

Terms & Conditions Of Business

(Fulham Nannies is Moira Walsh trading as Fulham Nannies
69a Stephendale Road, Fulham, London SW6 2LT)

Please read this document carefully as it sets out the Terms and Conditions between Fulham Nannies (the **Agency**) and the employer (the **Client**) relating to the introduction of temporary and permanent staff (**Candidates**) to you (the Client) by Fulham Nannies (the Agency) which is a legally binding contract.

Effective from: October 28, 2019

1 DEFINITIONS

1.1 The following expressions shall have the following meanings:

“Agency” means Fulham Nannies (Moira Walsh trading as Fulham Nannies) of 69a Stephendale Road, Fulham, London SW6 2LT;

“Agency Fee” means the charge made by the Agency to a Client for the Introduction of a Candidate which results in the engagement of a Candidate with a Client.

“Agreement” means the contract between the Agency and the Client for the provision of the Services incorporating these Terms and Conditions;

“Candidate” means any nanny, maternity nurse, mother’s help, housekeeper, or other child care professional introduced to the Client by the Agency;

“Client” means any person or family or third party appointed by such people to represent them, who engage the Agency either through written or verbal instruction and request that the Agency introduce the Client to a nanny, maternity nurse or mother’s help, to provide childcare services; and **“You”** and **“Your”** shall be construed accordingly;

“Commencement Date” means the date on which the Candidate’s Engagement with the Client commences;

“Contract of Employment” means an employment agreement executed between the Client and the Applicant specifying the terms and conditions of employment under which the Applicant agrees to perform childcare and/or educational related duties for the Client in exchange of an agreed salary;

“Data Controller” means a natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data;

“Data Protection Legislation” means (i) the Data Protection Act 2018 or any successor legislation; and (ii) the General Data Protection Regulation ((EU) 2016/679), and (iii) any other directly applicable law or regulation that makes provision about the processing of personal data.

“Data Subject” means an identified or identifiable natural person about whom Personal Data is Processed; an identifiable natural person is one who can be identified, directly or indirectly, by reference to the Personal Data;

“DBS Certificate” means the certificate issued for a Disclosure and Barring Service (DBS) Check;

“DBS Check” means an enhanced Disclosure and Barring Service Check with Children’s Barred List Checks;

“Engagement” means (i) the employment or use of the Candidate by the Client or by any third party to whom the Client discloses information about the Candidate, on a permanent, temporary or trial basis; and (ii) an agreement between a Client and a Candidate (including the Candidate’s acceptance of the Client’s offer) that the Client will employ the Candidate on a permanent, temporary or trial basis, and such agreement between a Client and a

Candidate may be oral or in writing (whichever is the earlier) and shall have occurred whether or not a written contract is subsequently entered into; and “**Engages**” and “**Engaged**” shall be construed accordingly;

“**Gross Annual Remuneration**” means the gross salary (includes the Employee's National Insurance and Tax contribution) payable to or receivable by the Candidate for work or services rendered to the Client in the first year of Engagement (whether or not the Candidate is Engaged for a year);

“**Instructions**” means the instructions provided by a Client, whether orally or in writing, to the Agency to effect Introductions to him / her for obtaining childcare on a permanent or temporary basis;

“**Introduction**” means the process of introducing a Candidate(s) by the Agency or a Third Party to the Client by providing a Curriculum Vitae or any other personal information which identifies a Candidate(s). This includes the Candidate being interviewed by the Client or a Third Party either in person, by telephone or via video calling services (e.g. Skype, WhatsApp, FaceTime, etc.); and “**Introduce**”, “**Introduced**”, “**Introduces**” and “**Introducing**” shall be construed accordingly;

“**Permanent Engagement**” means an Engagement where the Candidate is employed directly by the Client for any period of more than 13 consecutive weeks (full-time or part-time) on an ongoing or permanent basis;

“**Role**” means the vacancy specified (or otherwise notified by the Client to the Agency) and which may be a Permanent Engagement, a Temporary Engagement, or a fixed-term Maternity Nurse Vacancy;

“**Services**” means the Introduction of a Candidate by the Agency to the Client in the accordance with these Terms and Conditions.;

“**Shared Personal Data**” means any Personal Data provided by one Party to the other Party for the Agreed Purpose;

“**Temporary Engagement**” means an Engagement where the Candidate is employed directly by the Client for any period up to 13 consecutive weeks (full-time or part-time);

“**Trial Engagement**” means an Engagement on a trial basis for one or more days (up to a maximum of 4 weeks) to enable the Client and the Candidate to assess their mutual suitability before committing to a Permanent Engagement;

“**Terms and Conditions**” means the provisions of these terms and conditions as set out in this document for the supply of Services by the Agency to the Client and any subsequent terms and conditions agreed in writing by the Agency;

“**Third Party**” means any person who is not the Agency or the Client;

“**Week**” means a calendar week and is calculated from Monday to Sunday inclusive; and

“**Writing**” includes email, SMS and any other electronic transmission

- 1.2 The headings in these Terms and Conditions are for convenience only and do not affect the interpretation or construction of the Terms and Conditions of Business.
- 1.3 Unless the context otherwise requires the provisions of these Terms and Conditions of Business shall be construed as follows:
 - 1.3.1 the singular includes the plural and vice versa; and
 - 1.3.2 the masculine includes the feminine and vice versa.
- 1.4 If the Client comprises more than one person those persons shall be jointly and severally liable in respect of all obligations and liabilities contained herein.

2 AGREEMENT

- 2.1 These Terms and Conditions of Business constitute the entire Agreement between the Agency and the Client for the introduction of permanent or temporary staff (to be engaged directly by the Client). These Terms and Conditions shall be deemed to have been accepted by the Client and to apply by virtue of (i) an Introduction to or the Engagement by the Client of a Candidate; or (ii) the passing of information about the Candidate by the Client to any third party; or (iii) the Client's interview or request to interview a Candidate; or (iv) any written (including email or text) or other express acceptance of these Terms; or (v) the Client authorising or instructing the Agency either verbally or through written instruction to search for a Candidate in respect of a specified role, whichever occurs first.
- 2.2 These Terms and Conditions shall in all respects apply to and govern all contracts or agreements made verbally or in writing between The Client and The Agency and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, understandings and any other documentation or communication between parties.
- 2.3 These Terms and Conditions apply whether or not the Candidate is Engaged by the Client for the same type of work and/or Role as that for which the Introduction was originally effected.
- 2.4 No variation or alteration to these terms and conditions (including any 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.
- 2.5 Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Agency may be entitled in relation to the Services, by virtue of any statute, law or regulation.
- 2.6 Where a Third Party (such as the Client's Personal Assistant) instructs the Agency on behalf of the Client:
- 2.6.1 the Third Party promises that it has authority to bind the Client to this Agreement;
- 2.6.2 the Client shall be bound by this Agreement; and
- 2.6.3 all Candidates Introduced by the Agency to the Third Party shall be deemed Introduced to the Client, and the Client shall be responsible for the acts and omissions of the Third Party as if the Third Party were the Client.

3 OBLIGATIONS OF THE CLIENT

- 3.1 The Client acknowledges that the Agency provides an introductory service only to introduce suitable candidates to work as nannies, maternity nurses, mother's helps, or other child care professionals and it is the Client who employs the Candidate. The Agency does not employ any of the Candidates directly or indirectly. Candidates are introduced to Clients on the basis that they will be employed by the Client, unless the Candidate is self-employed.
- 3.2 The Client shall provide full details to the Agency of its exact requirements relating to the proposed employment by providing full details of the work for which the Candidate is required and in particular by notifying the Agency of any special skills required for such work when placing its request.
- 3.3 The Client undertakes to notify the Agency immediately upon any offer of employment to a Candidate that has been accepted and to provide details of the Commencement Date, duration, or likely duration, and Gross Annual Remuneration to the Agency.
- 3.4 It is the obligation of the Client to immediately inform the Agency if a Candidate introduced by the Agency has:
- 3.4.1 already been introduced by a third party; or

3.4.2. already been in communication with you (the Client) regarding your role,

with satisfactory evidence of the same. If the Client fails to immediately inform the Agency and the Candidate is subsequently Engaged by the Client in any capacity within a period of up to and including 12 months from the initial introduction date, then it will be presumed that the Introduction has been effected by the Agency and the Client shall be responsible for the full applicable fee resulting from such employment.

- 3.5 The Client is solely responsible for ensuring compliance with all employment, fiscal, and other relevant legislation and regulations and all taxation obligations including, without limitation, National Insurance contributions relating to the Engagement and any and all payments made to a Candidate and in any other way relating to the Engagement.
- 3.6 The Client is responsible for agreeing remuneration and must provide the Candidate with a written contract of employment, prior to the commencement of the Candidate's employment. The Client in any event warrants that conditions relating to tax, National Insurance, working hours, holiday and sickness benefit, accommodation, remuneration, notice and grievances shall be notified in writing to the Candidate on Engagement.
- 3.7 If the Client requires the Candidate to work abroad during the period of Engagement then the terms must be detailed and agreed by the Client and the Candidate in the Contract of Employment. It is the Client's responsibility to pay for the Candidate's travel costs, medical and travel insurance, car insurance (if applicable) and provide adequate food and water for every mealtime, unless alternative arrangements are agreed otherwise and set out in the Contract of Employment.
- 3.8 The Client is responsible for obtaining any medical certificates, work permits or other approvals necessary for the Candidate prior to the commencement of employment.
- 3.9 For live-in positions, the Client accepts and understands its obligations to adequately insure with a company of good repute the Candidate's property, contents and any other items of value to the Candidate, and shall also ensure that such insurance remains in full force and effect for the duration of the Candidate's employment.

4 OBLIGATIONS OF THE AGENCY

- 4.1 The Agency confirms that as a member of The Association of Nanny Agencies (ANA) it will comply with the ANA's Code of Standards of Best Practice. It is standard procedure that we request our Candidates to provide written references, a Disclosure and Barring Service (DBS) Certificate, an up-to-date CV, proof of ID and proof of qualifications. If we have not been able to check these yet, we will inform you. If the Candidates cannot provide any of these documents or are in the process of obtaining one we will inform you before you agree to interview them. If you request a Candidate with certain skills/documents (such as first aid training, driving licence, childcare diploma, etc.) but she/he is in the process of obtaining these we will inform you.
- 4.2 The Agency do not directly employ the Candidate and are not able to insist upon a DBS Check. The Agency encourages Candidates to ensure their DBS Certificate is renewed every 12 months or that the Candidate has subscribed to the DBS Update Service. If a Candidate who does not have an up-to-date DBS Certificate and/or are in the process of obtaining one, then the agency will inform the Client. However, it is the Client's responsibility to:
- 4.2.1 ensure that DBS Checks are carried out on the Nanny and that the Nanny's DBS Certificate is renewed and checked by the Client on a regular basis throughout the Nanny's Engagement; and
- 4.2.2 take appropriate action if there are any entries on the Candidate's DBS Certificate.
- 4.3 The Agency will take all reasonable steps to introduce Candidates who are of sound character, honest and reliable but cannot be held responsible for the conduct of a Candidate.
- 4.4 The Agency endeavours to ensure the suitability of the Candidate based on the information the Client has provided but the Agency does not guarantee the suitability of any Candidate Introduced to the Client and makes

no warranty or representation expressed or implied in respect of any Candidate. The final decision to employ a candidate is the sole responsibility of the Client. The Client shall therefore satisfy themselves as to the suitability of the Candidate and the Client shall take up any references provided by the Candidate and/or the Agency before employing a Candidate. The Agency does not accept any liability for any inconvenience, damage or loss arising whether caused directly or indirectly from any act or omission of a Candidate introduced to the Client by the Agency. The Agency offers no warranty for a Candidates character, honesty, reliability, suitability or capacity.

- 4.5 The Agency can provide for the Client and the Candidate a specimen Contract of Employment but makes no representations whatsoever in relation to that document and cannot provide any legal advice to either party as to its content or the terms of employment between the Client and the Candidate or in fact any terms and conditions therein. The Specimen Contract of Employment is not intended to be the final version and the Client acknowledges that the Client is responsible for reviewing and tailoring the Specimen Contract of Employment to make sure it is suitable for the Engagement.
- 4.6 The Agency does not operate a payroll system but can refer the Client to a nanny payroll tax specialist if requested.

5 NOTIFICATION AND FEES

- 5.1 The Client agrees to not directly or indirectly work around, avoid, circumvent or otherwise bypass the Agency with the intent or effect of depriving the Agency of its Agency Fees. If a Candidate is solicited to work for the Client with the intent or effect of bypassing the Agency's Fee the Client will be invoiced the fee then chargeable by the Agency for the relevant Engagement.
- 5.2 If the Client Engages a Candidate or Introduces a Candidate to another person (a Third Party) resulting in an Engagement by that Third Party at any time within 12 months from the Introduction of a Candidate to the Client by the Agency, and regardless of whether the Candidate is Engaged in the same role for which the Candidate was initially Introduced or in a different role, the Agency shall be entitled to issue an invoice to the Client for the full applicable Agency Fee.
- 5.3 Where a Candidate has been introduced by the Agency to the Client and is initially rejected by the Client and is subsequently Engaged by the Client in any capacity within a period of up to and including 12 months from the initial introduction date, and regardless of whether the Candidate is Engaged in the same role for which the Candidate was initially Introduced or in a different role, the Client shall be responsible for the full applicable Agency Fee resulting from such employment.
- 5.4 Where a Candidate has been introduced by the Agency to the Client and the Candidate rejects an offer of employment by the Client and is subsequently Engaged by the Client in any capacity within a period of up to and including 12 months from the initial introduction date, and regardless of whether the Candidate is Engaged in the same role for which the Candidate was initially Introduced or in a different role, the Client shall be responsible for the full applicable Agency Fee resulting from such employment.
- 5.5 The Client agrees to pay the Temporary Engagement or Maternity Nurse Agency Fee within 7 days of the date of the invoice submitted by the Agency.
- 5.6 The Client agrees to pay the Permanent Engagement Agency Fee within 7 days of the date of the invoice submitted by the Agency.
- 5.7 The full Agency Fee is incurred by the Client when a Candidate introduced by the Agency is offered and accepts employment with the Client, whether or not: (i) the Engagement has commenced; or (ii) a written contract of employment has been signed between the Client and the Candidate. It is the Clients full responsibility to inform the Agency once an offer of employment has been accepted by a Candidate.
- 5.8 The Agency Fee charged relates to one engagement only. Where a Candidate is engaged on a temporary basis and the Candidate's employment is extended either beyond the original period of Engagement or the Client subsequently re-engages the Candidate in any capacity within 12 months from the date of the initial Introduction, the

Client undertakes to inform the Agency within 7 days and pay the relevant Agency Fee in accordance with the Agency's fee structure shown under **Clause 5.18**. The Agency will then raise an invoice for the appropriate amount as set out in these Terms and Conditions less any fees already paid in respect of the original Engagement.

- 5.9 If the Agency applies a discounted Agency Fee and the Client fails to make full payment by the due date specified on the invoice, then the fee for the undiscounted Engagement becomes immediately due and payable. The Agency will then raise an invoice for the appropriate undiscounted Introduction fee as set out in these Terms and Conditions and is payable immediately.
- 5.10 If a Maternity Nurse is subsequently employed as a nanny, mothers help or housekeeper then a further fee shall be payable in accordance with the Agency's fee structure shown under **Clause 5.18** for a new Engagement.
- 5.11 Where a Client wishes to Engage a Candidate on a trial basis before committing to a Permanent Engagement ("a Trial Engagement") the Client agrees :
- 5.11.1 the maximum Trial duration is four weeks; and
- 5.11.2 to notify the Agency within 7 days of the Commencement Date of the Permanent Engagement
- 5.12 If a Candidate is engaged on a trial basis for a period of up to a maximum of 1 day and whether or not the Trial Engagement becomes permanent, then the Agency will not charge a fee.
- 5.13 If a Candidate is engaged on a trial basis for a period of more than 1 day and the Trial Engagement does not become permanent then the fee chargeable will be calculated on the basis of a Temporary Engagement. If the Trial Engagement does become permanent then the balance of the fee for a Permanent Engagement is payable immediately upon the rendering of the Agency's invoice less any temporary fees already paid up to a maximum of 4 weeks in respect of the Trial Engagement.
- 5.14 The Client acknowledges and understands that the Agency Fees do not include any part of the Candidate's salary.
- 5.15 The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is calculated in accordance with the Agency's Fees structure shown under **Clause 5.18**.
- 5.16 The Agency Fee payable for a Permanent Engagement is calculated by applying the percentage stated in **Sub-Clause 5.18.1** to the Candidate's total first year's base gross salary whether or not the Candidate is Engaged for a year.
- 5.17 The Agency Fee payable for a Temporary Engagement is calculated as £30 per day for each day booked or any part of a day thereof (minimum 4 hours per day) up to 3 days per Week; or £100 per Week for bookings of 4 or more days per Week.
- 5.18 All invoices must be settled in full in GBP Sterling and for the avoidance of doubt, the Client is solely responsible for paying all bank transfer, currency conversion and other fees and charges so that the full amount of the invoice is received by the Agency:
- 5.18.1 Permanent Engagement - 10% of the equivalent Gross Annual Remuneration of the Candidate (whether or not the Candidate is Engaged for a year)
- 5.18.2 Temporary Engagement - £30 per day (minimum 4 hours per day) for bookings up to 3 days per week or £100 per Week for bookings of 4 days or more per Week (a Week is calculated from Monday to Sunday)
- 5.18.3 Maternity Nurse - £30 per day (minimum 4 hours per day) for bookings up to 3 days per week or £100 per Week for bookings of 4 days or more per Week (a Week is calculated from Monday to Sunday)

- 5.19 There is no VAT to pay on any Agency Fees (the Agency is a non-VAT entity below the VAT registration level).
- 5.20 In the event of default or non-payment, the Agency reserves the right to take any lawful and necessary actions, up to and including legal action, to recover debts.
- 5.21 The Agency reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date, including accrued interest, at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of late payment.

6 REPLACEMENT AND REFUNDS

- 6.1 In order to qualify for the following replacement or refund the Agency Fee must be paid within 7 days of the date of the invoice submitted by the Agency for all permanent, temporary and maternity nurse Engagements, which will be issued immediately after the Candidate has accepted either verbally or in writing an offer of employment by the Client. If settlement is not received within this time-scale the replacement and refund provisions detailed below will not apply.
- 6.2 Should the Candidate fail to take up an Engagement **a full refund will be made** provided the Client advises the Agency by email of the fact within 2 days. Should the Agency have already been paid by the Client a full refund will be made within 7 days of the Agency being advised of the Candidates failure.
- 6.3 The Agency cannot guarantee that the Candidate will complete his or her proposed length of Engagement.
- 6.4 The Agency Fees are non-refundable. Should the Candidate leave the employment within 8 weeks of Commencement Date of a permanent Engagement or within 2 days of a temporary or maternity nurse Engagement the Agency will offer 1 replacement Candidate free of charge. The Agency shall provide the Client with up to 3 candidate profiles for free replacement. Such profiles will be selected by reference to the Client's original job specification and will be provided as promptly as possible. The agency accepts no liability and is not obliged to offer a replacement or any refund if the Client finds the candidates unacceptable and does not want to engage any of the potential Candidates. If for any reason the Client changes the original job specification or the terms of what was outlined in the contract of employment, and a candidate resigns for this reason, no refund or replacement is given (i.e. reducing or adding hours, changing the job description, failing to pay National Insurance or any other associated employer's taxes, or changing the designated days).
- 6.5 In the event that the Agency puts forward a Candidate (or Candidates) that it considers to be suitable by reference to the Client's original job specification and the Client unreasonably fails to offer the Candidate a position on the same terms as the previous Candidate's terms, then the Agency shall be under no further obligation to offer further replacements.
- 6.6 If the Client finds the Candidate unsuitable yet retains the Candidate in their employ the Client is liable to pay the full Agency fee and the Agency will offer no refund.
- 6.7 Whilst the Agency shall endeavour to find a replacement Candidate the Agency makes no guarantee that such a Candidate will be found.
- 6.8 The Client will no longer be eligible for a replacement after the first Candidate has been replaced.
- 6.9 If the Engagement is lawfully terminated by the Client or Candidate within 8 eight weeks of the date of Commencement Date of a permanent Engagement or within 2 days of a temporary or maternity nurse Engagement, including any period of notice worked, the Agency will use all best endeavours to find a suitable replacement Candidate for the Client by reference to the Client's original job specification from the date of the Client's notification to the Agency at no extra cost to the Client.
- 6.10 A Permanent Engagement is deemed satisfactory after 8 weeks from the Engagement Commencement Date unless the Agency is notified to the contrary within the first 8 weeks from the start of the permanent Engagement, including the duration of any notice period worked. The Agency is not obliged to offer a replacement or any refund should a permanent Candidates employment be terminated after 8 weeks.

- 6.11 Where a Client Engaged a Candidate on a Trial Engagement prior to that Candidate commencing a Permanent Engagement, the time period referred to in **Clause 6.10** shall be interpreted as running from the Commencement Date of the Trial Engagement.
- 6.12 A Temporary Engagement or a Maternity Nurse Engagement is deemed satisfactory after 2 days unless the Agency is notified to the contrary within the first 2 days from Commencement Date of the Temporary Engagement or Maternity Nurse Engagement. The Agency is not obliged to offer a replacement or any refund should a temporary or maternity nurse Candidates' employment be terminated after 2 days.
- 6.13 No refund will be paid if a Maternity Nurse Engagement is terminated before the conclusion of the agreed period of employment.
- 6.14 No refund or replacement will be applicable if the Client has failed to honour a previously agreed start date, or has prevaricated over the Commencement Date to such an extent that the Candidate has sought employment elsewhere.
- 6.15 In the case of a temporary Engagement the relevant fee is based on the number of weeks initially requested. No refund or deduction from the Agency fee will be given if the number of weeks is subsequently reduced on a temporary Engagement. Similarly no refund or deduction will be made if an Engagement is reduced from full-time to part time or permanent to temporary.
- 6.16 If the Client has to delay the Commencement Date of the Engagement of the Candidate (for example because of the birth of a baby later than expected) then the Client shall be liable to pay the Candidate the full agreed weekly salary from the agreed Commencement Date and no refund of the Agency Fee or any part thereof shall be payable.

7 CANCELLATION FEE

- 7.1 If after an offer of employment has been made by the Client to the Candidate (either verbally or in writing) and the Candidate has accepted (either verbally or in writing) and the Client subsequently decides for any reason to withdraw from the offer of employment the Client shall be liable as follows:
- 7.1.1 if the due start date is 14 days or less from date of cancellation the full fee is payable to the Agency plus one week salary to the Candidate; or
- 7.1.2 If the due start date is 15 days or over from the start date then 50% of the full fee is payable to the Agency.
- 7.2 There will be no charge if the Candidate cancels the Engagement before the Commencement Date.

8 DATA PROCESSING, CONSENT & CONFIDENTIALITY

- 8.1 The Client consents to the holding and processing of Personal Data (including sensitive Personal Data) as defined in Data Protection Legislation which relates to it (the Client) by the Agency in accordance with the provisions of the Data Protection Legislation about the processing of Personal Data.
- 8.2 The Agency shall process Personal Data you (the Client) supply for the purpose of effecting introductions between Candidates and Clients, or otherwise acting to fulfil the Services.
- 8.3 The Parties acknowledge that they are each a Data Controller for the Agreed Purpose.
- 8.4 By agreeing to the terms of this contract, the Client is confirming that they will be fully compliant with the Data Protection Legislation and will ensure that the rights of their Data Subjects under the Data Protection Legislation are observed, including outside the UK.
- 8.5 All information provided by either party to the other, including but not limited to any Personal Data relating to the

Candidate or the Client, will be treated as strictly confidential and will not be disclosed by either party to any third parties, unless required by law or regulation, without prior written consent of the other or of the Candidate (as the case may be).

- 8.6 Each Party shall, in respect of Personal Data which it collects from the Data Subject and provides to the other Party and before it provides that Personal Data, ensure that its privacy notices are provided to the Data Subjects and that those privacy notices meet all the requirements of Data Protection Legislation to allow the Personal Data to be lawfully shared and Processed by the Parties for the purposes of this Agreement.
- 8.7 By entering into this Agreement the Client is providing explicit consent to the Agency to share their full name, telephone and/or mobile number, and home address to any prospective Candidates which the Client confirms to the Agency they wish to meet or interview. The Client also provides its explicit consent to emails being sent from the Agency to the Client's email address. Some of these emails may contain Personal Data.
- 8.8 The Agency will always seek a Candidate's consent to submit their personal details to the Client for the sole purpose of facilitating the obligations of each party under these Terms and Conditions of business. The consent will allow the Client to retain these Personal Data for the duration of the valid introduction period. At the end of that period, the Client must destroy the Personal Data or arrange for further consent to be obtained from the Candidate.
- 8.9 The Parties shall take appropriate technical and organisational measures to adequately protect all Personal Data against accidental loss, destruction or damage, alteration or disclosure.
- 8.10 The Client shall notify the Agency within 72 hours if a Data Subject or Regulator raises any enquiry, concern or complaint about how the Client or the Agency has handled the Shared Personal Data. The Client shall provide full co-operation and assistance to the Agency in relation to any enquiry, concern or complaint raised.

9 LIMITATION OF LIABILITY

- 9.1 Nothing in these Terms and Conditions shall exclude or limit the liability of the Agency for death or personal injury, however the Agency shall not be liable for any direct loss or damage suffered by the Client or any third party howsoever caused, as a result of any negligence, breach of contract or otherwise in excess of the sum insured under the professional indemnity insurance policy held by the Agency in the insurance year in which the Clients claim is first notified.
- 9.2 The Agency accepts no liability for any loss, damage, expense or compensation suffered or incurred of any nature by the Client, arising directly or indirectly from an act or omission by any Candidate introduced to the Client by the Agency.

10 INDEMNITY

The Client shall indemnify the Agency against all claims, costs and expenses which the Agency may incur and which arise directly or indirectly from the Clients breach of any of its obligations under these Terms and Conditions.

11 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.

12 NOTICES

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Registration Form or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

13 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.

14 ASSIGNMENT

The Client shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Agency.

15 THIRD PARTY RIGHTS

It is not intended that any of the terms and conditions of this agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

16 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.

17 ENTIRE AGREEMENT

These Terms and Conditions supersede any previous agreements, arrangements, documents or other undertakings either written or oral.

18 GOVERNING LAW

These Terms and Conditions of Business are governed by and construed in all respects in accordance with the law of England and Wales and the Client agrees to submit to the exclusive jurisdiction of the Courts of England & Wales.