

# **GENERAL TERMS AND CONDITIONS COLLABORATION BETWEEN THE HIRSLANDEN PRIVATE HOSPITAL GROUP AND RECRUITMENT AGENCIES**

## **01 APRIL 2020**

### **1. SCOPE OF APPLICATION**

The present General Terms and Conditions (hereinafter "**GTC Hirslanden**") shall apply to personnel recruitment of any nature between recruitment agencies and the legal entities of the Hirslanden Private Hospital Group such as, in particular, all Hirslanden hospitals, outpatient clinics and institutes (hereinafter "**Hirslanden**").

The GTC Hirslanden shall apply **exclusively** and shall take precedence over any General Terms and Conditions of the recruitment agency **in all cases and to their full extent**. The GTC Hirslanden shall also apply in the event that, despite disregard of the provisions as to form required under Section 2, a contractual relationship is supposed to come into being between a recruitment agency and Hirslanden. With the **submission of a candidate file**, the recruitment agency thereby accepts the GTC Hirslanden to their full extent.

Any **agreements diverging** from the GTC Hirslanden **and/or supplementary agreements** shall require in all cases to attain **validity** a **written agreement or an agreement concluded by e-mail**, as well as **written approval or approval granted by e-mail** of the Hirslanden Corporate Office, Center of Excellence Sourcing & Employer Branding, irrespective of whether the diverging agreement is individual in nature or constitutes partial or full acceptance of the General Terms and Conditions of the recruitment agency.

The GTC Hirslanden shall **also** apply **to all future personnel recruitment** between the recruitment agency and Hirslanden, irrespective of whether the GTC Hirslanden are then submitted to the recruitment agency once again.

### **2. CONCLUSION AND TERMINATION OF THE PERSONNEL RECRUITMENT CONTRACT**

Orders involving commission fees, awards of mandates, contracts with headhunters and framework contracts with recruitment agencies (hereinafter "**personnel recruitment**") shall not be **valid in any case** without a **written agreement or an agreement concluded by e-mail**, as well as **written approval or approval granted by e-mail** of the Hirslanden Corporate Office, Center of Excellence Sourcing & Employer Branding.

**Unsolicited applications** for **positions which are not currently vacant** shall neither constitute a contractual relationship between Hirslanden and the recruitment agency, nor shall they give rise to any entitlement to a fee on the part of the recruitment agency.

Each personnel recruitment contract relates to a specific case and shall constitute **no exclusive right of recruitment** on the part of the recruitment agency. Neither the successful nor the unsuccessful recruitment of personnel by the recruitment agency shall result in a new recruitment order in relation to the original vacancy or other vacancies.

The recruitment agency and Hirslanden may terminate the personnel recruitment contract at any time and without stating their reasons for doing so.

### **3. SCOPE OF SERVICES OF THE RECRUITMENT AGENCY**

The recruitment agency shall actively support the conclusion of an employment contract between Hirslanden and the candidate introduced to Hirslanden by said recruitment agency (hereinafter "**candidate**"). The recruitment agency shall in particular carefully scrutinise the candidate as regards his/her **suitability** and **motivation** in relation to the vacancy and conduct any necessary personal **interviews** before presenting a candidate to Hirslanden. Presentation of the candidate shall encompass a **complete file** for the candidate (in particular, a description of the candidate, copies of the CV written by the candidate, in addition to references, certificates/degrees, residence permit and any other documents which are important or relevant to the application).

The recruitment agency shall **support** the proposed candidate during the application process and make available any **further information and documents** requested by Hirslanden. Where incomplete candidate files are not supplemented within 5 working days or where further information or documents required by Hirslanden are not submitted at Hirslanden's request within 5 working days, the recruitment agency shall have **no entitlement to a fee**.

It shall not under any circumstances be sufficient for contractual performance of the service by the recruitment agency to merely furnish Hirslanden with the name and/or contact details of a possible candidate; this shall **not** give rise to **any entitlement to a fee** on the part of the recruitment agency.

The recruitment agency shall then be obliged to notify Hirslanden of all information relating to the candidate which might impact on a possible employment contract (**obligation to inform**)

### **4. FEE**

Upon signing of the employment contract between Hirslanden and the candidate recruited for the advertised position by the recruitment agency, an entitlement to a fee shall thereby accrue to the recruitment agency. Subject to the provisions of Sections 5 and 6 below, the following shall apply regarding the amount of the fee:

The fee shall be calculated based on a **percentage** of the **gross annual salary** contractually agreed with the candidate incl. any 13th monthly wage payment (hereinafter "**gross annual salary**"). The deciding

gross annual salary shall **not** include profit sharing benefits, commissions, bonuses of any type, reimbursement of expenses or any other benefits offered by the employer or allowances of any type. The following fee rates (plus VAT) shall apply:

Gross annual salary	Fee
Up to CHF 80,000	10 %
CHF 80,001 to CHF 100,000	12 %
CHF 100,001 to CHF 120,000	14 %
CHF 120,001 to CHF 140,000	16 %
CHF 140,001 to CHF 160,000	17 %
CHF 160,001 to CHF 180,000	18 %
CHF 180,001 to CHF 200,000	20 %
From CHF 200,001	22 %

In the case of **part-time work**, the calculation shall be based on the effective gross annual wage. **For calculation of the fee, the gross annual salary shall not be extrapolated to 100 percent by position.**

**20 % of the fee** shall become due upon **signing of the employment contract** with the recruited candidate. The **remainder of the fee** shall become due upon **successful completion of the probation period**. The fee charged shall become due for payment following invoicing by the recruitment agency within 30 days of receipt of invoice.

The fee shall cover **all services and expenses** of the recruitment agency; no further claims shall exist here.

## 5. REDUCTION/REIMBURSEMENT OF THE FEE

The **fee** applicable according to Section 4 shall be **reduced** or **repaid** by the recruitment agency in the following cases.

- With **failure** of the employee **to take up** the new position: **Forfeiting** of the entitlement to a fee and **reimbursement** of the fee already paid.
- With **termination** of the employment contract within the **probation period**: **No further entitlement to a fee** other than the **20 %** of the fee already owed according to Section 4 above.
- With termination of the contract of employment within 12 months of the commencement of employment for reasons which were known to the recruitment agency or should have been known with dutiful discharge of contract, but of which Hirslanden was not notified in breach of the obligation to inform according to Section 3 above: Reimbursement of **100 %** of the fee.

The entitlement to reduction/reimbursement of the fee shall exist **irrespective** of whether termination has been effected by Hirslanden or the candidate. However, the entitlement to reduction/reimbursement of the fee shall not exist by way of exception where Hirslanden terminates the contract of employment for reasons which are not due to personal attributes of the employee (conclusively: job cuts and reorganisation).

Reimbursement by the recruitment agency shall be effected following invoicing by Hirslanden with a payment period of 30 days from date of invoice.

Where **further recruitment** is agreed, the entitlement to a fee for the first candidate shall be set against the new fee entitlement for the newly recruited candidate. In addition, the GTC Hirslanden shall also apply

to their full extent for further recruitment, whereby the agreement shall in particular not constitute any exclusive right of recruitment to further recruitment on the part of the recruitment agency. No entitlement to further recruitment shall exist here.

## 6. EXCLUSION OF THE ENTITLEMENT TO A FEE

The **entitlement to a fee** of the recruitment agency shall be specifically **excluded** despite the conclusion of an employment contract with the candidate in the following cases:

- The recruitment agency introduces a candidate who has already applied **elsewhere** to Hirslanden (including to other legal entities, hospitals, outpatient clinics and/or institutes of the Hirslanden Private Hospital Group) within the last **18 months**.
- A candidate introduced by the recruitment agency subsequently applies elsewhere for **another position**.
- With the conclusion of an employment contract **after 6 months** following initial introduction of the candidate by the recruitment agency for the relevant position, irrespective of the reasons resulting in a delay.
- The recruitment agency fails to render its **services** under **Section 3** above in accordance with the contract.

Where an employment contract for the position originally advertised is **not** concluded with the candidate introduced by the recruitment agency **within 6 months** from submission of the file, the recruitment agency shall have – irrespective of the reasons preventing conclusion of the contract – **no entitlement to the payment of a fee or other remuneration**. Hirslanden may end the discussions or contractual negotiations with the candidate at any time without stating its reasons for doing so.

## 7. NON-SOLICITATION AGREEMENT AND CONTRACTUAL PENALTY

The recruitment agency may **not contact** the candidate who was **recruited for Hirslanden by the agency and is currently in ongoing employment with Hirslanden** within a period **24 months from the commencement of employment** with the aim of inducing the candidate to apply for a different position. The non-solicitation agreement encompasses the making of approaches and contact in any manner whatsoever.

In the event of **infringement** of the above non-solicitation agreement, the recruitment agency shall pay to Hirslanden, irrespective of the success of such contact, a **contractual penalty** amounting to **50 % of the candidate's gross annual salary**. Payment of the contractual penalty shall not release the recruitment agency from its duty of compliance with the non-solicitation agreement. Hirslanden reserves the right to assert further damages whereby fault on the part of the recruitment agency is presumed.

## 8. DATA PROTECTION AND COMPLIANCE

The recruitment agency confirms that it is aware of and will comply with the applicable legislation (namely, relating to **employment services** and **data protection**).

The recruitment agency undertakes to treat as confidential any information made available to it by Hirslanden. The disclosure of such information to candidates or third parties may take place only with the prior written consent of Hirslanden.

The recruitment agency confirms that the candidates it introduces consent to submission of their file to Hirslanden and that no rights of third parties (employer, other recruitment agencies, etc.) will be impaired where a candidate is hired.

The recruitment agency undertakes to **indemnify** Hirslanden against any **breach** of the above obligations to the full extent (incl. lawyers' fees as appropriate).  
Hirslanden's current **Data Protection Statement** shall apply.

## **9. PLACE OF JURISDICTION AND APPLICABLE LAW**

The **place of jurisdiction** for all disputes arising between the recruitment agency and Hirslanden shall be the **City of Zurich (District 1)**. All legal relationships between the parties shall be solely governed by **Swiss material law, to the exclusion of international private law**.

## **10. FINAL PROVISIONS**

The GTC Hirslanden shall apply in the present version as of 01 April 2020.

**Hirslanden reserves the right to amend the GTC Hirslanden at any time and without stating reasons for doing so.**