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TERMS OF BUSINESS

Coben Medical Terms and conditions for the introduction of temporary workers.

1. DEFINITIONS

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

“Assignment”

Means the period during which the Temporary Worker 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 to which the Temporary Worker is supplied or introduced.

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“Engages/Engaged/Engagement”

Means the engagement, employment or use of the Temporary Worker 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, license, franchise or partnership arrangement; or any other engagement; directly or through a limited company of which the Temporary Worker is an officer or employee.

“Temporary Worker”

Means the individual who is introduced by the Employment Business to render services to the Client.

“Transfer Fee”

Means the fee payable in accordance with clause 7.1 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

“Introduction Fee”

Means the fee payable in accordance with clause 7.2 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

“Introduction”

Means (i) the Client’s interview of a Temporary Worker in person or by telephone, following the Client’s instruction to the Employment Business to supply a Temporary Worker; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Temporary Worker; and which leads to an Engagement of that Temporary Worker.

“Remuneration”

The Employment Business assumes responsibility for payment of the Temporary Worker’s remuneration including holiday pay and where appropriate, for deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Temporary Worker pursuant to sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003.

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 Temporary Worker’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 Temporary Worker or the passing of any information about the Temporary Worker 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 the 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.

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 worked by the Temporary Worker (to the nearest quarter hour) and comprise mainly the Temporary Worker's hourly rate but also include the Employment Business' commission calculated as a percentage of the Temporary Worker's hourly rate, employer's National Insurance contributions 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.

3.2 The charges are invoiced to the Client on a weekly basis and are payable within 30 days of the date of invoice. The Employment Business reserves the right to charge interest on any overdue amounts at the rate of 8% per annum 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 Temporary Worker to the Client the Employment Business shall inform the Client of the identity of the Temporary Worker; that the Temporary Worker 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 Temporary Worker will be employed by the Employment Business under a contract of service or apprenticeship or a contract for services; and that the Temporary Worker 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 Temporary Worker is being Introduced for an Assignment in the same position as one in which The Temporary Worker 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. 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 Temporary Worker 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 Temporary Worker because the Client disputes the hours claimed, the Client shall inform the Employment Business as soon as is reasonably practicable and shall cooperate 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 Temporary Worker. 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 Temporary Worker. In cases of unsuitable work the Client should apply the provisions of clause 10.1 below.

6. PAYMENT OF THE TEMPORARY WORKER

6.1 The Employment Business assumes responsibility for paying the Temporary Worker Unless agreed different between Client and Employment Business and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Temporary Worker pursuant to sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003.

7. TRANSFER AND INTRODUCTION FEES

7.1.1 In the event of the Engagement by the Client of a Temporary Worker 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 Temporary Worker worked on the Assignment the Client shall be liable, subject to electing by giving 7 days prior notice, to either:

a) An extended period of hire of the Temporary Worker being 26 weeks (unless the Temporary Worker has worked continuously for the Client for a minimum of 12 weeks, in which case the extended period of hire will be negotiable) during which the Client shall pay the current hourly charge agreed pursuant to clause 3.1 for each hour the Temporary Worker is so employed or supplied; or

b) A Transfer Fee 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, 20% of the sum calculated as follows: hourly pay rate (as decided by the Employment Business reflecting the market rate) x hours worked x 52 weeks. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates.

7.2 Introduction Fees where a worker is introduced but not supplied

7.2.1 In the event that there is an Introduction of a Temporary Worker to the Client which does not result in the supply of that Temporary Worker by the Employment Business to the Client, but which leads to an Engagement of the Temporary Worker 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 either:

a) Subject to electing upon giving 7 days' notice, a period of hire of the Temporary Worker being 25 weeks during which the Client shall pay the current hourly charges agreed pursuant to clause 3.1 above for each hour the Temporary Worker is so employed or supplied; or

An Introduction Fee 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, 20% of sum calculated as follows, hourly pay rate (as decided by the Employment Business reflecting the market rate) x hours worked per week x 52 weeks. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates.

7.3 In the event that the Engagement of the Temporary Worker is for a fixed term of less than 12 months, the fee in clause 7.1.1(b) or 7.2.1(b), 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 Temporary Worker 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 Inability to supply during the period of hire

7.4.1 If the Client elects for a period of hire, as set out in clauses 7.1.1 (a) or 7.2.1 (a), but before the end of such period Engages the Temporary Worker supplied by the Employment Business either directly or pursuant to being supplied by another employment business or the Temporary Worker chooses not to be supplied for the period of hire, the Transfer or Introduction Fee calculated in accordance with either 7.1(b) or 7.2(b) may be charged, reduced by such percentage to reflect any period of hire already undertaken by the Temporary Worker and paid for by the Client.

7.4.2 Where period(s) of absence due to illness or injury prevent the Temporary Worker 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 Temporary Worker 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.

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

7.5.1 In the event that a Temporary Worker supplied to a Client is introduced by the Client to a third party which results in the Engagement of the Temporary Worker by the third party 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 the 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 Temporary Worker worked on the Assignment the Client shall be liable to pay a Transfer Fee calculated in accordance with clause 7.1.1 (b)

7.6 In the event that there is an introduction of a Temporary worker to the Client which does not result in the supply of that Temporary Worker by the Employment Business to the client, but the Temporary worker is introduced by the Client to a third party which results in the Engagement of the Temporary worker by the third party within 6 months of the date of introduction the Client shall be liable to pay an Introduction Fee 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, 20% of the sum calculated as follows: hourly rate (as decided by the Employment Business reflecting the market rate) x hours worked per week x 52 weeks. No refund of the introduction Fee will be payable in the event that the Engagement subsequently terminates VAT will be charged where applicable and at the prevailing rate.

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 Temporary Workers and further to provide them in accordance with the Client's booking details, the Employment Business is not liable for any loss, expense, damage or delay arising from any failure to provide any Temporary Worker for all or part of the period of booking or from the negligence, dishonesty, misconduct or lack of skill of the Temporary Worker. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.

8.2 Temporary Workers supplied by the Employment Business are engaged under contracts for services. They are not the employees of the Employment Business but are deemed to be under the supervision, direction and control 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 Temporary Worker, whether willful, negligent or otherwise as though the Temporary Worker was on the payroll of the Client. The Client will also comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations, Health and Safety at Work Act etc, by-laws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff (excluding the matters specifically mentioned in Clause 6 above), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments.

8.3 The Client shall advise the Employment Business of any special health and safety matters about which the Employment Business is required to inform the Temporary Worker and about any requirements imposed by law or by any professional body, which must be satisfied if the Temporary Worker is to fill the Assignment. The Client will assist the Employment Business with the Employment Business duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business and the Client will not do anything to cause the Employment Business to be in breach of its obligations under these Regulations. Where the Client requires or may require the services of a Temporary Worker for more than 48 hours in any week, the Client must notify the Employment Business of this requirement before the commencement of that week.

8.4 The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Temporary Worker for the Temporary Worker to fill the Assignment.

8.5 The Client undertakes not to request the supply of a Temporary Worker 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 The client shall

9. SPECIAL SITUATIONS

9.1 Where the Temporary Worker 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 to the Client:

- Copies of any relevant qualifications or authorisations of the Temporary Worker, and
- Two references from persons not related to the Temporary Worker 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 Temporary Worker 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.

10 AGENCY WORKERS REGULATIONS

10.1 In October 2011, the Agency Workers Regulations 2010 (the AWR) came into force in the UK, This provides equal treatment on certain matters to Agency Workers who have completed a 12 week qualifying period. Whilst the law has changed those benefits of using Agency Workers Remain the same.

10.2. The client must provide the employment agency with up to date information on your terms and conditions so that they can ensure that an agency worker receives the correct equal treatment, as if they had been recruited directly, after 12 weeks in the same job. You are responsible for ensuring that all agency workers can access your facilities and are able to view information on your job vacancies from the first day_of their assignment with you

10.3. The client must ensure that all agency workers have access from Day 1 of their employment to the facilities the permanent members of staff have access to such as childcare and transport facilities and can access information on job vacancies.

10.4 The regulations refer to 12 weeks in the same job as the 'qualifying period'. An agency worker will be entitled to the same basic conditions of employment as if they had been directly employed by the client on day one of their assignment. This is specifically in relation to:

- Pay, including fee, bonus, compensation, and holiday pay relating to the assignment. It does not include redundancy pay, contractual sick pay, and maternity, paternity or adoption pay.
- Working time rights including annual leave, rest periods, rest breaks and duration of working time if this is limited to a maximum of 48 hours a week.
- Pregnant agency workers, who have completed the 12 week qualifying period will be entitled to paid time off for ante-natal appointments.

For any entitlement requiring a period of service, for example enhanced entitlement to annual leave after 12 months of service, the period starts at the time the qualifying period commenced. Therefore this would be 12 months, (not 12 months and 12 weeks).

10.5. Calculating the 12 week qualifying period. The 12 week qualifying period is triggered by working in the same job with the same client for 12 calendar weeks. Calendar weeks will be accrued regardless of how many hours the agency worker does on a weekly basis.

10.6. Breaks and Pauses in the 12 week qualifying period

If there are gaps within assignments or an agency worker is moved to a new assignment with the hirer, this can reset the 12 week qualifying period to zero. See below examples of when the 12 week qualifying period will be reset to zero:

- The agency worker begins a new assignment with a new client e.g. include different skills and competences; have a different pay rate; work in a different location or cost centre; work for a different line manager; work different hours and/or require extra training or a qualification that wasn't needed before
- The agency worker remains with the hirer but is no longer in the same role;
- The break between each assignment with the hirer is of more than 6 weeks.

The following are examples of when the 12 week qualifying period will be paused:

- Where the break is more than 6 calendar weeks and the agency worker returns to the same role with the hirer;
- A break of up to 28 weeks because the agency worker is incapable of work because of sickness or injury;
- A break which is for the purpose of taking leave to which the agency worker is entitled, including annual leave;
- A break of 28 calendar weeks to allow the agency worker to perform jury service;
- A break caused by a regular or planned shutdown of the workplace by the client, such as Christmas;
- A break caused by a strike, lock out or other industrial action within the client.

The following are examples of when the 12 week qualifying period is not reset or paused but continues:

- Breaks due to pregnancy, childbirth or maternity which take place during and up to 26 weeks after childbirth. The protected period for a pregnant agency worker begins at the start of the pregnancy and ends 26 weeks after childbirth, or earlier if the agency worker returns to work
- Breaks due to the agency worker taking maternity leave, adoption leave or paternity leave. This would be where an agency worker has a contract of employment with an agency and is entitled to this type of leave. In each case the qualifying period will continue for the originally intended duration of the assignment, or the likely duration of the assignment (whichever is longer).

10.7. Pregnant Agency Workers: Responsibility of the pregnant agency worker is to firstly notify Coben Medical of her pregnancy and also in writing to the hirer. Coben Medical will approach the hirer and ask for a health and safety risk assessment in the current assignment. If any risks are identified by the hirer, reasonable adjustment will need to be made. If it is not reasonable, Coben Medical will endeavour to offer suitable alternative work. This is where the agency worker will be paid at the same rate until the end of the assignment. The agency worker should also inform Coben Medical of any ante natal appointments so the agency worker is paid the usual hourly rate. The 12 week qualifying period will continue and the pregnant agency worker will continue to accrue weeks in relation to both the original client that she was working for and the new client where she is working in another role.

10.8. Equal Treatment. Within the regulations equal treatment is a requirement to treat the agency worker as if he or she has been recruited directly by the hirer to do the same job. Equal treatment is not required in respect of all terms and conditions that a person would have received had they been recruited directly. The regulations stipulate that equal treatment covers basic working and employment conditions, such as those covered in contracts, (or associated documents such as pay scales, collective agreements), of direct recruits. The means of terms and conditions are normally set out in the following:

- Standard contracts
- Pay scale or pay structure
- Relevant collective agreements

10.9. The question of bonus schemes: Under the AWR, Agency Workers will be eligible only for bonus that is related to their personal performance. Therefore, Agency Workers will not be entitled to bonus which relates wholly to organisational performance (e.g. company share or profit related schemes). However, this means that where hirers operate 'hybrid' schemes that contain elements based upon individual *and* company performance, the element relating to the Agency Worker's performance will have to be identified and paid to the Agency Worker.

The following list highlights what is included and excluded typically (bonus related) under AWR:

Included: Commission linked to sales; Individual KPIs, e.g. call handling and individual performance

Excluded: Bonus reflecting organisational performance with no recognition for individual contribution and Loyalty or retention bonus

11. How are complaints handled? After completion of the 12-week qualifying period, and provided the assignment is continuing, an Agency Worker is entitled to submit a written request to Coben medical for the following information:

- Relevant basic working and employment conditions in force;
- The factors considered by Coben Medical when determining the basic working and employment conditions applicable to the Agency Worker; and
- If appropriate, the basis upon which a comparator was identified, and the relevant terms and conditions applicable to that comparator.

Upon receipt of such a request, Coben Medical has 28 days to provide the information to the Agency Worker. If this information is not provided by the agency within 30 days of the request, the Agency Worker may refer the request directly to the client. The client will then have to respond to this request within 28 days. Coben would of course endeavour to respond to any such requests from Agency Workers. If the complaint cannot be resolved through the above procedure, the Agency Worker may bring an Employment Tribunal complaint. Coben Medical and The client will be responsible for breaches to the AWR to the extent that they are liable. Employment Tribunals will have the power to award compensatory awards

of loss, subject to a minimum of two weeks' pay to any Agency Worker who successfully makes a claim under the AWR. In addition, Employment Tribunals could make an additional award to the Agency Worker of up to £5,000 where the Coben or The client has deliberately structured assignments in order to prevent the Agency Worker from completing the 12 week qualifying period.

12. TERMINATION

12.1 The Client undertakes to supervise the Temporary Worker sufficiently to ensure the Client's satisfaction with the Temporary Worker's standards of workmanship. If the Client reasonably considers that the services of the Temporary Worker are unsatisfactory, the Client may terminate the Assignment either by instructing the Temporary Worker to leave the Assignment immediately, or by directing the Employment Business remove the Temporary Worker. The Employment Business may, in such circumstances, reduce or cancel the charges for the time worked by that Temporary Worker, provided that the Assignment terminates: -

- a) Within four hours of the Temporary Worker commencing the Assignment where the booking is for more than seven hours; or
- b) Within two hours for bookings of seven hours or less;

And also provided that notification of the unsuitability of the Temporary Worker is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.

12.2 Any of the Client, the Employment Business or the Temporary Worker may terminate an Assignment at any time without prior notice and without liability.

12.3 The Client shall notify the Employment Business immediately and without delay and in any event within [24] hours if the Temporary Worker fails to attend work or notifies the Client that the Temporary Worker is unable to attend work for any reason.

12.4 The Employment Business shall notify the Client immediately if it receives or otherwise obtains information, which gives it reasonable grounds to believe that a Temporary Worker 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.

13. LAW

13.1 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

Dated- _____

Signed for and on behalf of Coben Medical Ltd

Dated- _____