

Pre-Employment & Health Assessments

The following Terms and Conditions (“Terms”) shall apply to services provided by Bodycare Injury Management Pty Ltd (ACN 120 104 985) trading as Bodycare Workplace Solutions (“Bodycare”) to its clients (“Client”).

1. Services

Bodycare is a provider of Health Assessment Services which may involve the following:

- Pre-Employment Screening
- Functional Assessment
- Periodic Health Assessments.
- Functional Capacity Assessments
- Health Surveillance Testing and Assessments (Onsite and Offsite)
- Drug and Alcohol Testing
- Legislated Medicals
- Other Customised Health Assessments.

The specific services (“Services”) to be provided by Bodycare to the Client will be more particularly set out in the Proposal provided to the Client with these Terms (“Proposal”).

2. Definitions

In these Terms unless the context requires otherwise:

“Confidential Information” means all technical, commercial, financial or other information (whether oral, written, electronic or in any other form) disclosed by a party but excluding any information which is at the time of disclosure generally and publicly available or becomes lawfully in a party’s possession wholly independently of the other part.

“Intellectual Property” means all property, rights and title existing throughout the world at any time whether conferred under statute, common law, and equity, including but not limited to trademarks (registered or unregistered); trade business or company names; logos and get up;

designs; copyright; trade secrets; confidential information; know-how whether existing in Australia or otherwise.

“Personnel” means the persons (whether employees, agents, or contractors of Bodycare) provided by Bodycare to provide or to assist in providing the Services.

3. Delivery of Services

3.1. The Client’s acceptance of Services from Bodycare means that the Client accepts these Terms.

3.2. The Client will:

(a) appoint a representative who has appropriate authority to manage, facilitate and be the contact person for the delivery of the Services.

(b) provide and use reasonable endeavours to ensure their staff provide a high level of co-operation with Bodycare including encouraging their staff to take advantage of the Services offered.

3.3. Bodycare requires a minimum of 30 days’ notice from receiving confirmation from a client to deliver the Services. However, if the Client requires Services to be provided earlier or urgently, Bodycare will endeavour to fulfil this requirement.

3.4. Bodycare may require the Client to procure staff or a prospective staff member to sign and provide to Bodycare a legal waiver and consent form permitting Bodycare to share the results of the assessment with the Client before an assessment can be arranged and undertaken by Bodycare. The Client acknowledges that if the person does not sign a legal waiver and consent form, Bodycare will be engaged by the Client to undertake an assessment of them and Bodycare may not be permitted to disclose to the Client the results of the assessment. If the Client seeks an assessment and the person who is being assessed refuses to sign a legal waiver and consent form, Bodycare may either (a) conduct the assessment

and not disclose the results to the Client and the Client will be liable for the costs of the assessment as requested; or (b) refuse to carry out the assessment until the legal waiver and consent form is signed and charge the Client any costs (including time of Bodycare’s Personnel) in attending a site or location if the Client requested Bodycare to attend a premise.

3.5. Bodycare Personnel will normally be available to provide the Services during the hours of 8.00 am and 7.00 pm Monday – Saturday (except public holidays).

3.6. If the Client’s Proposal includes the provision of access to the My Occ Health Record Platform, the Bodycare Platform will be made available to the Client by My Occ Health Record Pty Ltd ACN 627 619 701 in accordance with the terms of use available here (“Platform Terms”). By accepting the Proposal or otherwise accessing the Bodycare Platform, the Client agrees to be bound by the Platform Terms. The fees payable for access to the Bodycare Platform, as set out in the Proposal, will be payable by the Client to Bodycare in accordance with Clause [5] of this Agreement.

4. Invoicing and Fee

4.1. If the Client seeks to vary the Services prior to delivery, Bodycare will endeavour to accommodate and if required will inform the client of any pricing variations.

4.2. The Client agrees to pay Bodycare:

(a) the fee or fees as set out in the Proposal (“Fees”)

(b) any disbursements incurred by Bodycare in delivering the Services.

4.3. The Client must pay an invoice issued by Bodycare in full within 14 days of the invoice date according to the terms of the invoice.

4.3a. Cancellations, non-attendance, or rescheduling <24 business hours prior to the appointment will result in a 100% fee.

Pre-Employment & Health Assessments

4.3b. Metro, Regional and Remote locations are classified using the Australian Government Department of Health's Modified Monash Model. Bodycare deems all 'MMM1' locations to be 'Metropolitan'; 'MMM2' + locations to Regional/Remote. The rates set out in the pricing schedule presented in the proposals are MMM1. MMM2 + rates are plus 20%.

4.3c. Fees are reviewed annually on the anniversary of the contract date according to the nationally published annual CPI (Health) rate.

4.4. The Client must make all payments under these Terms without set off, counterclaim or other deduction.

4.5. If the Client fails to pay any amount due by the due date for payment, the Client agrees to pay Bodycare interest on the amount outstanding from the due date for payment until full payment is made. Interest shall be payable at the interest rate which is equal to the rate fixed by Section 2 of the Penalty Interest Rates Act 1983 (Vic).

4.6. Rates are subject to an annual increase on 1 January.

5. Legal Relationship / Liability and Indemnity / Insurance

5.1. The legal relationship between the Client and Bodycare is that of the principal and independent contractor. Neither Bodycare nor any of the Personnel is to be deemed to be an employee, agent, or partner of the Client.

5.2. Always subject to Clause 5.4, neither party will be liable to the other for any and all liability, loss, harm, damage, cost or expense (including legal fees) that may be incurred or sustained, save that each party (an indemnitor) indemnifies the other Party (indemnitee) for liabilities, losses, damages, costs and expenses (including legal fees) to the extent that they were directly caused by an unlawful or negligent act or omission by the Indemnitor.

5.3. The indemnity given by the indemnitor will be reduced proportionately to the extent that a breach of this Agreement or any unlawful or negligent act or omission by the indemnitee may have contributed to any such liability, loss, harm, damage, cost, or expense.

5.4. Nothing in this clause 5 will render a party liable for any loss of profits, special, indirect, or consequential loss or damages (including economic loss and exemplary damages).

5.5. To the extent permissible by law, Bodycare's liability for direct damages or losses or for failure to comply with a consumer guarantee (other than the title, quiet possession, or undisclosed securities) is limited to the resupply of the Services or the refund for such Services provided or the payment of the cost of having the Services supplied again.

5.6. The Client acknowledges that the Services are a screening tool for employers and prospective employees and should be used in conjunction with the Client's own due diligence and investigations and not be relied upon as the sole decider of whether someone should be employed. Some results are based on information provided to Bodycare by the person being assessed and, in some instances, cannot be independently verified or checked.

5.7. The Client acknowledges that the hearing assessment is a screening tool that provides results that may not be as accurate as offline assessment. Hearing assessments are calibrated to Australian standards only and no warranty is given in relation to other standards or measures.

5.8. The Client acknowledges that to complete a drug test, a urine or saliva sample must be collected by Bodycare from the person being assessed.

6. GST

6.1. In this clause the expressions "consideration," "GST," "input tax

credit," "supply," "tax invoice," "recipient" and "taxable supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999.

6.2. Unless otherwise expressly stated, all amounts payable, or consideration provided under this Agreement are exclusive of GST.

6.3. If GST is imposed on any supply made under this Agreement, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on the taxable supply subject to the recipient first receiving a valid tax invoice. The additional amount is payable at the same time as payment is required for the taxable supply under this Agreement.

6.4. If a party is required under this Agreement to pay for, reimburse or contribute to any expense, loss or outgoing ("reimbursable expense") suffered or incurred by the other party, the amount payable by the first party will be the sum of:

i. the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense ("net amount"); and

ii. if the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply, such that after the other party meets the GST liability, it retains the net amount.

7. Insurance

7.1. Bodycare will take out and keep current public liability insurance to a maximum amount of \$20,000,000 and professional indemnity insurance to a maximum of \$5,000,000 as well as any other insurance required by law to undertake the Services and will produce a certificate of currency to the Client on request.

7.2. Bodycare shall provide the Client with current Certificates of Insurance in relation to Public Liability, and any other

Pre-Employment & Health Assessments

insurance documentation the Client may require from time to time.

8. Termination

8.1. Should either party be in breach of its obligations under these Terms, the agreement to provide the Services may be terminated by the non-defaulting party by giving the defaulting party 14 days' notice in writing of the breach and stating that if the breach is not remedied, the agreement may be terminated without further notice. Upon the expiry of the notice period, if the breach has not been remedied, the agreement shall, at the election of the non-defaulting party within a further 7 days, be terminated by written notice.

8.2. If the Client terminates this Agreement under clause 8.1, the Client must pay for the Services provided to the date of termination. If the Client terminates this Agreement Bodycare shall not be required to continue providing the Services to the Client after the date of termination. If the Client terminates this Agreement other than in accordance with clause 8.1 (for a breach by Bodycare) or this Agreement is terminated by Bodycare in accordance with clause 8.1 (for a breach by the Client) then the Client agrees that it shall pay the Fee to Bodycare for a period of 60 days upon receipt of formal notification. The Client agrees that such an amount is reasonable compensation for Bodycare's reasonable and foreseeable loss arising from the requirement for Bodycare to redeploy its resources.

9. Confidentiality and Privacy

9.1. All Confidential Information obtained by one party from the other party will be treated as confidential and will not be disclosed to any third party except as required by law, court order or relevant stock exchange.

9.2. The obligations imposed by this clause survive termination of the agreement between the parties, to the fullest extent permitted by law.

9.3. Bodycare will make reasonable endeavours to comply with all relevant provisions of the Privacy Act 1988 (Cth) and the Australian state and national privacy principles in connection with providing the Services. Bodycare will manage all personal information of the Client and the Client's staff in accordance with Bodycare's Privacy Policy.

10. Intellectual Property

All Intellectual Property owned or developed by Bodycare, vests absolutely in Bodycare. All Intellectual Property created or licensed by Bodycare in relation to the Services remains the property of Bodycare or the property of the entity from which it has been licensed. Nothing in this Agreement gives the Client any right of use or licence of the Intellectual Property owned or licensed by Bodycare.

11. The Term And Further Term/s

This Agreement shall continue for the minimum period as set out in the Term. Unless either party provides written notice to the other at least 30 days prior to the expiry of the then-current Term, this Agreement shall be deemed to have automatically been renewed for a Further Term of 12 months at the expiry of the then-current Term.

12. General

12.1. These Terms and the Proposal contain the entire agreement between the parties and supersede all prior communications, representations, warranties, and undertakings between the parties concerning the subject matter of the Terms.

12.2. These Terms may be varied by Bodycare at any time to protect Bodycare's legitimate interests, and apply from the time that the varied Terms are published on Bodycare's website: <https://www.bodycare.com.au/health-assessments-terms-conditions/>

You will be notified should there be a material change to these Terms.

12.3. These Terms are governed by and construed in accordance with the laws of Victoria and the parties submit to the exclusive jurisdiction of the courts of Victoria and the Commonwealth of Australia.

12.4. These Terms are personal to the Client and the Client must not assign or transfer any of its rights or subcontract any of its obligations under them.

12.5. Any notice or other communication under these Terms must be given in writing and shall be delivered by personal delivery, by pre-paid post or by facsimile, addressed to the party to whom such notice or communication is directed at such party's place of business or facsimile contact details as notified by that party.

12.6. Any provision of these Terms that is prohibited, void, voidable or unenforceable in any jurisdiction for any reason does not affect the validity, legality, or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction. Any provision that is prohibited is only ineffective to the extent of that prohibition.

12.7 By signing an agreement/proposal, you give The Occ Health Group and their associated entities (www.theocchealthgroup.com) express permission to receive marketing emails or messages. To stop receiving marketing emails or messages from us, please email us at marketing@bodycare.com.au.

12.8 This permission includes but is not limited to, the use of the Materials on the Company's website, social media platforms, presentations, case studies, print collateral, and other promotional materials.

12.9 The Occ Health Group maintains a marketing database, now or in the future, for the exchange of communications, marketing emails, or messages regarding your account(s) with The Occ Health Group. We will NEVER send you emails requesting confidential

Pre-Employment & Health Assessments

information such as Account numbers, usernames, or passwords and you should NEVER respond to any email requesting such information. If you receive such an email purportedly from The Occ Health Group, do not respond to the email and notify The Occ Health Group immediately by emailing us at itsecurity@bodycare.com.au.

12.10 You consent to The Occ Health Group using your company name, logo, and marks to identify you as a client on our website and other marketing materials. Please email us at marketing@bodycare.com.au to be excluded from this option.