

## TERMS AND CONDITIONS OF SERVICE (EMPLOYMENT AGENCY)

### 1. Definitions

- 1.1. "Applicant" means the person introduced by the Agency to the Client for an Engagement including any officer or employee of the Applicant if the Applicant is a limited company;
- 1.2. "Client" means the person, firm or corporate body together with any subsidiary or associated Company to which the Applicant is introduced;
- 1.3. "Agency" means Medco Services Limited, acting in a capacity of an Employment Agency as defined in the Employment Agencies Act 1973;
- 1.4. "Engagement" means the engagement, employment or use of the Applicant by the Client or any third party on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Applicant is an officer or employee;
- 1.5. "Introduction" means the passing to the Client of any information which identifies the Applicant and is in relation to a potential Engagement of that Applicant;
- 1.6. Unless the context requires otherwise, references to the singular include the plural.
- 1.7. The headings contained in these Terms and Conditions are for convenience only and do not affect their interpretation.

### 2. The Contract

- 2.1. These Terms and Conditions constitute the contract between the Agency and the Client and are deemed to be accepted by the Client by virtue of an Introduction to, or the Engagement of an Applicant or the passing of any information about the Applicant to any third party following an Introduction.
- 2.2. These Terms and Conditions contain the entire agreement between the parties and, unless otherwise agreed in writing, these Terms and Conditions prevail over any other terms and conditions or purchase conditions put forward by the Client.
- 2.3. No variation or alteration to these Terms and Conditions shall be valid unless the details of such variation are agreed between the Agency 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

### 3. Temporary Recruitment

- 3.1. Temporary Recruitment refers to an Engagement whereby the Applicant is required for a set number of hours or shifts and payment to the Applicant is made according to the number of hours worked. Typically the Engagement will be short term (less than 6 months) in nature.
- 3.2. The Agency will introduce Applicant(s) to the Client and, should any Applicant be suitable for the role, will agree with the Client an hourly commission rate as well as an hourly payment rate for the Applicant.
- 3.3. The Agency will invoice the Client for its commission only. The Agency will confirm with the Client the number of hours worked by the Applicant and these hours will form the basis of the invoice. The confirmation of the Applicant's hours will either be by way of a countersigned timesheet from the Applicant or by verbal or written communication with the Client.
- 3.4. The Agency reserves the right to use a financing facility provided by a third party in order to invoice the Client. In these instances the third party finance provider

may invoice the Client directly and payment by the Client should then be made to the third party financing provider.

- 3.5. The Applicant will be responsible for invoicing the Client in respect of the work they have carried out for the Client. The Client should not make any payments to the Agency in respect of the Applicants payment.
- 3.6. Subject to clause 3.4, the Agency will aim to invoice the Client for the Agency commission on a weekly basis. The Agency's invoice, unless otherwise agreed in writing, should be paid within 14 days of their issue. The Agency reserves the right to charge the Client interest of 8% above the base rate of the Bank of England for any delayed payments.
- 3.7. **For a period of 6 months from the Introduction date, any Applicants who have been Introduced to a Client cannot be used by that Client in any capacity at any of the Client's sites in any arrangement which is not via the Agency, unless agreed in writing with the Agency. For the sake of clarity, this clause is applicable regardless of whether the Agency's Introduction of the Applicant is successful or not and the exclusion of use of the Applicant is also applicable if the Applicant is subsequently introduced to the Client by any alternative party, such as another employment agency, or the Applicant makes a direct application to the Client if this is within 6 months of the Agency's Introduction date.**
- 3.8. Subject to clause 3.9, if the Client wishes to transfer the Applicant from a temporary role into a permanent role then the Client will be liable to pay the Agency's Introduction Fee as detailed in the Permanent Recruitment section below.
- 3.9. If the Client wishes to transfer the Applicant from a temporary role into a permanent role without being liable for payment of the Agency's Introduction Fee then the Client must provide written notice to the Agency of their intention to transfer the Applicant from a temporary role to a permanent role and they must continue their Engagement of the Applicant on a temporary basis, via the Agency, for a period of 6 months from the date of their notice. Failure to provide notice will deem the Agency's Introduction Fee as being liable for payment.

#### **4. Permanent Recruitment**

- 4.1. Permanent recruitment relates to recruitment whereby the Applicant is not paid according to the number of hours they have worked but is instead paid a weekly or monthly salary. In these instances the Applicant is also likely to be taken on as a PAYE employee of the Client.
- 4.2. The Agency will charge the Client an Introduction Fee in respect of the Introduction of the Applicant to the Client. Unless otherwise agreed in writing, the Introduction Fee will be 30% of the annual salary of the Applicant. VAT will be charged on the fee if applicable.
- 4.3. The Introduction Fee is payable once the Applicant accepts the permanent role with the Client and should be paid within 14 days of its issue. The Agency reserves the right to charge the Client interest of 8% above the base rate of the Bank of England for any delayed payments.
- 4.4. In specific circumstances the Client will be entitled to a refund of all or part of the Introduction Fee.
- 4.5. In order to qualify for any refund of the Introduction Fee the Client must have paid the Introduction Fee within 14 days of the invoice date. In addition the Client must notify the Agency in writing within 7 days of the termination of the Engagement.

- 4.6. Upon notification of the termination of the Engagement the Agency will endeavour to find an alternative Applicant for the role and the Agency will be given 2 weeks by the Client to undertake such a search.
- 4.7. If the Agency is unsuccessful in finding an alternative Applicant and the Engagement was terminated within 4 weeks of its start date then the Agency will make a full refund to the Client, subject to clause 4.5 above.
- 4.8. If the Agency is unsuccessful in finding an alternative Applicant and the Engagement was terminated between 4 and 12 weeks of its start date then the Agency will make a 50% refund to the Client, subject to clause 4.5 above.
- 4.9. If termination of the Engagement occurs more than 12 weeks from its start date then no refund of the Introduction Fee will be made.

## 5. Cancellation Fee

- 5.1. In the case of temporary recruitment for Engagements that have not commenced, if a Client, for whatever reason, withdraws an offer of Engagement that has already been made to an Applicant then the Client will be liable to pay the Agency Fee and the Applicant's payment charge, in full, unless the cancellation is made in writing to the Agency and occurs more than 14 days prior to the Applicant's start date. If the written cancellation occurs between 14 and 28 days prior to the Applicant's start date then the Client will be liable to pay 50% of both the Agency Fee and the Applicant's payment charge.
- 5.2. In the case of permanent recruitment for Engagements that have not commenced, if a Client, for whatever reason, withdraws an offer of Engagement that has already been made to an Applicant then the Client will be liable to pay 50% of the Agency Fee.
- 5.3. Subject to clause 5.4 and unless otherwise agreed in writing, when a temporary Engagement has commenced then the Client must provide two weeks written notice if they wish to cancel the Engagement. Clauses 4.4 to 4.9 deal with the cancellation of a permanent Engagement.
- 5.4. If the Client believes that there are serious clinical concerns with the Applicant undertaking the temporary Engagement then they must notify the Agency immediately of this. In this scenario and if agreed by both the Client and the Agency, there will be no notice period required for cancellation and the Engagement can be terminated immediately. However the Agency's fee and the Applicant's payment charge remain due for any work that has already been undertaken prior to the cancellation.
- 5.5. For temporary Engagements the Agency reserves the right to cancel the Applicant's Engagement with the Client without providing any notice and the Agency will not be liable for any losses or claims that may result from such a cancellation.

## 6. Introductions

- 6.1. Introductions of Applicants are confidential. The disclosure by the Client to a third party of any details regarding an Applicant introduced by the Agency which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Agency's fee with no entitlement to any refund.
- 6.2. An Agency Fee calculated in accordance with clause 4.2 will be charged in relation to any Applicant engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 6 months from the date of the Agency's Introduction.

6.3. Where the amount of the Applicants remuneration is not known the Agency will charge a fee calculated in accordance with clause 4.2 on the average level of remuneration applicable for the position in which the Applicant has been engaged with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally for such positions.

## **7. Liability**

7.1. The Agency 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 Agency seeking an Applicant for the Client or from the Introduction to or Engagement of any Applicant by the Client or from the failure of the Agency to introduce any Applicant. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

## **8. Law**

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