

DATED

27th August 2021

MIGRATE

(A DIVISION OF SANCTUARY PERSONNEL LIMITED)

**MOBILE APPLICATION END-USER LICENCE AGREEMENT
AND CANDIDATE/RECRUITER TERMS OF SERVICE**



PLEASE READ THESE LICENCE TERMS CAREFULLY

BY DOWNLOADING THE APP YOU AGREE TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS DO NOT ACCESS THE APP.

OR

BY CLICKING ON THE “ACCEPT” BUTTON BELOW YOU AGREE TO THESE TERMS WHICH WILL BIND YOU.

IF YOU DO NOT AGREE TO THESE TERMS, CLICK ON THE “REJECT” BUTTON BELOW.

Who we are and what this agreement does

We, Migrate, a division of Sanctuary Personnel Limited’s license you to use:

- The Migrate mobile application software, the data supplied with the software, (**App**) and any updates or supplements to it.
- The related online electronic documentation (**Documentation**).
- The service you connect to via the App and the content we provide to you through it as described in Schedule 1 of these terms (**Services**).

as permitted in these terms.

Your privacy

We only use any personal data we collect through your use of the App and the Services in the ways set out in our privacy policy <https://www.migratehr.com/privacy-policy>

Please be aware that internet transmissions are never completely private or secure and that any message or information you send using the App or any Service may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

Additional terms for specific Services

In addition the Services set out below will be governed by the following terms of use and privacy policies:

<https://www.migratehr.com/cookie-policy>

In addition see Schedule 1 below

Appstore's terms also apply

The ways in which you can use the App and Documentation may also be controlled by the Apple IOS and Google Android's rules and policies and the Appstore's rules and policies will apply instead of these terms where there are differences between the two.

Support for the App and how to tell us about problems

Support. If you want to learn more about the App or the Service or have any problems using them please take a look at our support resources at <https://www.migratehr.com>

Contacting us (including with complaints). If you think the App or the Services are faulty or misdescribed or wish to contact us for any other reason please email our customer service team at support@migratehr.com

How we will communicate with you. If we have to contact you we will do so by email, by SMS or by pre-paid post, using the contact details you have provided to us.

How you may use the App, including how many devices you may use it on

In return for your agreeing to comply with these terms you may, subject to having a valid account with us in respect of your access to and use of the App:

- download or stream a copy of the App onto the devices which relate to the Appstores under your account and view, use and display the App and the Service on such devices for your personal purposes only.
- use any Documentation to support your permitted use of the App and the Service.
- receive and use any free supplementary software code or update of the App incorporating "patches" and corrections of errors as we may provide to you.

You must be 18 to accept these terms and buy the app

You must be 18 or over to accept these terms and use the App.

You may not transfer the App to someone else

We are giving you personally the right to use the App and the Service as set out above. You may not otherwise transfer the App or the Service to someone else, whether for money, for anything else or for free. If you sell any device on which the App is installed, you must remove the App from it.

Changes to these terms

We may need to change this agreement to reflect changes in law or best practice or to deal with additional features which we introduce.

We will give you at least 10 days notice of any change by sending you an SMS with details of the change or notifying you of a change when you next start the App.

If you do not accept the notified changes you will not be permitted to continue to use the App and the Service.

Update to the App and changes to the Service

From time to time we may automatically update the App and change the Service to improve performance, enhance functionality, reflect changes to the operating system or address security issues. Alternatively we may ask you to update the App for these reasons.

If you choose not to install such updates or if you opt out of automatic updates you may not be able to continue using the App and the Services.

If someone else owns the phone or device you are using

If you download or stream the App onto any phone or other device not owned by you, you must have the owner's permission to do so. You will be responsible for complying with this agreement, whether or not you own the phone or other device.

We may collect technical data about your device

By using the App or any of the Services, you agree to us collecting and using technical information about the devices you use the App on and related software, hardware and peripherals to improve our products and to provide any Services to you.

We may collect location data (but you can turn location services off)

Certain Services may make use of location data sent from your devices. You can turn off this functionality at any time by turning off the location services settings for the App on the device. If you use these Services, you consent to us and our affiliates' and licensees' transmission, collection, retention, maintenance, processing and use of your location data and queries to provide and improve location-based and road traffic-based products and services.

You may stop us collecting such data at any time by turning off the location services settings.

We are not responsible for other websites you link to

The App or any Service may contain links to other independent websites which are not provided by us. Such independent sites are not under our control, and we are not responsible for and have not checked and approved their content or their privacy policies (if any).

You will need to make your own independent judgement about whether to use any such independent sites, including whether to buy any products or services offered by them.

Licence restrictions

You agree that you will:

- not rent, lease, sub-license, loan, provide, or otherwise make available, the App or the Services in any form, in whole or in part to any person without prior written consent from us;
- not copy the App, Documentation or Services, except as part of the normal use of the App or where it is necessary for the purpose of back-up or operational security;
- not translate, merge, adapt, vary, alter or modify, the whole or any part of the App, Documentation or Services nor permit the App or the Services or any part of them to be combined with, or become incorporated in, any other programs, except as necessary to use the App and the Services on devices as permitted in this agreement;
- not disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the App or the Services nor attempt to do any such things, except to the extent that (by virtue of sections 50B and 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are necessary to decompile the App to obtain the information necessary to create an independent program that can be operated with the App or with another program (**Permitted Objective**), and provided that the information obtained by you during such activities:
 - is not disclosed or communicated without the Licensor's prior written consent to any third party to whom it is not necessary to disclose or communicate it in order to achieve the Permitted Objective; and
 - is not used to create any software that is substantially similar in its expression to the App;
 - is kept secure; and
 - is used only for the Permitted Objective;
- comply with all applicable technology control or export laws and regulations that apply to the technology used or supported by the App or any Service.

Acceptable use restrictions

You must:

- not use the App or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, such as viruses, or harmful data, into the App, any Service or any operating system;
- not infringe our intellectual property rights or those of any third party in relation to your use of the App or any Service including by the submission of any material (to the extent that such use is not licensed by these terms);
- not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App or any Service;
- not use the App or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and
- not collect or harvest any information or data from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service.

Intellectual property rights

All intellectual property rights in the App, the Documentation and the Services throughout the world belong to us (or our licensors) and the rights in the App and the Services are licensed (not sold) to you. You have no intellectual property rights in, or to, the App, the Documentation or the Services other than the right to use them in accordance with this agreement.

Our responsibility for loss or damage suffered by you

We are responsible to you for foreseeable loss and damage caused by us. If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking these terms or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time you accepted these terms, both we and you knew it might happen.

We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors or for fraud or fraudulent misrepresentation.

When we are liable for damage to your property. If defective digital content that we have supplied damages a device or digital content belonging to you, we will either repair the damage

or pay you compensation. However, we will not be liable for damage that you could have avoided by following our advice to apply an update offered to you free of charge or for damage that was caused by you failing to correctly follow installation instructions or to have in place the minimum system requirements advised by us.

We are not liable for business losses. The App is for private use. If you use the App for any commercial, business or resale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

Limitations to the App and the Services. The App and the Services are provided for general information purposes only. They do not offer advice on which you should rely. You must obtain professional or specialist advice before taking, or refraining from, any action on the basis of information obtained from the App or the Service. Although we make reasonable efforts to update the information provided by the App and the Service, we make no representations, warranties or guarantees, whether express or implied, that such information is accurate, complete or up to date.

Please back-up content and data used with the App. We recommend that you back up any content and data used in connection with the App, to protect yourself in case of problems with the App or the Service.

Check that the App and the Services are suitable for you. The App and the Services have not been developed to meet your individual requirements. Please check that the facilities and functions of the App and the Services (as described on the appstore site and in the Documentation) meet your requirements.

We are not responsible for events outside our control. If our provision of the Services or support for the App or the Services is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event but if there is a risk of substantial delay you may contact us to end your contract with us and receive a refund for any Services you have paid for but not received.

Terminating your right to use the App and the Services

Either of us can terminate your registration of our App for any reason and without notice. We may also with for any reason and without notice;

- (i) remove any content you publish on the App;
- (ii) verify your information by requesting certain documents and refuse your requests to use the App if we believe there is reason to do so;
- (iii) take any steps to terminate or suspend your use of the App if we believe you have failed to comply with any of the provisions of this agreement; and

- (iv) if we decide to terminate, suspend or refuse to allow your use of the App, share or publish your name and email address and notify third parties (including the Appstore).

For the avoidance of doubt, any terms stated to survive the termination of this agreement will continue in full force and effect post termination of this agreement.

If your rights to use the App and Services terminates:

- You must stop all activities authorised by these terms, including your use of the App and any Services.
- You must delete or remove the App from all devices in your possession and immediately destroy all copies of the App which you have and confirm to us that you have done this.
- We may remotely access your devices and remove the App from them and cease providing you with access to the Services.

We may transfer this agreement to someone else

We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the contract.

You need our consent to transfer your rights to someone else

You may only transfer your rights or your obligations under these terms to another person if we agree in writing.

No rights for third parties

This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

If a court finds part of this agreement illegal, the rest will continue in force

Each of the paragraphs of this agreement operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

Even if we delay in enforcing this agreement, we can still enforce it later

Even if we delay in enforcing this agreement, we can still enforce it later. If we do not insist immediately that you do anything you are required to do under this agreement, or if we delay in taking steps against you in respect of your breaking this agreement, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

Which laws apply to this agreement and where you may bring legal proceedings

This agreement is governed by English law and you can bring legal proceedings in respect of the products in the English courts.

Where these Terms are also provided in a language other than English, whilst the translation is believed to be accurate, no warranty to that effect is given, and the English language version will prevail.

SCHEDULE 1

TERMS AND CONDITIONS FOR CANDIDATES AND RECRUITERS USING THE APP AND THE SERVICES

Terms and Conditions For Candidates and Recruiters

1. Acceptance of these Terms

In order to use the Services you must register with Migrate as a Candidate or a Recruiter and accept these Terms. We reserve the right to decline or cancel your registration at any time for any reason subject to clause 9 below.

2. Definitions

- App: Our recruitment platform and application which can be accessed from both our website <https://www.migratehr.com/> and also the Appstore which enables recruiters to find appropriate candidates for employment opportunities in the health sector, including all the content offered from and generated by the App, its look and feel, interface and functionality; and, the software that powers the App and that is used to provide the content on it (including any error corrections, updates, upgrades, modifications and enhancements made to it) and the App features that enable Recruiters to contact Candidates and to arrange interviews with Candidates
- Candidate: a person seeking to be introduced to Recruiters through the App.
- DBS: The Disclosure and Barring Service and its successors.
- Recruiter: a business or organisation using the App for the purposes of being introduced to Candidates.
- Regulations: The Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended).
- Vacancy: a job or position in the health sector which a Recruiter is seeking to fill and posts on the App.

3. Services

- a. The App is designed to help match the Candidates to suitable Vacancies and we provide any other services described in our web site and/or the App for Candidates from time to time (the “Services”). Migrate acts as an employment agency to the extent that the Services are or continue to be governed by the Regulations.

- b. The Candidate must ensure that any information it provides to us is complete and accurate and the Candidate will keep us updated on any changes to such information.
- c. The Recruiter must provide the Candidate with any information which is required under the Regulations from time to time. This may include in respect of each Recruiter/Vacancy:
 - i. company name, trading name and the nature of its business;
 - ii. intended start date and intended duration of the work;
 - iii. position and type of work the successful Candidate will be required to carry out;
 - iv. experience, training and qualifications required by the Recruiter or by law, or by any professional body of which the Candidates must be members in order to do the work;
 - v. location at which the successful Candidate will work and the hours of work expected of them;
 - vi. any relevant health and safety risks and what steps it has taken to prevent or control such risks;
 - vii. any expenses payable by or to the successful Candidate;
 - viii. pay and benefits and the intervals of payment; and
 - ix. notice period.
- d. Notwithstanding (c) above, Migrate accepts no responsibility or liability should any matched Recruiter or Candidate supply incomplete or inaccurate information, or if any Vacancies are unsuitable for the Candidate. We will also seek confirmation from the Recruiter as to whether they are required by law or any professional body to request a criminal records check from the DBS for any Vacancy. If so, we will confirm that to the Candidate. This is the Recruiter's decision and responsibility, and we do not make any such requests to the DBS on our own behalf or on the behalf of any Recruiter.
- e. Should the Candidate successfully apply for a Vacancy, it is for the Candidate and the Recruiter to agree what work is to be done and the relevant contractual terms. Migrate does not participate in that process and for the avoidance we have no liability to pay the Candidate for any such employment whether directly or indirectly. Our Services under this agreement do not cover any such payment process.

- f. The Candidate agrees that any Recruiters may contact you about any suitable Vacancies and that the Candidate is willing to work in such positions, subject to finalisation of the relevant terms between the Candidate and the Recruiter. The Candidate and the Recruiter may use any of the features of the App in accordance with these Terms and Conditions to communicate with each other. If a Recruiter cancels a Vacancy on the App, the Candidate may not be able to use any of the features and the App in connection with such Vacancy. We are not responsible in such case if a Candidate is then unable to communicate with the Recruiter.
- g. If the Candidate is successful in applying for a Vacancy using the App and Migrate subsequently receives or obtains information within 3 months of the Introduction which indicates that the Candidate is or may not be suitable for that Vacancy under the Regulations, we will inform the Recruiter, but shall incur no liability for any loss that the Candidate or the Recruiter may suffer as a result of such notification.
- h. The Recruiter is responsible for providing any accommodation and/or travel costs assistance required by Regulation 24 of the Regulations, and we will provide to the Candidate the information required under the Regulations after we have been notified by the Recruiter. Migrate accepts no responsibility or liability where the Recruiter fails to provide us with sufficient information to meet this obligation.

4. Confidentiality

The Candidate and the Recruiter agree that during and after the termination of these Terms, they will not, without appropriate consent, use or disclose to any other person any of our information which is identified as confidential or which is confidential by nature. The Candidate hereby gives consent to us to share with Recruiters any information provided by the Candidate under these Terms or when using the Services when the Candidate creates and maintains a profile and/or apply for a Vacancy. Further, the Candidate and the Recruiter hereby provides consent to us to disclose, publicise, market or otherwise make use of for valid business reasons the fact that the Candidate is using our services and details of any Vacancies the Candidate successfully applies for using the Services. We can also use relevant information about your relationship with us for valid business, administration and investment reasons.

5. Price and payment

The Services are currently provided without charge. However, we reserve the right to introduce payment terms at our discretion, subject to us providing Candidates and Recruiters reasonable notice about such terms, and the opportunity to cancel registration before incurring any costs.

6. Status

Migrate/Sanctuary Personnel Limited is an employment agency but we are not an employment business, and nothing in the Terms shall render us as such. Migrate does not contract with Candidates or Recruiters directly in respect of any work that Candidates may perform for Recruiters. We provide only the Services as detailed in this agreement and the Recruiter and the Candidate will contract with each other any such work. Nothing in this agreement shall create the relationship of employer/employee, worker, agency or partnership between Migrate and either the Recruiter or the Candidate.