

AppLocum Services Limited Client Terms of Business for the supply of Locum Healthcare Professionals.

1. DEFINITIONS AND INTERPRETATION

1.1. In these Terms the following definitions apply:

- “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;
- “Client’s Group”** means (a) any individual, company, partnership, statutory body or other entity which from time to time Controls the Client, including (but not limited to) as a holding company as defined in section 1159 of the Companies Act 2006; and (b) any company, partnership, statutory body or other entity which from time to time is Controlled by or is under common Control with the Client, including (but not limited to) as a subsidiary or holding company as defined in section 1159 of the Companies Act 2006;
- “Assignment”** means the period during which the Locum is supplied by the Employment Business to render services to the Client;
- “Employment Business”** AppLocum Services Limited (registered company no. 09554461) of Office 1A, 53 Thicketford Road, Bolton, BL2 2LS;
- “Locum”** means the individual who is introduced by the Employment Business to provide services to the Client;
- “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 8.1(1) below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.
- “Relevant Period”** means the longer period of either 14 weeks from the first day on which the Locum worked for the Client, or 8 weeks from the day after the Locum was last supplied by the Employment Business to the Client.

“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.

“Engagement” means the engagement, employment or use of the Locum the Client or any third party to whom the Locum has been introduced by the Client, directly or indirectly, on a permanent or temporary basis, whether under a contract of service or for services, and/or through a company of which the Locum is an officer, employee or other representative, an agency, license, franchise or partnership arrangement, or any other engagement; and “Engage”, “Engages” and “Engaged” shall be construed accordingly;

- 1.2. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 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 Locum’s services by the Employment Business to the Client and are deemed to be accepted by the Client by virtue of its request for, interview with or Engagement of the Locum, or the passing of any information by the Client about an 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 the Employment Business, these Terms prevail over any terms of business or purchase conditions (or similar) 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 of 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.

3. INFORMATION TO BE PROVIDED BY THE EMPLOYMENT BUSINESS TO THE CLIENT

- 3.1. When Introducing an Locum to the Client the Employment Business shall inform the Client:
 - 3.1.1. of the identity of the Locum;
 - 3.1.2. 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;

3.1.3. that the Locum is willing to work in the Assignment; and

3.1.4. the Charges.

3.2. 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 Introduced for an Assignment in the same position as one in which the Locum had previously been supplied within the previous 5 business days and such information has already been given to the Client, unless the Client requests that the information be resubmitted.

4. TIMESHEETS

4.1. At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of 1 week or less) the Client shall sign the Employment Business' timesheet verifying the number of hours worked by the Locum during that week.

4.2. Signature of the timesheet by the Client is confirmation of the number of hours worked. If the Client is unable to sign a timesheet 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 timesheet does not absolve the Client of its obligation to pay the Charges in respect of the hours worked.**

4.3. The Client shall not be entitled to decline to sign a timesheet on the basis that it is dissatisfied with the work performed by the Locum. In the event that the Client is dissatisfied with the Locum the provisions of clause 10.1 below shall apply.

5. VERIFICATION OF 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. CHARGES

6.1. 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.

- 6.2. The Charges are invoiced to the Client on a weekly basis and are payable within **30 days**.
- 6.3. The Employment Business reserves the right to charge interest on invoiced amounts unpaid by the due date 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.
- 6.4. No refunds are payable in respect of the Charges of the Employment Business.
- 6.5. The Clients obligations under this clause 6 shall be performed without any right of the Client to invoke set-off, deductions, withholdings or other similar rights.

7. PAYMENT OF THE LOCUM

The Employment Business assumes responsibility for paying the Locum and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Locum pursuant to sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003.

8. TRANSFER FEES AND INTRODUCTION FEES

8.1. Transfer Fees where a Locum has been Supplied:

8.1.1. In the event of the Engagement by the Client of Locum supplied by the Employment Business either directly or pursuant to being supplied by another employment business, during the Assignment or within whichever is the longer of either;

36 weeks from the start of the first Assignment (each new Assignment where there has been a break of more than 42 days (6 weeks) since the end of a previous Assignment shall also be considered to be the 'first Assignment' for these purposes); or

8 months from the day after the last day the Locum worked on the Assignment the Client shall be liable, to either an extended period of hire or a Transfer Fee the length or amount of which is to be agreed between the Employment Business and the Client.

8.1.2. 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 extended hire.

8.1.3. If the client does not give such written statement/attention before the Locum is engaged the parties agree that the Move (from one place to another) Fee will be due.

8.1.4. If the parties do not agree a period of extended hire or a Move (from one place to another) Fee (going along with/obeying) 8.1.1 then the following will be thought of/considered to have been agreed:

- i. The length of the extended period of hire will be a minimum of 52 weeks during which the Client will pay a minimum £150 per hour or the current hourly charge agreed according to clause 5.1 for each hour the Locum is so employed or supplied; or
- ii. The Transfer Fee amount will be calculated as follows: 30% of the Remuneration related 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.

8.2. Introduction Fees where a Locum is introduced but not supplied;

8.2.1. 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.

8.2.2. 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.

8.2.3. If the client does not give such notice before the Locum is engaged the parties agree that the Introduction Fee shall be due.

8.2.4. If the parties do not agree a period of hire or an Introduction Fee in accordance with 8.2.1 then the following shall be deemed to have been agreed:

- i. 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
- ii. 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.

8.2.5. In the event that the Engagement of the Locum is for a fixed term of less than 12 months, the fee in clause 8.1.1(1) or 8.2.1(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 8 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.

8.3. Inability to supply during the period of hire.

8.3.1. If the Client elects for a period of hire, as set out above in clause 8.1 or 8.2, 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 Doctor chooses not to be supplied for the period of hire, the Transfer or Introduction Fee set out in clauses 8.1 or 8.2 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.

8.3.2. 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.

8.4. Transfer Fees where there has been Introduction to and Engagement by a Third Party

8.4.1. 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 within whichever is the longer of either (i) 36 weeks from the start of the first Assignment (each new Assignment where there has been a break of more than 42 days (6 weeks) since the end of a previous Assignment shall also be considered to be the 'first Assignment' for these purposes); or (ii) 8 months from the day after the last day the Locum worked on the Assignment 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.

8.4.2. If the parties do not agree a Transfer Fee in accordance with 8.4.1 then the Client will be liable to pay a Transfer Fee calculated in accordance with clause 8.1.4 (b) above.

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

8.4.4. 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 8.2.4 (b) above.

9. SUITABILITY CHECKS AND INFORMATION TO BE PROVIDED IN SPECIAL SITUATIONS

9.1. Where:

9.1.1. the Locum is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment, the Employment Business will take all reasonably practicable steps to obtain and offer to provide to the Client copies of any relevant qualifications or authorisations of the Locum; and

9.1.2. in addition, where the Assignment involves working with, caring for or attending one or more Vulnerable Persons, the Employment Business will take all reasonably practicable steps to obtain and offer to provide copies to the Client of two references from persons who are not relatives of the Locum and who have agreed that the references they provide may be disclosed to the Client;

and such other reasonably practicable steps as are required to confirm that the Locum is suitable for the Assignment. If the Employment Business has taken all reasonably practicable steps to obtain the information above and has been unable to do so fully it shall inform the Client of the steps it has taken to obtain this information in any event.

10. TERMINATION OF THE ASSIGNMENT

- 10.1. The Client may terminate the Assignment by giving to the Employment Business the notice specified in the written confirmation.
- 10.2. Notwithstanding the provisions of sub-clause 9.1 the Client may terminate the Assignment forthwith by notice in writing to the Employment Business where:
 - 10.2.1. the Locum has acted in breach of any statutory or other reasonable rules and regulations applicable to them while performing the services;
 - 10.2.2. the Client reasonably believes that the Locum has not observed any condition of confidentiality applicable to the Locum from time to time; or
 - 10.2.3. for any reason the Locum proves unsatisfactory to the Client.
- 10.3. The Employment Business may terminate an Assignment forthwith by notice in writing:
 - 10.3.1. if the Client is in wilful or persistent breach of its obligations under these Terms; or
 - 10.3.2. 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).
- 10.4. The Employment Business shall notify the Client immediately if it receives or otherwise obtains information which gives it reasonable grounds to believe that a Locum supplied to the Client is unsuitable for the Assignment and shall terminate the Assignment under the provisions of clause 10.3.

11. CONFIDENTIALITY AND DATA PROTECTION

- 11.1. All information relating to a Locum is confidential and subject to the Data Protection Laws and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the Data Protection Laws in receiving and processing the data at all times.
- 11.2. The Employment Business undertakes to keep confidential all Relevant Terms and Conditions that the Client discloses to the Employment Business and not to use such information except for the purposes of compliance with the Locums Regulations (including, for the avoidance of doubt and without limitation, when dealing with any request for information or complaint made by any Locum).
- 11.3. Information relating to the Employment Business' business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain.

12. LIABILITY

- 12.1. Whilst reasonable efforts are made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skill, integrity and reliability from the Locum and to provide the same in accordance with the Assignment details as provided by the Client, no liability is accepted by the Employment Business for any

loss, expense, damage or delay arising from any failure to provide any Locum for all or part 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 or for any other loss which it is not permitted to exclude under law.

- 12.2. Locums supplied by the Employment Business pursuant to these Terms are engaged under contracts for services. They are not the employees of the Employment Business but are deemed to be under the supervision and direction of the Client from the time they report to take up duties and for the duration of the Assignment. The Client agrees to be responsible for all acts, errors or omissions of the Locum, whether wilful, negligent or otherwise as though the Locum was on the payroll of the Client.
- 12.3. 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.

13. NOTICES

All notices which are required to be given in accordance with these Terms shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, by email or facsimile transmission. Any such notice shall be deemed to have been served: if by hand when delivered, if by first class post 48 hours following posting and if by email or facsimile transmission, when that email or facsimile is sent.

14. GOVERNING LAW AND JURISDICTION

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

Signed for and on behalf of the Client

[print name here]

I confirm I am authorised to sign these Terms for and on behalf of the Client.

Date