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## ABC NANNY AGENCY LTD TERMS AND CONDITIONS OF BUSINESS

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### BACKGROUND:

These Terms and Conditions shall apply to the provision of Services by the Agency to the Client. In the event of conflict between these Terms and Conditions and any other terms and conditions (of the Client or otherwise), the former shall prevail unless expressly otherwise agreed by the Agency in writing.

1. Definitions and Interpretation - In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

<b>"Agency"</b>	means ABC Nanny Agency Ltd a company registered in England under number 11431108 whose registered office is at 71-75 Shelton Street, Covent Garden, London, England, WC2H 9JQ;
<b>"Candidate"</b>	means the person introduced by the Agency to the Client searching for a position in a private home.
<b>"Client"</b>	means the person engaging with the Agency searching for a Candidate for a fee.
<b>"Confidential Information"</b>	means any information concerning either Party and relating to its business methods, plans, systems, finances or projects; its trade secrets; its products or services; or any other information which is expressly described as confidential;
<b>"Engagement"</b>	means any employment, engagement of the Candidate by the Client whether part-time, full time permanent or temporary basis, with or without a contract;

<b>“Introduction”</b>	means (i) the Client’s interview of a Candidate in person or by telephone, following the Client’s verbal or written instruction to the Agency to search for a Candidate; or (ii) the passing to the Client by the Agency via telephone, fax, email, post or otherwise of a curriculum vitae or other information which identifies the Candidate.
<b>“Introduction Fee”</b>	means the fee payable by the Client to the Agency in accordance with these Terms and Conditions, on the introduction of a Candidate to a Client which results in the Engagement of a Candidate;

<b>“Registration Form”</b>	means a form for the Client to complete with written details of the services required from the Agency.
<b>“Remuneration”</b>	means any salary, fees, bonuses, commission, allowances, or any other financial benefit payable to, or received by a Candidate for services to a Client; and
<b>“Services”</b>	means the employment agency services provided by the Agency to the Client as set out in these Terms and Conditions.

- 1.1 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 1.2 Words imparting the singular number shall include the plural and vice versa.
2. References to any gender shall include the other gender. Subject to clause 19 below, the Agency undertakes business on the following terms which shall represent a legally-binding contract between the Agency and the Client. These Terms and Conditions of Business should be read in conjunction with the schedule headed “Fees” which forms part of these Terms and Conditions of Business.

## PRICE LIST

- PERMANENT JOB POSITION PLACEMENTS

*For live in and live out: Nanny / Nanny-Housekeeper / Mother's Help / Before and After School Nanny*

*4 times weekly gross wages*

- TEMPORARY (up to 3 months)

*For live in and live out: Nanny / Nanny-Housekeeper / Mother's Help / Before and After School Nanny*

*1st day £40 and £15 per day thereafter*

- 3.1 The fees are non-negotiable.
- 3.2 Fees will be invoiced in full on confirmation of an Engagement for the appropriate fee to the client. All fees must be paid in British Pounds Sterling within 14 days of the date of the invoice, or prior to the commencement of the Engagement, whichever is the earlier. If settlement is not received within this time-scale, the replacement and refund provisions detailed below will not apply. The Company reserves the right to charge interest of 12% on unpaid invoices in accordance with the provisions of The Late Payment of Commercial Debts (Interest) Act 1998 and any subsequent amendments. All fees and other charges payable are not subject to VAT at present (the Agency is currently not VAT registered).
- 3.3 If the payment has not been received within 30 days of the original date of the invoice the Agency has the right to pass the debts onto a Debt collection agency may resulting in an additional cost to the clients. The Agency is entitled to recover reasonable costs incurred by the late payment from the Client.
- 3.4 If any cheque or bank transfer is returned or refused for any reason by the bank the agency has a right to charge an additional administration fee of £50.00.
- 3.5 All Fees relate to only one engagement. A further fee will be charged for any re-engagement at any time.

4. The Agency is not an employer and acts solely as an introduction and referral agency (as defined in section 13(2) of the Employment Agencies Act 1973) when introducing Candidates to the Clients for direct engagement by that Client once the registration form has been submitted.
  
5. The Client will be deemed to have accepted the Agency's Terms and Conditions of Business when an Introduction takes place.
  
6. All information provided by the Agency including personal details of a Candidate shall be treated as strictly confidential. The Candidate's information will only be passed onto the Client by the Agency and not onto any third parties as set out in our privacy policy without the Candidate's permission. The disclosure by the Client to a third party of any details regarding a Candidate introduced by the Agency that results in the subsequent Engagement of that Candidate by that third party within 6 months of the initial Introduction will render the Client liable to payment of the Agency's fee with no entitlement to any refund.
  - 6.1 All information provided by the Agency including personal details of the Client to the Candidates shall be treated as strictly confidential. The disclosure of the Client's information will only be passed onto a Candidate by the Agency and not to a third party as set out in our privacy policy without the Agency's permission.
  - 6.2 All information provided by the Client to the Agency setting out the role and responsibility required of the Candidate. The Client accepts and agree that shall be shared with suitable Candidates.
  - 6.3 The Client agrees to provide true and accurate information to the Agency.
  - 6.4 The Agency agrees to provide the client with true and accurate information about the Candidate.
  
7. The Client undertakes to inform the Agency of any offer of Engagement to a Candidate including the start date of the Engagement. The Client must agree with the Candidate prior to the commencement of the Engagement details of all material terms including but not limited to a job description, expected duties, agreed salary, holiday allowances and conditions, hours and place of work and notice period. This is an independent contract between Client (employer) & Candidate (employee) and the Agency will assume that all details of the Engagement have been agreed between the Client and the Candidate unless the Client informs the Agency in writing to the contrary prior to the commencement of the Engagement
  - 7.1 The Client agrees to a 'trial day' as a paid day at a pre-negotiated rate. The 'trial day' shall be no longer than 10 hours and take place on a day agreeable to both parties. The Client will inform the Agency when this day will take place.

8. Candidates are introduced by the Agency on the basis that should the Client wish to use their services, the Client will employ the Candidate directly in accordance with the prevailing employment legislation including without limitation paying the Candidate's Tax and National Insurance contributions and that the Client is providing a suitable working environment which does not compromise the health and safety of the Candidate.
9. When confirming temporary Engagements, the Client should detail at the outset the length of the Engagement. The full fee applicable to the length of the booking will be invoiced on confirmation of the Engagement. Should the Engagement be extended by the Client, or the Candidate's services be used again within 6 months of the termination of the previous Engagement, a further fee will be payable. The Client agrees to notify the Agency of any such changes. Equally, should an initial temporary Engagement result in a permanent Engagement within 6 months of the date of commencement of the initial Engagement, the permanent fee shall be payable unless the temporary fees are greater in which case the temporary fees shall be payable. The Agency's fee is specific to the Introduction of an individual Candidate. Any subsequent Introduction or Engagement of further Candidates shall be subject to a further fee.
10. Records of all Introductions are kept by the Agency in accordance to the laws set out in The General Data Protection Regulations (GDPR). The Client undertakes to inform the Agency immediately should the Agency introduce a Candidate whose details have already been introduced to the Client from another source. If the Client fails to do so and an offer of Engagement ensues, the introduction fee will be payable by the Client, to the Agency.
  - 10.1 In circumstances where the Client may have prior knowledge of a proposed Candidate, in a context other than as an applicant for the job vacancy, and where the Agency has made the Client aware of the said Candidate's availability and suitability for the Client's job description, the Agency's introduction fee will be payable.
  - 10.2 In circumstances where the Client makes an offer of Engagement to a Candidate for a position other than in accordance with the original job description, the Agency's introduction fee remains payable.
11. Should the Client cancel a permanent or temporary Engagement after terms have been agreed but before the Engagement commences, the Client will be liable for 50% of the original placement fee. In exceptional extenuating circumstances this fee may be waived at the sole discretion of the Agency.
  - 11.1 Should the Client cancel the Engagement set out in clause 11, the Client agrees to pay the Candidate one week's salary to compensate for loss of earnings.
  - 11.2 Should the Client cancel a permanent or temporary Engagement once employment has commenced, no refund or replacement will be due, subject to the provisions of clause 13.

12. The Agency shall have the right to decline, cancel or otherwise remove any vacancy advertisement provided by the Client to the Agency at any time, for any reason and without giving prior notice to the Client.
  - 12.1 If any vacancy advertisement appears to demonstrate that the Client intends to discriminate on the grounds of gender, sexual orientation, race, religion or age, it will be declined unless the vacancy is exempted from the provisions of the Sex Discrimination Act 1975; the Employment Equality (Sexual Orientation) Regulations 2003; the Race Relations Act 1976; the Employment Equality (Religion and Belief) Regulations 2003; or the Employment Equality (Age) Regulations 2006. In the case of any applicable exemptions, the vacancy advertisement must be accompanied by a written statement explaining those exemptions and how they apply to the vacancy. The Client shall be responsible for obtaining work & any other permits, medical examinations &/or investigations into the medical history of Candidates & qualifications required by law.
13. The Agency will only grant replacements or refunds in the following circumstances, subject always to clause 3 above:
  - 13.1 Should the Candidate fail to take up the Engagement, other than as a result of unreasonable behaviour by the Client, a full refund will be available. Alternatively, the Agency may offer a full replacement at its sole discretion. The Client shall not be obliged to accept a full replacement in lieu of a full refund.
  - 13.2 Should the Candidate in a permanent Engagement leave, or be asked to leave by the Client, within 8 weeks of the date of commencement of the Engagement (for reasons unconnected to a change in job description, unreasonable working conditions, change in working location not previously agreed, or failure by the Client to comply with current employment legislation), the Agency shall use reasonable endeavours to provide a replacement Candidate free of charge. Only one free replacement is allowed, and the job specification must remain the same. Alternatively, a refund may be provided of 50% of the fee refunded for up to 2 weeks, 30% refunded for up to 4 weeks, 20% refunded for up to 6 weeks, 10% refunded for up to 8 weeks. The choice of whether to provide a replacement Candidate shall be at the sole discretion of the Agency. When a replacement cannot be provided, a refund shall be provided in accordance with this clause.
  - 13.3 Should the Candidate in a temporary Engagement leave, or be asked to leave by the Client within the invoiced period (for reasons unconnected to a change in job description, unreasonable working conditions, change in working location not previously agreed, or failure by the Client to comply with current employment legislation) a pro-rata refund for each complete week not worked - subject to a maximum refund of 50% of the original invoice - will be made if a replacement Candidate cannot be found.
  - 13.4 All instances of termination of an Engagement where a free replacement or refund is likely to be claimed must be notified in writing to the Agency within three days of the termination of the Engagement. No refunds or free replacements will be applicable if payment has not been received by the Agency or if the Client is in breach of any other of the Agency's Terms and



Conditions of Business. No refund is available where the Client does not request that a replacement is found or where the Client makes other arrangements during the period in which a replacement is being sought. Requests for replacements or refunds must be made within a 3-month period from date of termination of the Engagement. No requests for refunds will be considered where the Client has been unwilling to interview potential replacement candidates or has otherwise failed to co-operate in the replacement process.

- 13.5 No refund or free replacement will be applicable if the Client has failed to honour a previously agreed start date or has prevaricated over the date to such an extent that the candidate has sought employment elsewhere.
- 13.6 No refund or free replacement will be applicable if the Client continues to retain the services of a Candidate they have advised the Agency they have deemed to be unsatisfactory.
14. The Agency cannot guarantee that the Candidate will complete his or her proposed length of Engagement.
  - 14.1 If the client has found a suitable candidate through ABC Nanny Agency Ltd, but uses another agency to place the nanny, the client must endeavour to pay ABC Nanny Agency Ltd the agreed fee.
15. The Agency uses all reasonable endeavours to ensure the suitability of the Candidate for Introduction to the Client. However, the final responsibility for engaging the Candidate lies with the Client. The Client is strongly advised to obtain their own references to satisfy themselves of the Candidate's suitability and obtaining confirmation of qualifications.
  - 15.1 As the Agency does not directly employ the Candidate, the Agency is not able to insist upon Disclosure and Barring Service (DBS) checks. However, the Agency advises all Candidates to undertake an Enhanced DBS check. It is the Client's responsibility should they decide to engage a Candidate who does not have a current DBS check, or who is in the process of applying for a DBS check. The Agency will advise the Client of the DBS status of the Candidate.
  - 15.2 The Agency will provide a contract of employment draft for use as a guide between the Client and the Candidate.
  - 15.3 The Agency does not provide legal advice nor a contract of employment.
  - 15.4 The Agency strongly advises the Client to ensure they have insurance to cover their employee and public liability
  - 15.5 The Client shall be responsible for obtaining work & any other permits, medical examinations &/or investigations into the medical history of Candidates & qualifications required by law.
  - 15.6 Clients requiring the employee (Candidate) to drive or travel when performing their duties must ensure that they are holding valid driver's license & be properly insured.
  - 15.7 Agency are not responsible for any interview expenses incurred by the Client or Candidate.

16. The Agency shall not accept any Liability under any circumstances for any Losses (whether direct, indirect or consequential or otherwise) incurred or suffered by the Client, the Client's dependents, or any other person, arising out of any alleged or actual acts or omission of the Candidate or of the Agency. The Client shall indemnify and hold harmless the Agency and its Personnel against all Liability and Losses. For the purposes of this clause "Losses" means demands, expense, damage, delay, claims, awards, costs, compensation and any other losses and expenses including legal fees. "Liability" means liability in contract, tort, breach of statutory duty or otherwise. "Personnel" include directors, officers, employees, agents, shareholders and representatives. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising directly from its own negligence.
17. Notwithstanding that any part of these Terms and Conditions of Business may prove to be invalid or unenforceable under any rule or law or enactment, such term or provision or part shall to that extent be deemed not to form part of these Terms and Conditions of Business but all other provisions and the remainder of the provision in question shall remain in full force and effect. The Agency and Client shall agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.
18. If either the Agency or the Client waives any breach committed by the other party of these Terms and Conditions of Business that will not be deemed to be waiver of any subsequent similar breach or of any other breach at any time.
19. No variation or alteration to these Terms and Conditions of Business shall be valid unless the details of such variation are agreed between the Agency and the Client and are set out in writing and a copy of the varied terms is given to the Client duly signed by a Director of the Agency stating the date on or after which such varied terms shall apply.
20. "Data Protection Legislation" means (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

20.1 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and the Agency is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

20.2 The Agency shall, in relation to any Personal Data (as defined in the Data Protection Legislation) processed in connection with the performance by the Agency of its obligations under this agreement:

(a) process that Personal Data only on the written instructions of the Client for the purposes of carrying out a childcare search in accordance with the terms of this agreement unless the Agent is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Agent to process Personal Data (Applicable Laws). Where the Agent is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Agent shall promptly notify the Client of this before performing the processing



required by the Applicable Laws unless those Applicable Laws prohibit the Agent from so notifying the Client;

(b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential.

(d) assist the Client in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.

(e) notify the Client without undue delay on becoming aware of a Personal Data breach.

(f) at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the agreement unless required by Applicable Law to store the Personal Data; and

(g) maintain complete and accurate records and information to demonstrate its compliance with this clause.

These Terms and Conditions of Business are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

I have read and understood the terms and conditions of business set out on pages 1-10. I agree and accept the terms and conditions set out by ABC Nanny Agency Ltd.

Signed \_\_\_\_\_

Print name \_\_\_\_\_

Date \_\_\_\_\_

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