

## Elizabeth Henry Nannies: Terms and Conditions of Representation

### 1 DEFINITIONS

“**Agent**” means Elizabeth Henry Nannies

“**Agreement**” means the contract between the Agent and the Candidate for agency services incorporating these Terms and Conditions, as evidenced by the completion of the Registration Form and the acceptance by the Agent in accordance with Clause 3.1;

“**Candidate**” means any person introduced to the Client by the Agent for Engagement;

“**Client**” means any family, third party, individual, partnership, company or other organisation or entity which contracts with the Agent with a view to procuring the services of the Candidate;

“**Engagement**” means the employment, engagement or use of the Candidate by the Client, or any third party to whom the Client has introduced the Candidate, on a permanent or short-term basis under any form of contract or relevant agreement;

“**Representation Form**” means the form to which these Terms and Conditions are attached requesting Representation and setting out, amongst other things, the Candidate’s details and requirements for Engagement;

“**Representation**” means the representation provided by the Agent to the Candidate upon acceptance by the Agent of the Representation Form in accordance with these Terms and Conditions;

“**Terms and Conditions**” means the terms and conditions as set out in this document and any subsequent variations as agreed in writing by the Agent and the Candidate.

### 2 GENERAL

These Terms and Conditions shall apply to the Agreement and shall supersede any other documentation or communication between parties.

### 3 REPRESENTATION FORM AND THE AGENT’S OFFER OF REPRESENTATION

3.1 The Agreement between the Agent and the Candidate, incorporating these Terms and Conditions, shall only come into force when the Agent confirms acceptance of the Representation Form verbally, in writing or by email to the Candidate.

3.2 The Agent’s acceptance of the Representation Form in accordance with Clause 3.1 shall constitute a binding obligation to the Candidate to use reasonable endeavours to secure Engagement with a Client for the Candidate, at all times subject to the Terms and Conditions below.

### 4 APPOINTMENT AS AN AGENT

4.1 The Agent shall operate at all times as an employment agency in accordance with the Conduct of Employment Agencies and Employment Businesses Regulations 2003 and the Employment Agencies Act 1973.

4.2 The Agent will, subject to the Candidate’s Representation Form and these Terms and Conditions, act as the Candidate’s agent and use reasonable endeavours to negotiate and conclude agreements with Clients in respect of procuring Engagements.

4.3 This Agreement does not give rise to a contract of employment between the Agent and the Candidate nor shall it constitute a partnership or joint venture.

4.4 The Agent will not charge a fee to the Candidate for acting upon its behalf in order to secure, or attempt to secure, an Engagement.

4.5 The Agent is in the business of procuring Engagement for Nannies, Maternity Nurses, Maternity Night Nannies, Housekeepers and childcarers and other domestic staff and accordingly nothing in this Agreement or these Terms and Conditions shall restrict the Agent from acting as agent for any third party and providing to it services the same or similar to those set out in these Terms and Conditions.

### 5 CANDIDATE OBLIGATIONS

5.1 The Candidate should not engage in any conduct which is detrimental to the interests of the Agent, would negatively affect the Agent’s relationship with the Client or is likely to bring the Agent into disrepute.

5.2 The Candidate shall, before the commencement of the Representation, have provided the Agent with satisfactory evidence of their identity which shall include, but not be limited to, a certified copy of the Candidate’s passport, birth certificate or driving licence.

- 5.3 The Candidate shall provide the Agency with evidence of their Criminal Record Check (known as DBS) upon registration with the Agency. In the event the Candidate requires a new or updated DBS to be carried out, the cost of any such DBS shall be borne by the Candidate and the Candidate covenants to join the DBS Update Service within 30 days of receiving the new or updated DBS certificate.
- 5.4 Upon registration with the Agency, the Candidate shall provide the Agency with evidence of up to date first aid training. In the event that any first aid training is more than 3 years old, the Agency shall require the Candidate to undergo recognised first aid training before it is able to represent the Candidate going forward.
- 5.5 The Candidate confirms that all information provided to the Agency is true and accurate in all material aspects and that any documentation provided as evidence to the Agency are originals or certified copies of the original documentation.
- 5.6 If, in respect of any prospective Engagement, the Candidate is required by law, any professional body or by the Client to hold or have any experience, training qualifications and/or authorisations, the Candidate shall provide the Agent with: (a) up to date copies of such qualifications and/or authorisations; and (b) the names of two referees (who are not relatives of the Candidate) who the Candidate agrees that the Agent may approach at any time for the purpose of obtaining references about the Candidate.
- 5.7 The Candidate consents to the disclosure of all relevant information (which is reasonably required to progress any application) including but not limited to copies of qualifications, authorisations and/or references, by the Agent to the Client.
- 5.8 The Candidate shall attend any interview arranged by the Agency with the Client with satisfactory evidence of their identity as well as all relevant documentation relating to their experience and qualifications.
- 5.9 The Candidate understands that all information passed to them from Elizabeth Henry Nannies with regards to prospective employers is to be treated in the strictest of confidence and must not be passed on to a third party.
- 5.10 The Candidate shall immediately inform the Agent should there be any reason or circumstance under which it would be detrimental to the interests of the Agent, the Client or the Candidate for the Candidate to take up a particular position with a Client.
- 5.11 The Candidate shall inform the Agent of any interviews arranged between the Client and the Candidate, excluding those already organised by the Agent with the Client on behalf of the Candidate.
- 5.12 The Candidate acknowledges that any offer of employment is subject to the receipt of satisfactory references.
- 5.13 In the event that the Candidate is unable to take up an Engagement that has been agreed with a Client the Candidate shall notify the Agent and the Client as soon as is reasonably practicable, together with the reasons for why the Candidate is unable to take up such Engagement.
- 5.14 If, following an introduction from the Agent to the Client with respect to the Candidate, the Candidate receives an offer of employment or Engagement to work for or with a Client introduced by the Agent, the Candidate shall inform the Agent immediately and provide the Agent with full details of the offer including a copy of the offer letter/contract of employment if requested.
- 5.15 The Candidate shall notify the Agent immediately if there is any reason why they are unable to continue with Engagement with the Client or if they no longer wish the Agency to seek suitable employment for them.

## **6 AGENT OBLIGATIONS**

- 6.1 The Agent shall use reasonable endeavours to secure a suitable Engagement for the Candidate but shall be under no obligation to find Employment for the Candidate.
- 6.2 The Agent shall provide the Representation with reasonable skill, care and in accordance with the recognised codes of practice and statutory obligations.
- 6.3 The Agent shall take all reasonable steps to ensure Clients are professional and courteous but cannot be held responsible for the conduct of any third parties.
- 6.4 An offer of employment by a Client is not made until written details are received from the Client. The Agent does not accept any responsibility and shall not be liable for any loss suffered by the Candidate in connection with the acceptance of such offer, this Agreement or otherwise (including, but limited to loss caused by reason of the Candidate's decision to resign from his/her current employment or any existing Engagement before or after receipt of the Client's written offer).

## **7 TERMINATION**

- 7.1 The Agreement shall continue until the agency services have been provided in accordance with the terms of the Representation Form or any subsequent date as mutually agreed in writing by both parties or until terminated by either party in accordance with these Terms and Conditions.
- 7.2 The Agent may terminate this Representation without notice at any time and for any reason at the Agent's sole discretion.
- 7.3 The Candidate shall be entitled to terminate the Representation at any point by giving 4 weeks' notice in writing to the Agent or if the Agent fails to comply with any aspect of these Terms and Conditions and this failure continues for a period of 4 weeks after notification of non-compliance is given.
- 7.4 Either party may terminate the Agreement by notice in writing to the other if the other party commits a material breach of these Terms and Conditions which cannot be remedied or, in the case of a breach capable of being remedied, fails to remedy it within a reasonable time of being given written notice from the other party to do so.
- 7.5 Any rights to terminate the Agreement shall be without prejudice to any other accrued rights and liabilities of the parties arising in any way out of the Agreement as at the date of termination.

## **8 LIMITATION OF LIABILITY**

- 8.1 Subject to Clause 8.2, a party (the "**First Party**") shall not be liable for any losses (direct or indirect) incurred by the other party (whether or not due to the failure of the First Party to comply with this Agreement) except for those losses which can reasonably be foreseen by the First Party would result from its failure to comply with this Agreement provided that any such liability of the Agent shall be limited to the sum insured under the professional indemnity insurance policy held by the Agent in the insurance year in which the Candidate's claim is first notified.
- 8.2 This Clause 8 does not exclude or limit in any way the Agent's liability for:
- 8.2.1 death or personal injury caused by the negligence of the Agent; or
- 8.2.2 fraud or fraudulent misrepresentation; or
- 8.2.3 any other matter for which it would be illegal or unlawful for the Agent to exclude or attempt to exclude the Agent's liability.

## **9 FORCE MAJEURE**

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

## **10 SEVERANCE**

If any term or provision of these Terms and Conditions 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.

## **11 WAIVER**

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions.

## **12 NOTICES**

Any notice to be given by either party to the other may be served by email, in person or by post to the address of the other party given in the Representation Form or such other address as such party may from time to time have communicated to the other in writing.

## **13 GOVERNING LAW**

These Terms and Conditions, and any non-contractual obligations arising therefrom, shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.