

Terms of Business for the supply of Locums to the Client - Effective from September 2020

I. DEFINITIONS

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

- (a) **“Assignment”** means the period during which the Locum Doctor is supplied by the Employment Business to render services to the Client;
- (b) **“Booking Confirmation”** means the email confirmation of an Assignment emailed to the Client by the Service Provider;
- (c) **“Client”** means the person, firm or corporate body, Hospital or Trust, together with any subsidiary or associated company as defined by the Companies Act 1985 to whom the Locum Doctor is supplied or introduced;
- (d) **“Employment Business”** means Global Medics, a trading name of Medacs Global Group Limited registered in Ireland with company number 423396 or any of its subsidiaries or associated companies;
- (e) **“Engages/Engaged/Engagement”** means the engagement, employment or use of the Locum Doctor directly by the Client or any third party or through any other employment business or agency on a permanent or temporary basis, whether under a contract of service or for services; an agency, license, franchise or partnership arrangement; or any other engagement; directly or through a limited company of which the Locum Doctor is an officer or employee;
- (f) **“Locum Doctor”** means the individual, whether working directly or through a limited company, who is introduced by the Employment Business to render services to the Client;
- (g) **“Transfer Fee”** means the fee payable in accordance with clause 7 below.
- (h) **“Introduction Fee”** means the fee payable in accordance with clause 7 below.
- (i) **“Introduction”** means (i) the Client's interview of a Locum Doctor in person or by telephone, following the Client's instruction to the Employment Business to supply a Locum Doctor; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Locum Doctor which leads in either case to an Engagement of that Locum Doctor;
- (j) **“Remuneration”** includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Locum Doctor for services rendered to or on behalf of the Client or any third party. Where a company car is provided, a notional amount of €7,000 will be added to the salary in order to calculate the Employment Business' fee;
- (k) **“Hourly Rate”** means the basic fee as set out in the Booking Confirmation payable to the Employment Business further to each hour that the Locum Doctor works. In all cases, this rate shall be uplifted by 12.8% in respect of social security contributions and administration thereof, and by a further 10.17% in respect of holiday pay, compliance with the Working Time directive, and administration

thereof;

- (l) **“The Inclusive Rate”** means the total fee as set out in the Booking Confirmation payable to the Employment Business further to each hour that the Locum Doctor works. The inclusive rate comprises the Hourly Rate plus the commission payable to the Employment Business for the supply of the Locum Doctor.

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 Doctor'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 Doctor or the passing of any information about the Locum Doctor 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.
- 2.4. Once the Client is deemed to have accepted these Terms in connection with one Locum Doctor, the Terms are deemed incorporated into all future agreements between the Employment Business and the Client in connection with Locum Doctors.
- 2.5. The complete or partial invalidity or unenforceability of any provision in these Terms for any purpose shall in no way affect the validity or enforceability of such provision for any other purpose or of the remaining provisions. Any such provision shall be deemed to be severed for that purpose subject to such consequential modification as may be necessary for the purpose of such severance.

3. CHARGES

- 3.1. The Client agrees to pay charges to the Employment Business as shall be notified to and agreed with the Client. The charges shall be based on the Inclusive Rate and calculated according to the number of hours/days worked by the Locum Doctor (to the nearest quarter hour/half day). They comprise mainly the Locum Doctor's hourly/daily rate but also include the Employment Business' commission. The Employment Business will also invoice, and the Client shall pay, 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. The Company shall be entitled to vary the charges in line with any statutory, regulatory or legislative change.
- 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 6% per annum above Barclay Bank's base rate 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.

- 3.4. All sums payable by the Client to the Employment Business under these terms of business are exclusive of Value Added Tax (VAT) until expressly stated to the contrary. The Employment Business shall be entitled to charge VAT in addition to any such sum, if applicable.

4. INTRODUCTIONS AND BOOKINGS

- 4.1. When making an Introduction of a Locum Doctor to the Client the Employment Business shall inform the Client of the identity of the Locum Doctor and shall undertake to provide the Client with copies of the following documentation:
 - (a) An up to date Curriculum Vitae
 - (b) A minimum of two references
 - (c) Current IMC certificate
 - (d) Birth certificate, Visa status, or passport, together with any other documentation where available
 - (e) Current health status
 - (f) Police check, declaration and disclosures where possible
- 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 Doctor is being Introduced for an Assignment in the same position as one in which the Locum Doctor 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.
- 4.3. The Employment Business shall, subject to availability, supply a Locum Doctor to meet a booking placed by the Client. The Employment Business has no responsibility to supply any particular person as a Locum Doctor. The Employment Business shall have no liability to the Client arising from any failure to provide any person or any particular person as a Locum Doctor in response to any booking or any part of any booking.
- 4.4. When making a booking the Client shall give the Employment Business full details of:
 - (a) The intended duties of the Locum Doctor;
 - (b) Any special skills which it requires the Locum Doctor to have including any experience, training, qualifications or any authorisations including those required by a professional body or by law;
 - (c) Any risks to health and safety known to the Client and any steps that may have been taken to prevent or control such risks;
 - (d) Any health and safety information which the Client wishes to be passed on to the Locum Doctor.
- 4.5. If during the Assignment the Client proposes a change to any of the details provided to the Employment Business under clause 4.4, it will inform the Company before making the change. The Client shall not allow any Locum Doctor to undertake any work other than that which has been notified to the Employment Business by the Client when the booking was made. Without prejudice to that requirement, the Client shall not allow the Locum Doctor to undertake work requiring special skills, experience or qualifications if such requirements of the Locum Doctor were not notified by the Client to the Employment Business in placing its booking.
- 4.6. If the Client expects to require the services of any Locum Doctor for more than 48 hours in a single week (from Monday to Sunday), it must inform the Employment Business by no later than the Thursday of the preceding week. The Client must

not instruct the Locum Doctor to perform night work until the Locum Doctor has been given a health assessment that has not shown any reason why the Locum Doctor may not do night work. If the Client is in any doubt as to the position, it should check with the Employment Business.

4.7. The Client shall not rely on any checks done by the Employment Business as to the suitability and qualifications of the Locum Doctor. Prior to issuing instructions to a Locum Doctor, the Client shall satisfy itself as to the Locum Doctor's suitability and qualifications to perform the relevant duties. The Client shall also ensure compliance by or on behalf of the Locum Doctor during the Assignment with laws and other applicable regulations.

4.8. The Employment Business shall at all times comply with its obligations under the Protection of Employees (Temporary Agency Work) Act 2012 (the "Act"). The Client will at all times comply with its obligations under the Act including in particular all obligations to provide agency workers with access to collective facilities and amenities and employment opportunities. The Client shall inform the Employment Business of the correct rate of pay, annual leave entitlements and any other payment arrangements/allowances that a Locum Doctor is entitled to under the Act.

4.9. No Locum Doctor is an employee of the Company. Each is self-employed or engaged under a contract for services. The Client acknowledges that the Employment Business does not have the obligation (or the opportunity) to supervise, direct or control the manner, time or place of any Locum Doctor's work. The Client acknowledges that the Employment Business's charges reflect this.

4.10. The Client undertakes to the Employment Business that it will discharge responsibility for the welfare and supervision of each Locum Doctor from the start of any Assignment as if that Locum Doctor was an employee of the Client. The Employment Business acknowledges that the Client has not accepted that the Locum Doctor is its employee. The Client shall, however, provide sufficient supervision, direction and control over the Locum Doctor throughout the Assignment to ensure a reasonable standard of performance.

4.11. The Client shall at all times discharge all statutory and common law duties which the Client may from time to time owe to the Locum Doctor or to which the Client may from time to time be subject in respect of the Locum Doctor. Without limiting the generality of the foregoing, the Client shall ensure that the Locum Doctor is provided with the necessary rest breaks and weekly rest periods prescribed by legislation.

5. TIME SHEETS

5.1. 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 Doctor during that week.

5.2. 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 Doctor 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 Doctor. Failure to sign the time sheet does not absolve the

Client's obligation to pay the charges in respect of the hours worked.

5.3. 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 Doctor. In cases of unsuitable work the Client should apply the provisions of clause 10.1 below.

6. PAYMENT OF THE LOCUM DOCTOR

6.1. The Employment Business is responsible for paying the Locum Doctor's invoices.

7. TRANSFER AND INTRODUCTION FEES

7.1. Transfer Fees where a worker has been supplied

7.1.1. In the event of the Engagement by the Client of a Locum Doctor supplied by the Employment Business for an Assignment either (1) directly or (2) pursuant to being supplied by another employment business, during the Assignment or within whichever is the longer of either

- 14 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 weeks from the day after the last day the Locum Doctor worked on the Assignment

A Transfer Fee shall be due calculated as follows: 20% 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 Rate multiplied by 300. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates. The Client shall immediately notify the Employment Business of an Engagement which would give rise to an entitlement to a Transfer Fee, the Client shall immediately notify the Company

7.1.2. The Transfer Fee will not be payable if the Client gives written notice to the Employment Business that it intends to hire or continue the hire of the Locum Doctor for a period of extended hire of not less than 26 weeks before it Engages the Temporary Worker other than through the Employment Business. During any such period of extended hire, the hourly charges payable by the Client shall be those applicable immediately before the Employment Business received the Client's notice and at the end of the period of extended hire, the Client may engage the Locum Doctor without paying the Transfer Fee. If the Client chooses a period of extended hire, but engages the Locum Doctor before the end of the period of extended hire, the Transfer Fee may be charged by the Employment Business, reduced proportionately to reflect the amount of the period of extended hire.

7.2. Introduction Fees where a worker is introduced but not supplied

In the event that there is an Introduction of a Locum Doctor to the Client which does not result in the supply of that Locum Doctor by

the Employment Business to the Client, but which leads to an Engagement of the Locum Doctor by the Client either directly or pursuant to being supplied by another employment business within 6 months from the date of Introduction the Client shall be liable to an Introduction Fee calculated as at 7.1.1 above.

7.3. In the event that the Engagement of the Locum Doctor is for a fixed term of less than 12 months, the fee in clause 7.1.1 or 7.2.1, 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 Doctor within 3 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.

7.4. **Transfer Fees where there has been an Introduction to and Engagement by a Third Party** In the event that a Locum Doctor supplied to a Client is introduced by the Client to a third party which results in the Engagement of the Locum Doctor by the third party, the provisions of clause 7.1 shall apply as if the Client had itself Engaged the Locum Doctor rather than the third party.

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

In the event that there is an Introduction of a Locum Doctor to the Client which does not result in the supply of that Locum Doctor by the Employment Business to the Client, but the Locum Doctor is introduced by the Client to a third party which results in the Engagement of the Locum Doctor 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 7.1.1.

8. LIABILITY

8.1. 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 Doctor and to provide the same in accordance with the Assignment details provided by the Client, no liability is accepted by the Employment Business to either the Client or the Locum Doctor for any loss, injury, expense, damage, costs or delay arising from the failure to provide a Locum Doctor for all or part of the period of the Assignment or from the negligence, dishonesty, misconduct or lack of skill

of the Locum Doctor or if the Locum Doctor terminates the Assignment for any reason. This exclusion shall extend (but not be limited) to the consequences of any act, omission or failure (whether wilful, negligent, reckless, dishonest or otherwise) which takes place during the Assignment on the part of the Locum Doctor and/or the Client. The Client acknowledges that the Company's charges are set on the basis that it has no such liability. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence, for its own fraud or for any other type of liability that cannot be excluded under applicable law.

8.2. Locum Doctors provided by the Employment Business to the Client are not under the direction and control of either the Client or the Employment Business as to the manner in which they perform their work for the duration of the

Assignment. Nevertheless, 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 Doctor. The Client shall indemnify the Employment Business and keep it indemnified against the costs and financial consequences of and occasioned by any and all claims against either of them arising from any loss, injury, damage, expense or delay suffered by the Client, the Worker or any third party as a result of any breach by the Client of any of its obligations under these Terms or as a result of any act, error or omission of the Worker. Nothing in this clause shall prejudice the Client or the Employment Business's entitlement to terminate the Assignment in accordance with clause 9 below.

- 8.3. The Client will be responsible for the indemnification of the Locum Doctor and the Employment Business in respect of claims or proceedings arising out of clinical acts or omissions during the diagnosis, care or treatment of the Client's patients, excluding criminal acts arising under common law, providing that the Company has fulfilled its obligations under these Terms. The Employment Business will not be responsible for the actions of the Locum Doctor within the Client's premises in respect of professional liability of the Locum Doctor during the care and treatment of the Client's patients.
- 8.4. 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 Doctor and about any requirements imposed by law or by any professional body, which must be satisfied if the Locum Doctor is to fill the Assignment. The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Locum Doctor for the Locum Doctor to fill the Assignment.
- 8.5. The Client undertakes not to request the supply of a Locum Doctor to perform the duties normally performed by a worker who is taking part in official industrial action or duties normally performed someone who has been transferred by the Client to perform the duties of the person on strike or taking official industrial action.
- 8.6. The Client shall indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with clauses 8.2, 8.3 and 8.5 and/or as a result of any breach of these Terms by the Client.
- 8.7. Only the Client is in a position to assess the risks attendant upon the work to be performed during the Assignment. The Client shall insure against such risks to the Locum Doctor (and, if the Client considers it appropriate, against such risks to itself or any third party). The obligations of the Client to take out and maintain insurance shall extend (but not be limited) to employer's liability and public liability insurance and, where relevant, to fully comprehensive motor insurance. Any failure by the Client to meet its insurance obligations shall not reduce or eliminate its obligations to indemnify the Company.
- 8.8. The Client agrees that arrangements in relation to each Locum Doctor and each Assignment represent individual contracts and that the Client shall have no right of set off or counterclaim between individual arrangements. The liability of the Employment Business to the Client in the event of any dispute arising from

any arrangement made under these Conditions is limited to a sum not exceeding the sum paid to the Company in relation to each Assignment.

- 8.9. The Client acknowledges that the limitations and exclusions of the obligations and liabilities of the Company set out in these Terms are reasonable and reflected in the charges payable to the Employment Business. The Client shall accept risk and/or insure accordingly.

9. TERMINATION

- 9.1. If the Client reasonably considers that the services of the Locum Doctor are unsatisfactory, the Client may instruct the Locum Doctor to leave the Assignment immediately, or direct the Employment Business to remove the Locum Doctor.
- 9.2. Notwithstanding clause 9.1 the Client shall provide the Employment Business with four weeks' notice in writing in order to terminate an Assignment.
- 9.3. The Client shall notify the Employment Business immediately and without delay and in any event within 24 hours if the Locum Doctor fails to attend work or notifies the Client that the Locum Doctor is unable to attend work for any reason.
- 9.4. 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 Doctor supplied to the Client is unsuitable for the Assignment and shall be entitled to terminate the Assignment forthwith by notice in writing without prior notice and without liability.

10. GENERAL

- 10.1. The Employment Business operates equal opportunities policies governing its dealings with Locum Doctors. Copies of those policies are available from the Company's registered office on request.
- 10.2. No contract into which these Terms are incorporated shall be assigned or transferred by the Client without the Employment Business's prior written consent.
- 10.3. The Parties shall comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption in force in any relevant jurisdiction from time to time including but not limited to the Prevention of Corruption Acts 1889 to 2010, Public Bodies Corrupt Practices Act 1889, the Companies Act 2014 and the Criminal Justice (Theft and Fraud Offences) Act 2001, and any breach of this Term may be deemed to be a material breach of contract.
- 10.4. Other than associated companies of Impellam Group plc who will have the benefit of and may enforce the Terms, the parties do not intend any of the Terms to be enforceable by any other party.

11. DATA PROTECTION

- 11.1. Both parties agree to comply with all applicable requirements of the General Data Protection Regulation ((EU) 2016/679) ("GDPR"), as amended or updated from time to time (together "DP Legislation").
- 11.2. The parties acknowledge that for the purposes of the DP Legislation, it may be necessary for one of the parties to process certain personal data (as defined in the DP Legislation) on behalf of the other party, and the Company may act as a "controller" or a "processor" (as defined in the GDPR) in respect of such personal data.
- 11.3. Each party shall ensure that it has all necessary appropriate consents and notices in place to

enable lawful transfer of personal data for the duration and purposes of this agreement.

- 11.4. The processor shall in relation to any personal data processed in connection with its obligations under this agreement:
 - (a) Process that personal data only on the written instructions of the controller unless the processor is required by any applicable law to process such data and notifies the controller to this effect;
 - (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing, or against accidental loss or destruction of, or damage to the personal data, appropriate to the harm that might result from such occurrence and the nature of the data to be protected;
 - (c) Ensure that all personnel who have access to and/or process personal data are obliged to keep it confidential;
 - (d) Not transfer any personal data outside of the European Economic Area without giving prior written notice to the other party;
 - (e) Promptly assist the controller in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, impact assessments and consultations with supervisory authorities or regulators and including with any requests from data subjects;
 - (f) Notify the controller without delay on becoming aware of a personal data breach relating to these Conditions;
 - (g) At the request of the controller, delete or return all personal data on termination of the agreement unless required by applicable law to store the personal data; and
 - (h) Maintain complete and accurate records and information to demonstrate compliance with this Condition 11.

12. JURISDICTION

These Terms and any contract into which they are incorporated shall be subject to the law of Ireland and the exclusive jurisdiction of the courts of Ireland.

Signature:

Date:
.....

Name:
.....

Position:

For and on behalf of: «Client_Name»

Signature:

Name: Rebecca Watson

Position: Director

For and on behalf of: Global Medics, a trading name of Medacs Global Group Limited

By engaging a Candidate, you will be deemed to have accepted the terms and conditions contained herein.