



Terms of Business for the Introduction of Permanent or Fixed Term Contract Staff

Standard Terms of Business - Version 1

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TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT OR CONTRACT STAFF TO BE DIRECTLY EMPLOYED BY THE CLIENT

1 DEFINITIONS

1.1 In these Terms of Business the following definitions apply:

“**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 and members of the Agency’s own staff;

“**Client**” means the person; firm or corporate body together with any subsidiary or associated Company as defined by the Companies Act 2006 and Income and Corporation Taxes Act 1988 to which the Applicant is directly or indirectly introduced;

“**Agency**” means Physician Associate Recruitment Solutions Limited trading as PATH, company number 08697880;

“**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.

“**Introduction**” means:

- (i) the passing to the Client of a curriculum vitae or information which expressly or impliedly identifies the Applicant; or
- (ii) the Client’s interview of an Applicant in person or by telephone, following the Client’s instruction to the Agency to search for an Applicant.

“**Introduction Fee**” refers to the fee payable by the Client to the Company upon the Engagement of an Applicant Introduced by the Company to the Client, being a percentage of the Applicant’s Remuneration calculated in accordance with the Scale of Fees;

“**Refund**” has the meaning outlined in clause 5;

“**Remuneration**” includes base salary, fees, and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Applicant for services rendered to or on behalf of the Client;

“**Scale of Fees**” are detailed within Part 1 of the Schedule to these Terms of Business;

“**Scale of Refunds**” are detailed within Part 2 of the Schedule to these Terms of Business;

“**Special Conditions**” all specific conditions agreed between the Agency and the Client in relation to the Introduction of Applicants and set out in the Agency’s written order acknowledgement or otherwise by written agreement between the parties.

1.2 Unless the context requires otherwise, references to the singular include the plural.

1.3 The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

2 THE CONTRACT

2.1 These Terms and any Special Conditions, constitute the Contract between the Agency and the Client and the Contract forms the entire agreement between the parties and prevail over any terms or conditions provided by the Client.

2.2 In the event of a conflict between these Terms and the Special Conditions, the Special Conditions shall prevail.

2.3 The Contract is 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.

2.4 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between a director of 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.

2.5 The Agency acts as an employment agency, as defined in section 13(2) of the Employment Agencies Act (1973) when introducing Applicants to the Client for direct engagement by that Client or any third party the Client subsequently refers the Applicant to.

3 INTRODUCTIONS

3.1 An Introduction Fee will be payable by the Client to the Agency in respect of each accepted offer of Engagement within 12 months of the Introduction.

3.2 The Client shall notify the Agency in writing and without delay when:

3.2.1 an offer of Engagement has been made to the Applicant; and

3.2.2 an offer of Engagement to the Applicant has been accepted by the Applicant

such notification must contain details of the Applicant’s agreed Remuneration package

3.2 Irrespective of whether the Applicant was previously known to the Client or not, an Applicant shall be considered to have been Introduced to the Client exclusively by the Agency and any Engagement of the Applicant by the Client shall be deemed to have occurred solely as a consequence of that Introduction unless, prior to the commencement of the Contract, the Client notified the Company that it was already in contact with the Applicant and is able to substantiate its assertion to the Agency's reasonable satisfaction.

3.3 If the Client passes the details of any Applicant to a third party without first obtaining the Agency's prior written consent and the third party subsequently engages the Applicant then, without prejudice to its other rights, the Agency shall be entitled to charge an Introduction Fee to the Client as if the Applicant had been engaged by the Client. In these circumstances, there shall be no entitlement to a Refund.

3.4 Introductions are confidential and the Client agrees to comply with the Data Protection Act 1998 in relation to the retention and storage of personal data provided to them by the Agency pertaining to the Applicant.

4 INTRODUCTION FEE

4.1 Introduction Fees are calculated in accordance with the Scale of Fees detailed in Part 1 of the Schedule to these Terms subject to any variation agreed by way of Special Conditions.

4.2 The Agency will render an invoice to the client for the Introduction Fee upon confirmation that the Applicant accepts the offer of Engagement from the Client.

4.3 If the Engagement is for a fixed term of less than 12 months, the fee and rebate will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client engages or re-engages the Applicant within 6 calendar months from the date of termination of the first Engagement or withdrawal of the offer 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 the sooner.

4.4 Where applicable, VAT will be charged upon the Introduction Fee at the prevailing rate.

4.5 The Client acknowledges that the Introduction Fee must be paid within 14 days of the date of invoice.

4.6 The Client shall make no deductions of any type from the payments due to the Agency.

4.7 The Agency hereby reserves the right to:

4.7.1 charge interest at 4% of the gross fee for each month (or part thereof) on any outstanding amounts owed by the Client; and

4.7.2 claim immediate payment of all invoices rendered, including those within the agreed payment terms, where the Client has failed to make payment of an invoice on time.

4.8 Our minimum fee on permanent placements is £1,500. The fee is applied to any placement, including part time placements.

4.9 The standard tariff for placements, being 25% of annual salary, is payable if the client engages the Applicant within the period of 12 calendar months from the date of (a) the introduction, (b) the Client's withdrawal of an offer of engagement or (c) the Applicant's rejection of an offer of an engagement, whichever is the later.

4.10 The introduction fee charged in accordance with clause 3.7 and where the actual remuneration is not known, the agency will charge a fee calculated in accordance with 3.4 based on its determination of the remuneration taking into account the market rate level of remuneration applicable for the position in which the Applicant has been engaged and with regard to any information supplied to the agency by the client and/or comparable positions in the market generally.

5 REFUNDS

5.1 To qualify for a Refund the following conditions must be satisfied:

5.1.1 the Engagement terminates before the expiry of 12 weeks from the commencement of the Engagement;

5.1.2 all monies due from the Client are paid within 14 days of the date of invoice and in accordance with clause 4;

5.1.3 the termination is either a consequence of the Applicant leaving of their own volition or a dismissal by the Client which is not by reason of redundancy and which is neither wrongful nor unfair as defined by the Employment Rights Act 1996;

5.1.4 the Client must notify the Agency in writing of the termination of the Engagement within 7 days of the Applicant's resignation or their dismissal, as the case may be; and

5.1.5 the Client has not materially breached any terms or conditions of the Contract.

5.2 If the conditions in 5.1 have been met, the Introduction Fee will be refunded in accordance with the Scale of Refunds.

5.3 For the purpose of the Refund, the date on which the Applicant's employment ceases shall constitute the date of termination.

5.4 Should the Client subsequently engage or re-engage the Applicant within 12 months of the date of termination of Engagement or withdrawal of offer, the full Introduction Fee calculated in accordance with the Scale of Fees shall be payable within 14 days of the reengagement of the Candidate and the Refund Guarantee shall not then apply.

5.5 If the Applicant brings a successful action for wrongful dismissal or unfair dismissal against the Client and the Agency has already refunded the Introduction Fee in accordance with this Clause 5, the Client shall repay the refunded amount to the Agency on demand.

6 CANCELLATION FEE

6.1 If, after an offer of Engagement has been accepted by the Applicant, the Client decides to withdraw it, the Client shall be liable to pay the Agency 50% of the Introduction Fee.

6.2 If an Applicant decides to withdraw at any stage for any reason up to their commencement date the Agency will not be liable for any fees or costs reimbursements.

7 SUITABILITY AND REFERENCES

7.1 The Agency endeavours to ensure the suitability of any Applicant introduced to the Client by obtaining confirmation of the Applicant's identity; that the Applicant has the experience, training, qualifications, professional registrations and any authorisation which the Client considers necessary or which may be required by law or by any professional body; and that the Applicant is willing to work in the position which the Client seeks to fill.

7.2 The Agency endeavours to take all such steps as are reasonably practicable to ensure that the Client and Applicant are aware of any requirements imposed by law or any professional body to enable the Applicant to work in the position which the Client seeks to fill.

7.3 The Agency endeavours to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Applicant for the Applicant to work in the position which the Client seeks to fill.

7.4 Notwithstanding clauses 7.1, 7.2 and 7.3 above, the Client shall satisfy itself as to the suitability of the Applicant and the Client shall take up any references provided by the Applicant to it. The Client is responsible for obtaining work permits, visas and/or such other permission to work as may be required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements, qualifications, compliance documentation or permission required by law of the country in which the Applicant is engaged to work.

7.5 To enable the Agency to comply with its obligations under clauses 7.1, 7.2 and 7.3 above, the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Applicant to possess in order to work in the position; any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks. In addition, the Client shall provide details of the date the Client requires the Applicant to commence, the duration or likely duration of the work; the minimum rate of remuneration, expenses and any other benefits that would be offered; the intervals of payment of remuneration and the length of notice that the Applicant would be entitled to give and receive to terminate the employment with the Client.

I confirm that the information supplied to the Agency may be used for Recruitment and Consulting purposes under the Data Protection Act and that Physician Associate Recruitment Solutions Limited trading as PATH can advertise vacancies on my behalf. I confirm that I am duly authorised to acknowledge and accept the Terms of Business for the Introduction of Permanent or Fixed Term Contract Staff

Signed.....Position.....

Date.....On behalf of

8 SPECIAL SITUATIONS

8.1 A fee will be due from the Client if the agencies own staff are directly or indirectly Introduced to the Client by virtue of their employment with the agency, this fee will be calculated at 50% of the first year's salary with the Client and will not be subject to any refund unless expressly agreed in writing before the placement date.

9 NO WARRANTY

9.1 Although the Agency will use reasonable endeavours to ensure the suitability of the Applicant, the Agency gives no warranty whatsoever, whether express or implied, as to whether the attributes of the Applicant will be suitable for the Client's requirements. The Client must rely on its own enquiries as to the suitability of the Applicant.

9.2 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 or any other loss which it is not permitted to exclude under law.

9.3 The Client agrees to indemnify and keep the Agency indemnified, against all claims, losses, damages, costs and expenses that the Agency suffers as a result of any claims brought by a Candidate in the Employment Tribunal in connection with the Introduction of the Applicant to the Client to the extent that such claim has arisen through the acts of omissions of the Client.

10 LAW

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

10.2 Any indulgence granted by the Agency to the Client and any failure by the Agency to insist upon strict performance of these Terms of Business shall not be deemed a waiver of any of the Agency's rights or remedies nor be deemed a waiver of any subsequent default by the Client.

10.3 If any of the provisions of these terms shall be determined by any competent authority to be unenforceable to any extent, such provisions shall, to that extent, be severed from the remaining terms, which shall continue to be valid to the fullest extent permitted by applicable laws.