

Mulberry Nannies

Terms and Conditions of Business

Please read this document carefully as it sets out the terms and conditions relating to the introduction of temporary or permanent staff to you by Mulberry Nannies which is an employment agency

1. Definitions

In these terms and conditions:

“Introduction”	means the introduction of a Candidate to a Client by Mulberry Nannies and includes but is not limited to the giving of a Candidate's contact details or any other personal information to a Client or the arranging of a meeting or interview (whether by telephone or in person) between a Candidate and a Client
“Appointment”	means the engagement of a Candidate by the Client or any third party, following an Introduction by Mulberry Nannies
“Agency”	means Mulberry Nannies Limited (registered number 06296596) whose registered office is at Beech House Farm, Beech House Lane, Salehurst, Robertsbridge, East Sussex TN32 5PN
“Candidate”	means any nanny, mother's help, nursery worker, housekeeper, maternity nurse or other childcare worker whose identity or details are communicated (whether orally or in writing) to a Client by the Agency
“Candidate Share”	has the same meaning as provided in clause 6.2
“Client”	means any person, firm or company to whom the Candidate is introduced
“Daily Candidate”	means any Candidate whose Appointment involves “one-off” day(s) or part thereof;
“Full-Time Candidate”	means a Candidate whose Appointment exceeds four days per week
“Introduction Fee”	means the fee payable by the Client to the Agency in accordance with these terms and conditions
“Part -Time Candidate”	means a Candidate whose Appointment does not exceed four days per week
“Permanent Candidate”	means a Candidate whose Appointment exceeds twelve weeks in duration
“Temporary Candidate”	means a Candidate whose Appointment does not exceed twelve weeks in duration

“Weekend Candidate” means a Candidate whose Appointment involves both a Saturday and Sunday

2. Contract

- 2.1 These terms and conditions apply to all contracts for the introduction and appointment of Candidates by the Agency to the Client.
- 2.2 These terms and conditions are deemed to be accepted by or on behalf of the Client upon an Introduction.

3. Obligations of the Client

- 3.1 The Client acknowledges that the Agency provides an introductory service only and it is the Client who employs the Candidate.
- 3.2 The Client acknowledges that the Client is ultimately responsible for deciding to appoint a Candidate and taking up appropriate references before making an Appointment notwithstanding clause 4.1. We refer you to clause 5.
- 3.3 The Client shall be responsible for the Candidate's Tax and National Insurance Contributions under rules set out by the HM Revenue & Customs.
- 3.4 The Agency uses the Nanny Tax Scheme and can provide details to the parties.
- 3.5 The Agency confirms that it will undertake a home visit to the Client's property to assess the requirements of the Client with a view to introducing suitable candidates. The Agency will seek permission from the Client to approach nannies or other childcare workers previously employed by the Client to reference the Client.

4. Obligations of the Agency

- 4.1 The Agency confirms that as a GNAG Recommended Nanny Agency it will comply with the GNAG's Code of Practice in relation to criminal and CRB checks, identity checks and reference checks.
- 4.2 The Agency will ensure that any nanny placed will have had:

(a) Criminal / CRB Checks:

The Nanny Agency guarantees that all Candidates placed by the agency will have had an Enhanced Disclosure from Criminal Records Bureau underway before commencement of employment in the position. If a candidate has not lived in the UK for at least 6 months, they must have an up to date equivalent check from their country of origin or most recent residence. Once the candidate has been in the UK for 6 months, he/she is then required to complete an Enhanced Disclosure from the UK Criminal Records Bureau (regardless of already completing one in his/her home country).

(b) Identity Checks:

The Agency requires a minimum of two forms of personal identification from Candidates prior to employment – these may include passport, driving licence, birth certificate, utility bills, work permits and visas.

(c) Reference Checks:

The Agency will take up at least two references to confirm a Candidate competence, suitability and trustworthiness for a position. Reference checking entails two verbal conversations with referees (even if they have furnished the Candidate with a written reference). Verbal reference checks grant parents the privacy to disclose the full details of their experience with the Candidate which a written reference does not. (The point of these conversations is to verify the validity of a Candidate's employment, to glean a better sense of his/her disposition and, if it all checks out, to place him/her with a family).

The Client is referred to the Good Nanny Agency Guide Code of Practice in this regard.

5. Warranty

- 5.1 The Agency shall endeavour to ensure the suitability of the Candidate based on the information the Client has provided but the Agency makes no warranty or representation expressed or implied in respect of any Candidate or any representations made by them to the Client. The Agency confirms that it will ask for a copy of a Candidate's Certificate of First Aid and hold such copy on file.
- 5.2 Without prejudice to clause 10 liability will not be accepted by the Agency for any loss of profits, revenue or business or for other claims for any indirect, special or consequential loss arising out of or in connection with any Appointment of a Candidate by a Client.
- 5.3 The Agency can provide for the Client and the Candidate a draft standard 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.

6. Indirect Introductions

- 6.1 The Client shall be liable to pay a separate Introduction Fee in accordance with clause 7 if it refers any Candidate to any third party within twelve months of an Introduction that results in an engagement of the Candidate by that third party.
- 6.2 Clause 8 which refers to procedures for Candidate's replacement shall not apply to any Indirect Introductions.

7. Fees

- 7.1 In the event of an Appointment as a result of an Introduction the Client shall pay the Introduction Fee (as calculated in accordance with the attached Schedule of Introduction Fees) within fourteen days of the date of invoice to be delivered immediately after the appointment is made. The fee is chargeable upon engagement not upon the date of first employment.

- 7.2 In the event of the Agency providing a **Nanny Share service** the following shall apply:
- 7.2.1 Where the Agency is approached by two Clients in order to find a Candidate whose services are to be shared between the two Clients, then the Clients are liable to pay between them the Introduction Fee in full in accordance with clause 7.1
 - 7.2.2 Where the Agency is approached by a Client in order to find both a Candidate and a second Client with whom to share that Candidate, then each Client shall be liable to pay 60% of the Introduction Fee in full in accordance with clause 7.1
 - 7.2.3 Where the Agency is approached by a Client to find both a Candidate and a Second Client (as described in 7.2.2) if a Candidate is introduced by the Agency and if the Candidate is subsequently hired by the Client prior to a second Client being found, the Client shall be liable to pay the Introduction Fee in full (in accordance with clause 7.1) and whilst the Agency shall endeavour to find a second Client, no warranty or representation is given to that effect
 - 7.2.4 Where the Agency introduces one Client to another and both Clients subsequently share a nanny who has not been introduced by the Agency, even if one Client already employs the nanny, the Client who initially contacted the Agency shall be liable to pay 30% of the Introduction Fee in accordance with the Schedule of Introduction Fees
 - 7.2.5 Where the Agency is approached by a Client who already employs a nanny and is looking for another Client to share the nanny with, the Client shall be liable to pay 30% of the Introductory Fee in accordance with the Schedule of Introduction Fees.
- 7.3 If the Client fails to make any payment on the due date, then without prejudice to any right or remedy available to the Agency, the Agency shall be entitled to charge the Client interest (both before and after judgment on the amount unpaid) at the rate of five per cent (5%) interest to accrue on a daily basis until the date of actual payment.
- 7.4 All payments are exclusive of Value Added Tax
- 7.5 Where a formal offer of employment has been made in writing by a Client and is subsequently withdrawn by the Client after acceptance by the Candidate through no fault of the Candidate an administrative fee will be payable by the Client to the Agency in the sum of £200.00.
- 7.6 If the Candidate is employed on a Temporary Candidate basis and is subsequently engaged on a Permanent Candidate basis or if the Temporary Candidate employment is extended so that the period of agreement last longer than twelve weeks then the Client will pay the Agency the full Permanent Candidate Introduction Fee less any fees already paid in respect of the Temporary Candidate Appointments.
- 7.7 The Introduction Fee of a Temporary or Permanent Candidate applies to only one Appointment. Re-employment of a Candidate at a future date within twelve months of Introduction will be subject to a further Introduction Fee and it is the responsibility of the Client to inform the Agency of any such Appointment.

8. Replacement Candidate

8.1 If the Appointment is terminated within eight weeks of the date of commencement of the Permanent Candidate's employment the Agency will attempt to find a replacement Candidate (only one replacement will be provided unless otherwise agreed in writing) at no extra cost to the Client provided that:

- 8.1.1 the Client notifies the Agency in writing within seven days of the termination of Employment;
- 8.1.2 all payments due to the Agency under these terms and conditions have been made by the due dates;
- 8.1.3 the Client has not failed to carry out any of its obligations under these terms and conditions;
- 8.1.4 the employee did not leave due to a change in the job description or a change in location, or due to unreasonable working conditions;

8.2 Whilst the Agency shall endeavour to find a replacement Candidate the Agency makes no guarantee that such a Candidate will be found.

9. Refund of Fees

9.1 Subject to clause 8 above if within eight weeks of the date of commencement of employment of the Candidate the Client notifies the Agency of the termination of the Appointment and the Agency is unable to find a suitable replacement Candidate, (provided that the Client has not unreasonably refused the proposed replacement Candidate) the Agency will pay to the Client a refund of the Introduction Fee on the following scale:

<i>Period of Employment</i>	<i>Introduction Fee Refund</i>
Up to two (2) weeks	75.00%
Up to four (4) weeks	50.00%
Up to six (6) weeks	25.00%
Up to eight (8) weeks	15.00%

9.2 The Client acknowledges and accepts that if during the eight week period referred to at clause 9.1 above, the Client employs or engages another employment agency or any other recruitment method, the Client will not be entitled to any refund payment from the Agency. The Client understands that this clause is designed to give the Agency a reasonable time within which to put forward a suitable replacement Candidate.

10. Liabilities

Except in respect of death or personal injury caused by the negligence of the Agency, the Agency shall have no liability of whatever nature to the Client for an amount exceeding the Introduction Fee, including for negligence or by reason of any representation, warranty, condition or other term of the contract, for any loss or damage (including but not limited to loss of profit or goodwill) or claims for consequential compensation. Without prejudice to the foregoing any liability of the

Agency to the Client for negligence, breach of contract or otherwise, except in respect of death or personal injury caused by the negligence of the Agency, shall accordingly be limited to the amount of the Introduction Fee paid by the Client.

11. Confidentiality

All information supplied by the Agency to the Client in connection with the Appointment and the Candidate will be kept confidential by the Client and the Client shall not disclose such information to any third party.

12. Miscellaneous

- 12.1 The Agency reserves the right to review and to revise these terms and conditions by giving one week's notice to the Client.
- 12.2 Failure or delay by the Agency in enforcing or partially enforcing any provision of these terms and conditions will not be construed as a waiver of any of its rights under these terms and conditions.
- 12.3 These terms and conditions shall be governed by and construed in accordance with the laws of England and Wales.