



## **STANDARD TERMS AND CONDITIONS [APPLICABLE TO CLIENTS AND MEMBERS]**

By using eCareFinder [OR ANY RELATED SERVICE OR ENTITY] the Client/User binds itself to our standard terms as follows:

### **1. General Provision**

We agree to the services as required by the Client under the Client's control and direction. The nature of the work to be covered and times and place of employment will be agreed between ourselves, our members and the Client. We remunerate our subcontractors for the duration of the assignment, whether it is temporary, fixed, or conducted in any other manner.

### **2. Authorising of Hours of Work and Minimum Charges**

The hours of a work assignment are recorded on our standard Time-sheets by our members/consultants online in the system. Clients are required to certify that the hours are correct at the end of each session/week/month or on an alternative basis as agreed on the basis of certified hours. We pay the education consultants and the Client shall be invoiced at the pre-advised rate or on any other basis as agreed. In terms of permanent placements where placement fees are applicable no work will be authorised.

### **3. Late Cancellations**

Late cancellation of sessions will incur a minimum charge of the hours booked for one day. A late cancellation occurs where we / our members are not notified at least 24 hours prior to the lesson.

### **4. Replacing a Member / Care Provider**

If the need arises, we shall be entitled to replace any member with another of comparable competency and qualifications, at any time without prior notice. If the Client requests a replacement for any reason whatsoever we will replace the educational consultant with an alternate accordingly: Hourly Packages – Immediately, Bi-Weekly Appointments – Bi-weekly Monthly Appointments – Monthly. This does not apply to permanent placements.

### **5. Invoicing and Payment Terms**

Clients are normally requested to pay upfront for the package they have selected and will be invoiced on the basis of the total hours certified on the Time-sheet. Therefore, invoices are due and payable on date of invoice or earlier. We reserve the right to charge interest at the maximum rate in terms of the National Credit Act. We also reserve the right to withdraw educational consultants from assignments until all overdue amounts are settled. The Client agrees that they will be liable in such circumstances to ourselves for any costs we may incur or be required to pay, relating directly or indirectly to any withdrawal of the services of the educational consultants, including without any limitation, the amount of any remuneration, benefits, award, penalty, determination or compensation that may be made or awarded to the educational consultants as a consequence of his or her withdrawal from the assignment. Payments effected through the post shall be entirely at the risk of the Client. Amounts received upfront are not refundable unless under certain circumstances and expire 1 year after payment if not used. Amounts are not refundable in the circumstances where a client has obtained another tutor during the provision of tutoring services by ourselves to the client.

### **6. Warranty of Authority**

The representative of the Client who signs/certifies the Time-sheet warrants that he or she is duly authorised so to act and bind the Client even if such representative is a minor.

## **7. Insurance**

We accept no liability whatsoever for any loss, damage or expense arising howsoever as a consequence of any act of or omission by any member during such time as the educational consultant is doing lessons for the Client and it is expressly agreed and understood between the Client and ourselves that only the Client is in a position to assess or insure against risk in respect of, or during, or arising out of the period for which any member is working for the Client. The client is also responsible for all learning or other material provided to the applicable educational consultant. Clients are advised not to provide original learning or other material to the educational consultants but to make other arrangements in this regard which are in accordance with the necessary laws.

## **8. Restrictions**

No member may be entrusted by the Client to unattended premises or any part thereof or the handling of cash, script, credit cards, valuables or other similar property, without the prior specific written agreement of ourselves. The Client shall not permit members to operate vehicles, equipment or machinery, other than office equipment on which they have been or have not been trained. Agreement will be subject to appropriate insurance arranged for the Client's account. Members will at all times work under the direct supervision of the Client. Liability of Acts of Members: While we make every reasonable effort to assign suitably qualified members, we will not be liable to the Client for any loss or damage sustained by the Client or any other person arising directly or indirectly from any act or omission by any member placed with the Client.

## **9. Other Employment Offers to Members**

The service we render is made possible only by substantial investment in advertising for testing; screening and selecting a large number of suitably qualified members for assignments to Clients. The Client undertakes that neither they nor any person, associated company, subsidiary, division or other related entity or any other legal or other person with whom the Client is associated, whether directly or indirectly, or any person or legal person to whom the member so assigned was introduced, shall use the services of, or offer employment to, or accept an application for employment from such members (whether as an individual or other legal entity and whether on permanent or temporary basis), within a period of 12 months from the last day of provision of services by ourselves, unless subject to the terms and conditions and charges to be agreed upon between ourselves and the Client. The Client acknowledges that if any of the above undertakings are breached in any respect, then the Client shall be liable to pay ourselves immediately an amount based on the current permanent fee structure of any reputable Employment Agency, then prevailing and calculated on the annual rate of remuneration upon engagement or the equivalent thereof payable to such educational consultant, whether or not the educational consultant is employed by the Client or other party for the whole of or part of the year, which charge the Client acknowledges to be fair and reasonable, as a result of the said breach.

## **10. Advances or Loans**

We will accept no responsibility for any advances or loans made to a member by the Client. The Client shall not be entitled to have any claims settled by deduction in respect of any payment due by the Client to ourselves for services rendered.

## **11. Employment Legislation, Employee Rights and Refunds**

**11.1.** Both the Client and ourselves acknowledge that they are jointly and severably liable for contraventions of relevant minimum standards referred to in Section 198 of the Labour Relations Act No 66 1995. The Client recognizes that many aspects of the relationship which the Client will enjoy with the educational consultant fall directly or indirectly under the Client's control.

**11.2.** We will indemnify the Client and hold the Client harmless from any claim, demand, cause of

action, liability, loss or expense arising by reason of non-compliance with the provisions of all relevant laws and agreements where compliance is under our direct control. The Client likewise will indemnify ourselves and hold ourselves harmless from any claim, demand, cause of action, liability, loss or expense arising by reason of noncompliance with the provisions of all relevant laws and agreements where compliance is under the Client's direct or indirect control.

**11.3.** The Client warrants that no collective bargaining agreement, wage determination, bargaining council agreement or any other similar minimum standards instrument or law, other than the Basic Conditions of Employment legislation, applies to the category of members presently assigned to the Client.

**11.4.** The Client agrees to comply with relevant laws and agreements, which relate to the provision of services by the member and will ensure that members on assignment will enjoy all rights and benefits contemplated under the laws of the Republic of South Africa, including freedom from unfair discrimination.

**11.5.** The Client will allow us to comply fully with the obligations which rest on ourselves as employers during the period of the assignment including, but not limited to our obligation to ensure that any termination of an assignment or withdrawal of an educational consultant prior to expiry, or any other change or other matter concerning an educational consultant, is effected lawfully and in accordance with the requirements of substantive and procedural fairness. The Client's obligations will include providing ourselves with sufficient time to comply with its obligations.

**11.6.** The Client agrees that it will not request or require ourselves to terminate any assignment prior to the agreed date of termination, unless we, after dealing with the matters procedurally in terms of our obligations under the Labour Relations Act, and in accordance with accepted industrial relations practice, is satisfied that substantive grounds exist for a fair termination of the assignment.

**11.7.** The Client and its employees will participate fully in any procedures required by ourselves concerning any allegations of misconduct, incapacity and/or operational requirement dismissals or related matters.

**11.8.** The Client will give us prompt notification of any deviation by the member from agreed upon performance standards and procedures and a full opportunity to intercede to ensure appropriate counselling on performance and provide a reasonable opportunity for improvement.

**11.9. REFUNDS:** If a client is not satisfied with the services provided by ourselves, they may request a refund from ourselves. Refunds will be provided according to the following formula: Amount Received from the client less the hours provided to the client till the date of the request for refund less an amount of R250 in respect of admin and other costs incurred for all packages exceeding 5 hours. Refunds will be provided to the client into the bank account nominated by the client and will be affected on the last day of the respective month.

**11.10. INDEMNITY:** In the event of the Client directly or indirectly preventing or hindering ourselves from fulfilling our responsibilities in terms of this clause 11, or legal obligations as an employer in terms of the Labour Relations Act, or in terms of any other Act, or in the event of the Client not complying with its obligations under this clause or under any law in the event of insisting on the early termination of an assignment or withdrawal of an assignee in conflict with our findings after conducting formal proceedings contemplated, the Client agrees that it shall in such circumstances be solely and fully liable to us for any amount due by us in respect of any costs and expenses, award, directive, order, penalty and/or fine under any employment or other law or otherwise, and will indemnify ourselves fully in this regard.

## **12. Collections**

Should legal proceedings be instituted against the Client for the recovery of any amounts due in respect hereof, the client will be liable for legal costs on Attorney and Client scale as well as collection commission.