue of its request for, interview with or Engagement of a Locum or the passing of any information about the Locum to any third party following an Introduction.
- 2.2. These terms contain the entire agreement between the parties and unless otherwise agreed in writing by a director of the Employment Business, these Terms prevail over any terms of business or purchase conditions put forward by the Client.
- 2.3. No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Employment Business and the Client and are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.¹

3. Charges

- 3.1. The Client agrees to pay such hourly charges of the Employment Business as shall be notified to and agreed with the Client. The hourly charges are calculated according to the number of hours/days worked by the Locum (to the nearest quarter hour/half day) and comprise mainly the Locum’s hourly/daily rate but also include the Employment Business’ commission calculated as a percentage of the Locum’s hourly rate and any travel, hotel or other expenses as may have been agreed with the Client or, if there is no such agreement, such expenses as are

reasonable. VAT, if applicable, is payable on the entirety of these charges

- 3.2. The charges are invoiced to the Client on a weekly basis and are payable within **14 days**. The Employment Business reserves the right to charge interest on any overdue amounts at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.
- 3.3. There are no rebates payable in respect of the charges of the Employment Business

4. Information to be provided

- 4.1. When making an Introduction of a Locum to the Client the Employment Business shall inform the Client of the identity of the Locum ; that the Locum has the necessary or required experience, training, qualifications and any authorisation required by law or a professional body to work in the Assignment; whether the Locum will be employed by the Employment Business under a contract of service or apprenticeship or a contract for services; and that the Locum is willing to work in the Assignment.
- 4.2. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any public or Bank holiday) following, save where the Locum is being Introduced for an Assignment in the same position as one in which the Locum had previously been supplied within the previous five business days and such information has already been given to the Client, unless the Client requests that the information be resubmitted.

5. Verification of execution of the services

- 5.1. At the end of each week of the Assignment (or at the end of the Assignment where the Assignment is for a period of less than one week or is completed or finished before the end of a week) the Client shall verify the execution of the services provided by the Locum by signature of a form* provided to the Locum for this purpose.
- 5.2. Verification of the execution of the services by the Client constitutes acceptance that the Locum's services have been provided satisfactorily and in accordance with these Terms. If the Client is unable to verify execution of the services provided by the Locum because the Client disputes the hours claimed, the Client shall inform the Employment Business as soon as is reasonably practicable and shall co-operate fully and in a timely fashion with the Employment Business to enable the Employment Business to establish what hours, if any, were worked by the Locum. Failure to verify execution in writing does not affect the Client's

obligation to pay the charges in respect of the work done.

6. Time Sheets

- 6.1. At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of one week or less) the Client shall sign the Employment Business' time sheet verifying the number of hours worked by the Locum during that week.
- 6.2. Signature of the time sheet by the Client is confirmation of the number of hours worked. If the Client is unable to sign a time sheet produced for authentication by the Locum because the Client disputes the hours claimed, the Client shall inform the Employment Business as soon as is reasonably practicable and shall co-operate fully and in a timely fashion with the Employment Business to enable the Employment Business to establish what hours, if any, were worked by the Locum. Failure to sign the time sheet does not absolve the Client's obligation to pay the charges in respect of the hours worked.
- 6.3. The Client shall not be entitled to decline to sign a timesheet on the basis that he is dissatisfied with the work performed by the Locum. In cases of unsuitable work, the Client should apply the provisions of clause 11.1 below.

7. Remuneration

- 7.1. The Employment Business is responsible for paying the Locum's fees.

8. Transfer and introduction fees

- 8.1. Transfer fees where a worker has been supplied
- 8.2. In the event of the Engagement by the Client of a Locum supplied by the Employment Business either (1) directly or (2) pursuant to being supplied by another employment business, during the Assignment or 6 months from the day after the Locum was last supplied by the Employment Business the Client shall be liable, to pay a Transfer Fee the amount of which is to be agreed between the Employment Business and the Client.
- 8.3. The Client must give the Employment Business 7 days' written notice in advance of the Engagement if the Client elects to take the worker for the period of extended hire.
- 8.4. If the client does not give such notice before the Locum is engaged the parties agree that the Transfer Fee shall be due.

- 8.5. If the parties do not agree a period of extended hire or a Transfer Fee in accordance with 8.1 then the following shall be deemed to have been agreed:
- 8.5.1. The length of the extended period of hire shall be a minimum of 52 weeks during which the Client shall pay a minimum £150 per hour or the current hourly charge agreed pursuant to clause 3.1 for each hour the Locum is so employed or supplied; or
- 8.5.2. The amount of the Transfer fee shall be: A Transfer Fee calculated as follows: 30% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges agreed pursuant to clause 3.1 multiplied by 300 times the hourly charge. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due. However, where the client does not give such notice before the Locum is Engaged the parties agree that the Transfer Fee shall be due.
- 8.6. Introduction Fees where a worker is introduced but not supplied
- 8.6.1. In the event that there is an Introduction of a Locum to the Client which does not result in the supply of that Locum by the Employment Business to the Client, but which leads to an Engagement by the Client of the Locum by the Client either (1) directly or (2) pursuant to being supplied by another employment business within 6 months of the date of the Introduction the Client shall be liable, to either a period of hire or an Introduction Fee the length or amount of which is to be agreed between the Employment Business and the Client.
- 8.6.2. The Client must give the Employment Business 7 days' written notice in advance of the Engagement if the Client elects to take the worker for the period of hire.
- 8.6.3. If the client does not give such notice before the Locum is engaged the parties agree that the Introduction Fee shall be due.
- 8.6.4. If the parties do not agree a period of hire or an Introduction Fee in accordance with 8.6.1 then the following shall be deemed to have been agreed:
- 8.6.4.1. The length of the period of hire shall be a minimum of 52 weeks during which the Client shall pay a minimum of £150 per hour or the hourly charge agreed pursuant to clause 3.1 for each hour the Locum is so employed or supplied; or
- 8.6.4.2. The amount of the Introduction fee shall be: 30% of the Remuneration applicable during the first 12 months of the Engagement or if the actual Remuneration is not known, the charges referred to in clause

- 4.1 multiplied by 300. No refund of the introduction fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.
- 8.7. In the event that the Engagement of the Locum is for a fixed term of less than 12 months, the fee in clause 8.6.4.1 or 8.6.4.2, calculated as a percentage of the Remuneration, will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Locum within 6 months of the termination of the first Engagement the Client shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is sooner.
- 8.8. Inability to supply during the period of hire
- 8.8.1. If the Client elects for a period of hire, as set out above in clause 8.1 or 8.6, but before the end of such period the Locum supplied by the Employment Business either directly or pursuant to being supplied by another employment business or the Locum chooses not to be supplied for the period of hire, the Transfer or Introduction Fee set out in clauses 8.1 or 8.6 may be charged, reduced by such percentage to reflect any period of extended hire already undertaken by the Locum and paid for by the Client.
- 8.8.2. Where period(s) of absence due to illness or injury prevent the Locum from being employed or supplied for 4 or more days, which shall be qualifying days for the purposes of Statutory Sick Pay (SSP), during the period of hire as set out above, the period of hire shall be extended by a period equivalent to the total period of absence. Where the Employment Business pays the Locum SSP during the period of hire an equivalent amount shall be charged to and be payable by the Client in addition to the charges agreed pursuant to clause 3.1.
- 8.9. Transfer Fees where there has been Introduction to and Engagement by a Third Party
- 8.9.1. In the event that the Locum supplied to a Client is introduced by the Client to a third party which results in the Engagement of the Locum by the third party during the Assignment or 6 months from the day after the Locum was last supplied by the Employment Business the Client shall be liable, to pay a Transfer Fee the amount of which is to be agreed between the Employment Business and the Client.
- 8.9.2. If the parties do not agree a Transfer Fee in accordance with 8.9.1 then the Client will be liable to pay a Transfer Fee calculated in accordance with clause 8.5.2 above.

8.10. Introduction Fees where there has been an Introduction but no Supply resulting in an Engagement by a Third Party

8.10.1. In the event that there is an Introduction of a Locum to the Client which does not result in the supply of that Locum by the Employment Business to the Client, but the Locum is introduced by the Client to a third party which results in the Engagement of the Locum by the third party within 6 months from the date of Introduction the Client shall be liable, to an Introduction Fee calculated in accordance with clause 8.6.4.2 above

9. Liability

- 9.1. Whilst every effort is made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from the Locum and to provide the same in accordance with the Assignment details provided by the Client, no liability is accepted by the Employment Business for any loss, expense, damage, costs or delay arising from the failure to provide a Locum for completion of the Assignment or from the negligence, dishonesty, misconduct or lack of skill of the Locum or if the Locum terminates the Assignment for any reason. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.
- 9.2. For the avoidance of doubt, neither the Locum, nor its Staff, are under the supervision or control of the Employment Business. The Client will comply in all respects with all relevant statutes, by-laws and legal requirements including provision of adequate Public Liability insurance in respect of the Locum. Where the services are performed on the Client's premises the Client shall indemnify the Employment Business against any costs, claims, damages and expenses incurred by the Employment Business as a result of any breach of these Terms by the Client.
- 9.3. The Client shall advise the Employment Business of any special health and safety matters about which the Employment Business is required to inform the Locum and about any requirements imposed by law or by any professional body, which must be satisfied if the Locum is to fill the Assignment.
- 9.4. The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Locum for the Locum to fill the Assignment

10. Special Situation

10.1. Where the Locum or the person supplied to do the work is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment or the Assignment involves caring for or attending one or more persons under the age of eighteen or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the Employment Business will take all reasonably practicable steps to obtain and offer to provide copies of any relevant qualifications or authorisations of the Locum or the person supplied to do the work, two references from persons not related to the Locum or the person supplied to do the work who have agreed that the references they provide may be disclosed to the Client and has taken all reasonably practicable steps to confirm that the Locum or the person supplied to do the work is suitable for the Assignment. If the Employment Business is unable to do any of the above it shall inform the Client of the steps it has taken to obtain this information in any event.

11. Termination of the Assignment

11.1. The Client may terminate the Assignment by giving to the Employment Business the notice specified in the written confirmation.

11.2. Notwithstanding the provisions of sub-clause 10.1 the Client may terminate the Assignment forthwith by notice in writing to the Employment Business where:

11.2.1. the Locum has acted in breach of any statutory or other reasonable rules and regulations applicable to them while performing the services;

11.2.2. the Client reasonably believes that the Locum has not observed any condition of confidentiality applicable to the Locum from time to time; or

11.2.3. for any reason the Locum proves unsatisfactory to the Client.

11.3. The Employment Business may terminate an Assignment forthwith by notice in writing:

11.3.1. if the Client is in wilful or persistent breach of its obligations under these Terms; or

11.3.2. if the Client becomes bankrupt or has a receiving order or administrative order made against it or is put into liquidation (save for the purposes of solvent reconstruction or amalgamation).

11.4. The Employment Business shall notify the Client immediately if it receives or otherwise obtains information which gives it reasonable grounds to believe that a Consultancy supplied to the Client is unsuitable for the Assignment and shall

terminate the Assignment under the provisions of clause 11.3.

12. Law

12.1. These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales