

# TERMS

## 1 Scope of application

The following conditions govern the contractual relationship between SM Care GmbH (hereinafter also referred to as "SM CARE"), Lohnerhofstrasse 2, 78467 Konstanz and its customers on the Internet platform [www.smcare-solutions.de](http://www.smcare-solutions.de) .

Customers are

- foreign nurses who wish to be placed in care facilities in Germany (hereinafter also referred to as "candidates") and
- care facilities operating in Germany that are looking for such foreign nurses (hereinafter also referred to as "employers").

These general terms and conditions come into force for all users of the website, otherwise defined terms and conditions of the users are not valid, even if they do not contradict those of SM Care in individual cases.

## § 2 Registration / Customer Account / Conclusion of Contract / Further Terms and Conditions

In order to initiate a mediation, the registration and creation of a customer account is first required. For this purpose, the user must register free of charge with a valid e-mail address belonging to the customer and a password chosen by the customer himself. As part of the registration process, SM CARE sends a confirmation e-mail and sets up a customer account.

The customer then has the option of storing, managing, and updating his customer data in the customer account. The customer is obliged to keep his customer data up to date at all times.

Each customer is only allowed to register. Double registrations are not permitted.

By applying or contacting via the Internet platform, customers submit a legally binding request to conclude a mediation contract with SM CARE and accept these General Terms and Conditions.

Subsequently, the users of SM CARE are contacted, checked and informed about the next steps. A contract is only concluded if SM CARE issues an explicit declaration of acceptance as part of this process. SM CARE reserves the right at any time to refuse to conclude a contract without further giving reasons.

Furthermore, in this process, further contractual conditions for the mediation, such as the fee to be paid, can be presented and their consent can be requested. If the customer rejects this, SM CARE is entitled to terminate the contract immediately. Claims for damages or other financial compensation for the customer then do not exist.

## § 3 Scope of services

### 1. Services for nurses (selection):

**All services are free of charge for nurses. The "employers pays" principle applies**

- Review and verification of candidates (document check and personal acquaintance via video call)

- Creation of a profile for the application, so-called matching with a business partner or employer
- Disclosure of potential job offers and comparison of these
- Advice on the selection of the right employer
- Mediation of an initial interview with the client and preparation of the candidate for it
- Support in applying for a bank account and necessary insurance in Germany
- Support in the provision of language courses both on site and on arrival and language software/apps
- Checking for completeness of the documents and help with the application for a visa and the work permit
- Support for other bureaucratic registrations in Germany, insofar as these are necessary for placement as a nurse in Germany
- Collecting and submitting the documents for the application of the

Professional qualification, as well as follow-up of the application in Germany

- Support in the selection and implementation of the recognition measures of the professional qualification or the certificate of equivalence and all bureaucratic registrations in Germany
- Research and booking of the trip to Germany when an employment contract is concluded
- Scheduling with the respective competent authority for registration in Germany
- If applicable, pick-up from the airport to the employer
- Support in the provision of accommodation in Germany in cooperation with the employer
- Securing mediation
- if necessary, support for integration in Germany

### **1. Services for companies**

The services for companies are defined and concluded in the standard framework contracts.

### **§ 4 Contract language**

The languages available for the conclusion of a contract and the

Placement conditions are basically German and the lingua franca spoken in the respective countries from which the international candidates come.

## **§ 5 Fee**

Placement is free of charge for candidates.

The placement for care facilities is subject to a fee. The details are regulated by a written mediation or cooperation agreement.

## **§ 6 Term of the contract, termination**

1. Unless otherwise agreed, the contract is concluded indefinitely and can be terminated by either contracting party with a notice period of four weeks to the end of a calendar quarter.
2. The right to extraordinary termination for good cause remains unaffected.
3. Changes or additions to this contract, including its amicable cancellation or termination, must be made in writing. The written form requirement is also required for a deviation from the written form requirement. Verbal ancillary agreements do not exist.
4. At the time of the effective date of a termination in liquidation

In accordance with the provisions of this contract, brokerage orders shall also be processed by the contracting parties after the end of the term of this contract, unless the processing of one of the contracting parties is unreasonable for a reason within the sphere of the other contracting party.

## **§ 7 Liability**

(1) SM CARE shall only be liable for damages resulting from injury to life, limb or health if it is based on an intentional or negligent breach of duty by SM CARE or an intentional or negligent breach of duty by a legal representative or vicarious agent of SM CARE consist. SM CARE shall only be liable for other damages, insofar as they are not based on the breach of cardinal obligations (those obligations whose fulfilment makes the proper execution of the contract possible in the first place and on the observance of which the contractual partner may regularly rely)

if they are based on an intentional or grossly negligent breach of duty by SM CARE. or are based on an intentional or grossly negligent breach of duty by a legal representative or vicarious agent of SM CARE. 2) Except in the cases referred to in paragraph 1, the claims for damages shall be limited to the foreseeable, contract-typical damage. In the event of default, they amount to a maximum of 5% of the order value. (3) Claims for damages based on injury to life, limb or health or freedom shall become statute-barred after 30 years; otherwise after 1 year, whereby the limitation period begins with the end of the year in which the claim arose and the creditor becomes aware of the circumstances giving rise to the claim and the person of the debtor or should have become aware of it without gross negligence (§ 199 Abs.1 BGB).

## **§ 9 Responsibilities and obligations of the customers, granting of right of use**

1. Each user is solely responsible for the data collected during their own registration and is obliged to provide them truthfully and completely. SM CARE is not responsible for claims in the event of incorrect, inappropriate or incomplete information. If the information provided is changed, the user must update his information immediately or inform us immediately of the changes without being asked.
2. Each user hereby grants SM Care a revocable, free of charge, non-exclusive right to use, use, distribute, reproduce and display the content provided by the user profile data, which was provided by the user via the website and in particular via the customer account.
3. The user declares that the content sent by him in the user account or otherwise to SM CARE does not violate any rights of third parties or violates legal regulations in any other way.
4. Each user accepts and understands that all data provided can be checked and/or may be deleted temporarily as well as permanently, in particular if they violate the General Terms and Conditions and/or legal regulations or are not appropriate for other reasons (for example, because offensive, inciting or similar) or in any way violate the rights or safety of third parties.
5. Each user undertakes to treat all data and traffic between him and SM CARE confidentially and to make them accessible to third parties only with the express prior consent of the sender. This applies to:
  - Emails / Messages
  - Names
  - Telephone and fax numbers
  - Address data
  - E-mail addresses
  - URLs
6. Each user expressly assures:
  - not to misuse the platform and our service, for example for commercial purposes other than recruiting personnel for your own company.
  - not to disseminate defamatory, offensive or unlawful material or information about SM CARE
  - use non-user accounts on the platform without their express permission
  - no use and smuggling of viruses, mechanisms, scripts, software or other aids in connection with the platform that restricts or hinders the functionality or accessibility of the platform
  - not to intercept messages, hack or manipulate the software or platform, circumvent or attempt to circumvent security features

- Comply with applicable laws and regulations when using the Platform and our Services
7. The user is prohibited from sharing his account with third parties, using it for commercial purposes other than his own personnel recruitment or renting it out, unless this has been expressly permitted by us in advance.
  8. In the event of a breach of the above-mentioned conduct obligations, SM CARE may terminate the contract as well as civil and criminal consequences for the user. SM CARE explicitly reserves the right to exclude the user from the platform if he violates the guidelines during his registration or at a later date.

- 9a Other responsibilities and obligations of employers

Customers who are employers undertake to:

- to pay the remuneration of the candidates or future nurses in accordance with the collective bargaining law applicable to the client, or alternatively according to the local remuneration for comparable domestic nurses,
- insofar as additional or deviating employment contract regulations are required by the law of the respective country of origin of the candidate to comply with them; SM CARE will draw his attention to such requirements and support him in commissioning,
- in the employment contracts brokered by SM CARE and their supplements with international nurses, under no circumstances should provisions on binding and repayment clauses be included that conflict with the legal framework for such clauses provided for in German labour law,
- comply with the requirements defined by SM CARE with minimum requirements on human, migration and labour rights for placement of foreign nurses,
- submit a written company integration management concept for a job offer. In accordance with the DKF pilot standards, this concept must include the following outline points:
  - Preface / Introduction
  - Preparations after recruitment
  - Arrive and the first days
  - Support in relocation management
  - Establish integration management
  - Sponsorships and mentoring
  - Organize the recognition process
  - Customize induction
  - Accompany team building
  - Expanding competencies
  - Catching conflicts

- Enabling social participation
- Dealing with termination and solicitation

and to present the respective concept to the candidates for the job offer and to include as an annex part of each employment contract with foreign nurses placed by SM CARE.

## **§ 10 Place of jurisdiction**

The place of jurisdiction for disputes with customers who are not a consumer, a legal entity under public law and a special fund under public law is the registered office of SM Care Solutions. For all other customers, this also applies to disputes arising from or in connection with this contract if the customer moves his domicile or habitual residence to a country other than the Federal Republic of Germany after conclusion of the contract or the domicile or habitual residence of the customer is not known in the event of a lawsuit.

## **§ 11 Cancellation policy**

***Consumers have the following right of withdrawal:***

### **Withdrawal**

**You have the right to revoke this contract within fourteen days without giving reasons.**

**The revocation period is fourteen days from the date of conclusion of the contract.**

**To exercise your right of withdrawal, you must inform us**

Address: SM Care Solutions GmbH, Lohnerhofstrasse 2, 78467 Konstanz

Phone: +49 151 1410 2874

Phone: +49 7531 892 624 77

E-Mail: [info@smcare\\_solutions.de](mailto:info@smcare_solutions.de)

**by means of a clear declaration (e.g. a letter sent by post, fax or e-mail) about your decision to revoke this contract. You can use the attached model withdrawal form, but this is not mandatory. To comply with the revocation period, it is sufficient that you send the notification of the exercise of the right of revocation before the expiry of the revocation period.**

### **Consequences of revocation**

**If you withdraw from this contract, we shall reimburse you all payments that we have received from you, including delivery costs (with the exception of the additional costs resulting from the fact that you have chosen a different type of delivery than the cheapest standard delivery offered by us), immediately and at the latest within fourteen days from the day on which we received the notification of your revocation of this contract. For this repayment, we will use the same means of payment that you used for the original transaction, unless expressly agreed otherwise with you; in no case will you be charged any fees for this repayment.**

**If you have requested that the services be commenced during the withdrawal period, you must pay us a reasonable amount equal to the proportion of the services up to the**

**The time at which you inform us of the exercise of the right of withdrawal with regard to this contract corresponds to services already provided compared to the total scope of the services provided for in the contract.**

**— Annex Model withdrawal form —**

Sample withdrawal form

(If you want to cancel the contract, please fill out this form and send it back.)

– An

SM Care Solutions GmbH

Lohnerhofstrasse 2

D-78467 Constance

E-Mail: [info@smcare-solutions.de](mailto:info@smcare-solutions.de)

- I/we (\*) hereby revoke the contract concluded by me/us (\*) for the purchase of the following goods (\*)/ the provision of the following service (\*)
- Ordered on (\*)/received on (\*)
- Name of consumer(s)
- Address of the consumer(s)
- Signature of the consumer(s) (only in case of notification on paper)
- Date

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(\*) Delete as appropriate.

**-End of the cancellation policy-**