

Elizabeth Henry Nannies: Terms and Conditions of Business

1. DEFINITIONS

'Agency' means Elizabeth Henry Nannies

'Candidate' means a person introduced by the Agency to the Client to be considered for an Engagement;

'Client' means any person, firm or corporation who approaches the Agency with a view to engaging or otherwise employing a Candidate or to whom a candidate is introduced by the Agency;

'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.

'Engagement' means the employment, hire or other use, directly or indirectly and whether under a contract of service or contract for services or otherwise, and on a permanent, temporary or other basis, of a Candidate by or on behalf of the Client;

'Introduction' means (i) the clients interview of a candidate in person or by telephone following the clients verbal or written instruction to the agency to search for a suitable candidate or (ii) the passing to the client by the agency via telephone, fax, e-mail, post or otherwise of a curriculum Vitae or other information which identifies the candidate;

'Month' means Calendar month;

'Permanent Engagement' Engagement for a period of more than 12 consecutive weeks (full time or part time)

'Scale' means the Agencies scale of fees in relation to Candidate in force from time to time (a copy of which may be obtained from the Agency on request);

'Temporary Engagement' Engagement for a period of up to and including 12 consecutive weeks (full time or part time)

'Vacancy' means the available position to carry out work for the Client notified by the Client to the Agency in respect of which the Candidate has been introduced;

'Week' means seven consecutive days.

GENERAL

The Agency is not an Employer of Childcarers but acts as an introduction agent of Childcarers to its clients.

2. THE CONTRACT

2.1 These terms of business constitute the entire contract between the Client and the Agency and will be accepted or deemed to be accepted by the Client when an introduction takes place.

2.2 In the event of any conflict between these Terms and any other Terms and Conditions, these Terms shall prevail unless expressly otherwise agreed in writing.

2.3 No variation or alteration to these terms and conditions of business (including and special terms and conditions agreed between the parties) shall be binding unless the details of such variation are agreed between the Agency and the Client and are set out in writing by the Agency stating the date on or after which such varied terms shall apply.

3. SUITABILITY AND REFERENCES

3.1 The Agency will use reasonable endeavours to introduce a suitable Candidate to the Client to fill the Vacancy but cannot guarantee to find a suitable Candidate.

3.2 Whilst the Agency endeavours to take all reasonable care to interview Candidates, take up references, check for appropriate qualifications and criminal records checks and ensure the suitability of any Candidate introduced to the Client. The Client accepts that the Agency can give no warranty as to the suitability of the Candidate for the Vacancy. The Client must satisfy themselves to the overall suitability of any Candidate introduced. The Agency advises the Client to also verify references provided by the Candidate.

4. CLIENT RESPONSIBILITIES

4.1 The Client acknowledges that it is their responsibility to:

4.1.1 obtain any work and other permits; and ensure that the Candidate satisfied any medical requirement or other qualifications that may be appropriate or require by law.

4.1.2 Treat all information provided by the Agency as strictly confidential.

- 4.1.3 Inform the Agency immediately should the Agency introduce a Candidate whose details have already been introduced to the Client from a third party. 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.
- 4.2 The Client will notify the Agency immediately an offer of employment is accepted by the Candidate or otherwise upon the commencement of and Engagement (whichever first occurs).
- 4.3 The Agency advises all Candidates to undertake a DBS Check. The Client will be held responsible should they decide to engage a candidate who does not hold a current DBS Disclosure at the Enhanced level or who is in the process of applying for a DBS Disclosure. The Agency will advise the client of the DBS status of each candidate.
- 4.4 Pay any Income Tax and National Insurance liabilities or similar contribution in respect of the Candidate and agrees to indemnify the Agency against all demands for Income Tax, penalties and interest made against it in respect of the Candidate and against its costs in dealing with such demands.

5. FEES AND REFUNDS

- 5.1 Fees are payable to the Agency in accordance with the following fee scale on confirmation of Engagement. The Client agrees to pay the appropriate Agency fee within 14 days of Invoice date, or prior to the commencement of the engagement, whichever first occurs. If settlement is not received within this time scale the replacement and refund provisions will not apply.
- 5.2 Fees are payable on a verbal or written offer of employment by the Client
- 5.3 Should the Client subsequently increase the Candidate's hours and salary within a period of two months from commencement of employment a further fee will be due based on the increased hours / salary.
- 5.4 Introductions of Candidates are confidential. The disclosure by the Client to a third party of any details regarding a Candidate introduced by the Agency which results in an Engagement with that particular third party within six months of the introduction renders the Client liable to payment of the Agency fee as set out in the fee structure forfeiting the entitlement to any refund.
- 5.5 An introduction fee calculated in accordance with the fee structure will be charged in relation to any Candidate engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 12 months of the initial introduction.
- 5.6 If the Client employs a Candidate on a temporary engagement and subsequently employs that Candidate on a permanent engagement or if the temporary engagement is extended so that the period of the engagement lasts longer than three months then the Client will pay to the Agency the full permanent fee less any fees already paid in respect of the short term engagement.
- 5.7 When confirming Temporary or Maternity Engagements the Client is required to detail at the outset the length of Engagement. The Agency will calculate the fees payable for the short term contracts using the dates provided to the Agency at the outset. Fees will become payable upon confirmation of the start date of the Engagement and fees must be paid in full prior to the commencement of the Engagement. Should the Client re-engage the Candidate for further periods of employment or extend the original contract dates given to the Agency, then a further charge will be payable for the exact period of employment. All Candidates engaged on a short term basis must be re-booked and re-engaged through the Agency
- 5.8 The Client will pay interest to the Agency on any amount due to the Agency, which is not paid within 14 days of the due date at the rate of 3% above the base rate of National Westminster Bank Plc.
- 5.9 Should the Candidate fail to take up the Engagement and full payment of the placement fee has been received in accordance with section 6.1 of the Agency's Terms of Business a full refund of the placement fee will be made to the client.
- 5.10 If an offer of engagement is made by the Client but is subsequently withdrawn 14 days or more prior to commencement of engagement for any reason the Client will pay to the Agency an administration fee of £150. Payment of the full fee is due where less than 14 days notice is given.
- 5.11 Should the Candidate in a permanent Engagement leave, or be asked to leave by the Client, within 6 weeks of the date of commencement of the Engagement except where the Candidate is made redundant (for reasons unconnected to a change in job description, unreasonable working conditions, change in working location not previously agreed, of failure by the Client to comply with current employment legislation) a replacement Candidate will be provided free of charge (Only one free replacement is allowed and the job specification must remain the same) The Agency will endeavour to find a replacement within 4 weeks. In the event that a suitable replacement Candidate cannot be found, 70% of the fee will be refunded within 2 weeks of commencement of employment, 50% within 4 weeks of commencement of employment and 20% within 6 weeks of commencement of employment, provided that all clauses of these Terms and Conditions of Business have been adhered to by the Client. Where a replacement Candidates salary is less than or more than the original Candidates salary, the Agency fee will

be adjusted accordingly. No replacement or refund is available under any circumstances where the Candidate leaves more than 6 weeks after the date of commencement of Engagement.

- 5.11.1 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 Company within three days of the termination of the Engagement. No refund or free replacement will be applicable if payment has not been received by the Agency in accordance with section 6.1 of the Agency's Terms of Business or if the Client is in breach of any other of the Company's Terms of 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 the 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.
- 5.11.2 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.
- 5.11.3 No refund or free replacement will be applicable if the Client continues to retain the services of a Candidate they have advised the Company they have deemed to be unsatisfactory.
- 5.12 Should the Candidate in a temporary or maternity 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 of 50% of the original invoice – will be made if a replacement cannot be found.

FEE STRUCTURE - We offer a 20% discount on the permanent placement fee should you wish to confirm in writing that you choose to conduct your search for a suitable candidate through Elizabeth Henry Nannies on a sole agency basis.

PERMANENT PLACEMENTS:

The Length of Employment defines whether the position is permanent or temporary. 12 weeks or more constitutes a permanent placement and therefore the permanent fee supersedes the temporary rates.

FULL TIME / PART TIME PARENTS HELP: 2.5 TIMES GROSS WEEKLY SALARY (MINIMUM CHARGE OF £250)

FULL TIME / PART TIME NANNY: 3 TIMES GROSS WEEKLY SALARY (MINIMUM CHARGE OF £300)

NANNY SHARE – FULL / PART TIME: 4 TIMES GROSS WEEKLY SALARY (MINIMUM CHARGE OF £350) Fee will be split equally between the two families

TEMPORARY PLACEMENTS: (Regardless of hours subject to a maximum of £60 per week)

PER DAY £20 PER WEEK £60 EMERGENCY DAY CARE (Providing less than 48 hours notice) £25 PER DAY

MATERNITY NIGHT NANNY: £20 PER NIGHT CAPPED AT £80 PER WEEK

MATERNITY NURSE: £100 PER WEEK **SLEEP CONSULTANT:** INTRODUCTION FEE £50

IF THE CLIENT HAS ENGAGED A TEMPORARY NANNY/MOTHER'S HELP FOR A PERIOD OF 12 WEEKS OR MORE AND THEN EMPLOYS ANOTHER NANNY/MOTHER'S HELP IN A PERMANENT CAPACITY THE PERMANENT FEE WILL PAYABLE PER EMPLOYEE.

6. DATA PROCESSING

- 6.1 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).
- 6.2 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 lawful 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 accessing 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.

7. LIABILITY

The Agency shall not be liable under any circumstances for any loss, damages, cost expenses, compensation, (whether direct, indirect or consequential) suffered or incurred by the Client and which arise from or are connected with the introduction or seeking of a Candidate the engagement of a Candidate by the Client or from the failure of the Agency to introduce a Candidate. This does not include liability for death or personal injury arising from the Agency's negligence.

8. SEVERANCE

Any term or provision of these Terms and Conditions of business is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

9. MISCELLANEOUS

9.1 The Agency reserves the right to review and to revise these Terms without prior notice.

9.2 These Terms and Conditions of Business are governed by and construed in accordance with the law of England and Wales and the parties hereby agree to submit to the exclusive jurisdiction of the Courts of England and Wales.

I have read this form in the Knowledge that in doing constitutes acceptance of Elizabeth Henry Nannies Terms and Conditions of Business and Fee Structure and agree to be bound by them.