

# **NANNIES BEYOND**

## **TERMS AND CONDITIONS OF BUSINESS**

### **NANNIES, HOUSEKEEPERS, MOTHERS HELPS**

18 March 2019

#### **1. DEFINITIONS**

“Agency” means Lois Allon trading as Nannies Beyond

“Candidate” means any Nanny, Housekeeper, Mothers Help, Home Companion or other domestic worker (but not an au pair) who is introduced (whether orally or in writing) to a Client by the Agency.

“Commencement Date” means the date upon which an Engagement commences

“Client” means any person (including any firm or corporate body) to whom a Candidate is introduced.

“Engagement” means the Client making an arrangement to engage, employ or use a Candidate

“Full-time Candidate” means a Candidate whose appointment exceeds 30 hours per week.

“Overseas” means outside the United Kingdom

“Overseas Placement” means the Placement of a Candidate to a Client who is resident outside the United Kingdom.

“Part-time Candidate” means a Candidate whose appointment does not exceed 30 hours per Week.

“Permanent Placement” means the placement of a Candidate whose appointment exceeds 12 weeks in duration.

“Temporary Placement” means the placement of a Candidate whose appointment does not exceed 12 weeks in duration.

#### **2. BASIC TERMS**

a. These Terms and Conditions of Business (the “Terms”) constitute the entire agreement between the Agency and the Client for the introduction to the Client of Candidates and are deemed to be accepted by the Client by virtue of the Client:

- requesting the Agency to provide details of Candidates; or
- contacting a Candidate; or
- offering employment to a Candidate (the “Offer”); or
- passing on any information about a Candidate to any third party following an introduction

b. No variation or alteration of these terms and conditions shall be valid unless agreed in writing.

#### **3. FEES**

a. The Agency introduction fees are set out in Schedule 1 to these Terms and Conditions (the “Fees”).

b. The Agency will calculate the Fee for Temporary Placements based upon the dates given to the Agency at the commencement of Engagement. However, if the Client Engages the Candidate for further dates then the Client must inform the Agency and a further charge will be payable based upon the exact period of employment, provided that the total Fee payable for a Temporary Placement shall be no greater than the Fee would be for an equivalent Permanent Placement.

c. If a Candidate is engaged on a Temporary Placement and is subsequently engaged on a Permanent Placement then the Client will pay to the Agency the full permanent fee less any fees already paid in respect of the Temporary Placement.

- d. If the Client engages a Candidate within twelve (12) months of an introduction or (in the case of a Temporary Placement) within twelve (12) months of the termination of an Engagement then a Fee shall be payable in accordance with the Fee structure set out in Schedule 1.
- e. The Client must inform the Agency as soon as a Candidate has accepted an offer of Engagement and to provide written details of the Candidate's agreed remuneration and period of engagement.
- f. The Client agrees to pay the Fee within 7 Days of invoice date, and, on all occasions, prior to the commencement of the Engagement. In relation to the Engagement of Candidates living outside of the UK or the Engagement of Candidates on Overseas Placements, the fee shall be payable prior to the Candidate booking their travel to the UK or overseas as applicable.
- g. In the event that the Client does not pay the Fee within the required time in accordance with Clause 3(f) above, the Client shall not be entitled to a replacement Candidate or refund as set out in Clause 5.
- h. Invoices not paid within 7 days will be subject to interest charged at 8% above the prevailing Bank of England base rate. In the event that a Client fails to pay a Fee which is due then it shall be liable for all legal and other costs incurred by the Agency in taking action to recover such Fees.

#### **4. AGENCY AND CLIENT OBLIGATIONS**

- a. The Agency provides agency services as an introductory agency only, for the purpose of effecting introductions between Clients and Candidates, and the Fees are for effecting introductions which lead to Placements. The Fees do not relate to the duration of any Placement (subject to Clause 5 below).
- b. The Agency will interview Candidates, take up references, check for appropriate qualifications and criminal record checks, assess attitude and experience, inform Candidates of the nature of the role and check that Candidates are willing to work in the position which the Client seeks to fill.
- c. The Agency will endeavour to introduce the Client to Candidates as well suited as possible, based upon the information which the parties have provided. To this end the Agency will seek to provide the Client with all relevant information concerning the Candidate which has been made available to the Agency. The Agency cannot guarantee that all the information provided by the Candidates or other third parties is accurate. The final responsibility for any decision to engage a Candidate rests with the Client, who is therefore strongly advised to check details, documentation and references personally. The Client shall also be responsible for obtaining work and other permits for the Candidate where necessary. The Agency does not offer any warranty as to the suitability, honesty, character or capability of any Candidate.
- d. If the Client requests a Candidate who is qualified to drive, the Agency will submit details of candidates who have stipulated that they hold a valid driving license for the UK, and will endeavour to obtain a copy of their driving licence, but the Agency is unable to make any guarantees about the Candidate's driving qualifications or the standard of their driving. It is the responsibility of the Client to verify the Candidate's driving standard and qualifications, and ensure that the Candidate is adequately insured.
- e. While the Agency will endeavour to meet the requirements of the Client it is under no obligation to ensure that the Client is introduced to any Candidates. The Agency reserves the right to refuse to supply the Client with Candidate details at its own discretion.
- f. The Client is responsible for ensuring compliance with all employment and other relevant legislation and regulations and all taxation obligations including, without limitation, national insurance contributions relating to the Engagement and all payments made to a Candidate and in any other way relating to the Engagement.
- g. The Agency holds no responsibility for the employment contract between the Client and the Candidate which is solely a matter to be arranged between the Client and the Candidate. The Agency may offer a template employment contract which should be treated solely as an example for guidance. Once the contract between the Client and the Candidate has been executed, the Client is responsible for submitting a copy to the Agency, in accordance with the Conduct of Employment Agencies and Employment Business Regulations 2003 (the "Act"); Under the Act the Agency is required to hold a copy of the employment contract between the Client and the Candidate.

- h. The Client is responsible for agreeing remuneration and conditions with the Candidate, prior to confirming the Engagement. 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.
- i. It is the Client's obligation to immediately inform the Agency if the Agency introduces a Candidate who has already been introduced to the Client by a third party. In the absence of any such notification the Agency is entitled to assume that it effected the introduction and the relevant Fee will be payable.

**5. REPLACEMENTS AND REFUNDS**

- a. The Agency cannot guarantee that a Candidate will complete a specific period of Engagement, and likewise does not guarantee to the Candidate that the Client will engage the Candidate for a specific period. The Fee relates solely to the search for and introduction of Candidates by the Agency to the Client and (subject to Clause 5(c) below) does not relate to the actual length of Engagement.
- b. If a Permanent Placement terminates within 6 weeks of the Commencement Date due to:
  - (i) The Client terminating the arrangement on grounds which are in the Agency's opinion reasonable; or
  - (ii) The Candidate terminating the arrangement on any grounds other than those set out in Clause 5(f) below

then the Client shall (subject to availability) be entitled to a replacement Candidate (the "Replacement") free of charge. Only one free Replacement shall be provided per Fee paid. In order to receive a Replacement the Client must provide written notice (by post or e-mail) ("Notice of Termination") to the Agency within two (2) working days of termination of the Engagement that the Engagement has been terminated.

- c. In the event that no suitable and available Replacement (as determined by the Agency) has been proposed by the Agency as a Permanent Placement within a 4 week period from the date of Notice of Termination then the Agency shall refund a proportion of the Fee (such proportion to be determined by the date of termination of the Engagement). Refunds shall be made in accordance with the following sliding scale:

<u>Period between Commencement Date and termination of the Engagement</u>	<u>% of Fee to be refunded</u>
1 – 14 days	60%
15 - 28 days	40%
29 - 42 days	30%

- d. If the Client chooses not to accept a suitable Replacement or if the Engagement is terminated more than 6 weeks after the Commencement Date then the Client shall not be entitled to any refund.
- e. If the Client does not pay the Fee within the required time in accordance with Clause 3(f) above, the Client shall not be entitled to a refund or replacement Candidate
- f. If the Candidate leaves due to
  - misconduct on the part of the Client (including a breach of these Terms); or
  - the Client providing false or misleading information (whether on the application form or otherwise); or
  - the Client changing the Candidate's location of employment, the Candidate's agreed working hours or job description; or
  - the Client not providing the Candidate with a contract of employment;

then the Client shall not be entitled to a free Replacement or a refund of any part of the Fee.

- g. This Clause 5 shall also apply in relation to Temporary Placements except that a free Replacement shall only be offered if the Candidate has completed less than 50% of the number of days of their agreed Engagement and the Engagement has been terminated within

2 weeks of the Commencement Date. In such circumstances and if no suitable Replacement is available then the Agency shall refund 50% of the Fee. If upon termination of the Engagement the Candidate has completed more than 50% of the number of days of the agreed Engagement then the Client shall not be entitled to a free Replacement or any refund.

## **6. TRIAL PERIOD**

- a. The Client shall be entitled to engage up to two (2) proposed Permanent Placement Candidates for a trial period of up to seven days without any Fee being payable to the Agency. The Candidate should be paid directly for their time. If a trial period is arranged or extended for beyond seven days then the Client shall pay a Temporary Placement Fee for the full trial period.
- b. If the Client wishes to engage any further Candidates on a trial basis then a Temporary Placement Fee shall be payable in relation to each further Candidate.

## **7. CANCELLATION**

- a. Should the Client cancel the Engagement after terms have been agreed but before the Engagement commences the Client will be liable for an administration fee of £250. If the Candidate cancels the Engagement prior to commencement then the Client shall be entitled to a Replacement or a full refund.
- b. If the Client cancels an arrangement with a Candidate who is travelling from Overseas after travel arrangements have been made then the Client must reimburse the cost of those travel arrangements.

## **8. LIABILITY**

The Agency shall endeavour to introduce Candidates who are suitable for the Client's requirements. However the Agency is providing services solely for the purpose of introducing Candidates to the Client and the final decision to employ a Candidate is the sole responsibility of the Client and the Agency shall not be liable for any costs damage losses (including loss of earnings) injury (unless due to the Agency's negligence) or misconduct related to the introduction of the Candidate to the Client or due to any inaccuracy in the information provided by the Candidate or any third party or from any failure to introduce a Candidate. In no circumstances shall the Agency have any liability to the Client beyond the value of the Fee paid. The Agency does not exclude or restrict liability for death or personal injury resulting from its negligence.

## **9. CONFIDENTIALITY**

All information provided by the Agency to the Client is confidential and must not be passed to a third party directly or indirectly (unless required by a law enforcement agency). If the Client passes confidential information on to a third party resulting in the engagement of a Candidate by a third party within 1 year of the Client being introduced to the Candidate then agency fees shall become payable by the Client.

## **10. PRIVACY**

The Data Protection Act 1998 (the "Data Protection Act") and the General Data Protection Regulation (GDPR) regulate the Agency's processing of personal data. The Agency's privacy policy is at <https://tinyurl.com/yxkedwfi> ("Privacy Policy"). You consent to the Agency holding and processing your personal data (including sensitive personal data) on the basis set out in the Privacy Policy.

## **11. JURISDICTION**

These Terms are governed by the laws of England and Wales and are subject to the exclusive jurisdiction of the Courts of England and Wales

## Schedule 1

### Agency Introduction Fees

#### **Fees for Live-in Nannies and Mothers Helps**

Permanent Placements (whether full time or part time)	5 x gross weekly salary (subject to minimum £450 placement fee)
Temporary Placements	£35 per day or £90 per week (whichever is less) calculated on a weekly basis

#### **Fees for Housekeepers and Nanny/Housekeepers (Live-in or Live-out)**

Permanent Placements (whether full time or part time)	5 x gross weekly salary (subject to minimum £450 placement fee)
Temporary Placements	£35 per day or £90 per week (whichever is less) calculated on a weekly basis