

# HAMPSTEAD NANNIES

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## TERMS & CONDITIONS

### Background

These Terms and Conditions shall apply to the provision of Services by the Agency to the Client.

In the event of conflict between these Terms and Conditions and any other terms and conditions (of the Client or otherwise), the former shall prevail unless expressly otherwise agreed by the Agency in writing.

### 1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Agency”	means Hampstead Nannies Limited a company registered in England under number 03494018 whose registered office is at 4 Horsley House, 7a Red Lion Lane, London, England, SE18 4JG;
“Candidate”	means any person introduced by the Agency to the Client for an Engagement;
“Client”	means any person, firm or company including any associates or subsidiaries to whom a Candidate is introduced;
“Confidential Information”	means any information concerning either Party and relating to its business methods, plans, systems, finances or projects; its trade secrets; its products or services; or any other information which is expressly described as confidential;
“Engagement”	means any engagement, temporary or permanent, or use by a Client of a Candidate;

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# HAMPSTEAD NANNIES

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“Introduction”	an introduction will be deemed to have taken place where the Agency has provided a Client with any information concerning a Candidate, or where a Client interviews a Candidate following an instruction from a Client to locate a Candidate;
“Introduction Fee”	means the fee payable by the Client to the Agency in accordance with the fees Schedule which forms part of these Terms and Conditions, on the introduction of a Candidate to a Client which results in the Engagement of a Candidate;
“Permanent Engagement”	means a permanent Engagement whereby the Client shall employ the Candidate;
“Remuneration”	means any salary, fees, bonuses, commission, allowances, or any other financial benefit payable to, or received by a Candidate for services to a Client;
“Schedule”	means any schedule referred to in these Terms and Conditions and attached hereto;
“Services”	means the agency services provided by the Agency to the Client as set out in these Terms and Conditions; and
“Temporary Engagement”	Means a temporary full or part time Engagement.

1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

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- 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 1.2.3 "these Terms and Conditions" is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;
- 1.2.4 a Schedule is a schedule to these Terms and Conditions; and
- 1.2.5 a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule; and
- 1.2.6 a "Party" or the "Parties" refer to the parties to these Terms and Conditions.
- 1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 1.4 Words imparting the singular number shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.

## 2. The Contract

- 2.1 Any and all business entered into by the Agency is subject to these Terms and Conditions and in the event of any conflict with any other Terms and Conditions these terms shall prevail unless agreed otherwise in writing by a Director of the Agency.
- 2.2 No modification or change to these Terms and Conditions will be valid unless the details of any such changes are in writing, signed on behalf of the Agency and the Client, and state the date on or after which such new terms will apply.
- 2.3 In the event that any part(s) of these Terms and Conditions or part thereof is declared to be invalid, unlawful, void or unenforceable then such terms or

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parts shall be severed and the remaining terms and conditions shall continue to be valid and enforceable to the fullest extent of the law.

- 2.4 The Engagement or interviewing of a Candidate, by or on behalf of the Client, or the commencement of work or provision of Services by a Candidate for the Client shall be deemed acceptance of these Terms and Conditions.
- 2.5 These Terms and Conditions are not contingent on the contract entered into between the Client and the Candidate.
- 2.6 These Terms and Conditions supersede all previous terms of business.

### 3. Vacancies

- 3.1 The Agency shall have the right to decline, cancel or otherwise remove any vacancy provided by the Client to the Agency at any time, for any reason and without giving prior notice to the Client.
- 3.2 If any vacancy appears to demonstrate that the Client intends to discriminate on the grounds of gender, sexual orientation, race, religion or age, it will be declined unless the vacancy is exempted from the provisions of the Sex Discrimination Act 1975; the Employment Equality (Sexual Orientation) Regulations 2003; the Race Relations Act 1976; the Employment Equality (Religion and Belief) Regulations 2003; or the Employment Equality (Age) Regulations 2006. In the case of any applicable exemptions, the vacancy advertisement must be accompanied by a written statement explaining those exemptions and how they apply to the vacancy.
- 3.3 If, in the opinion of the Agency, any vacancy indicates any illegal purposes on the part of the Client, the Agency may, without notice, report the vacancy and the Client to the relevant authorities. Such authorities may include, but are not limited to, the Department for Work and Pensions, ACAS or the Information Commissioner's Office.
- 3.4 All vacancies shall contain details of no more than one single vacancy unless

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otherwise agreed in writing between the Agency and the Client.

#### 4. **The Agency's Obligations**

- 4.1 The Agency shall use its best and reasonable endeavours to find suitable and willing Candidates to fill such vacancies as are notified to the Agency by the Client or to notify the Client if the Agency believes it is unable to assist with the Client's requirements.
- 4.2 The Agency will endeavour to ensure that all Candidates introduced to the Client have the experience, qualifications and authorisations which are required by the Client, by law or by any professional body, for the position(s) that the Client wishes to fill, and will also endeavour to verify the identity of Candidates prior to introducing them to the Client.
- 4.3 At the same time as proposing a Candidate to the Client, the Agency will inform the Client of such matters as detailed in sub-Clause 4.2 that the Agency has obtained confirmation of.
- 4.4 The Agency will endeavour to take all reasonable steps to ensure that Clients and Candidates are aware of any requirements imposed by law or any professional body on the vacancy / vacancies that the Client seeks to fill.
- 4.5 The Agency will endeavour to find a suitable Candidate for each vacancy but gives no warranties that it shall do so.
- 4.6 Where a Candidate is offered or applying for Engagements that involve working with or caring for any persons under the age of 18 or anyone in need of care and attention, the Agency will take all reasonably practical steps to ensure that it obtains and makes available to Clients copies of all necessary authorisations required for the Engagement, written reference(s) from person(s) unrelated to the Candidate.
- 4.7 The Agency will process an enhanced DBS check on all Candidates if their current DBS check is older than 18 months and if no other third party is

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processing or has processed one on their behalf in this period. We will also process enhanced DBS checks on those Candidates who don't currently possess one. Furthermore, the Agency will advise all Candidates to have the required Paediatric First Aid certification.

- 4.8 The Agency will provide the Client with a Candidate for a trial to be agreed between the Parties and payment of any such trial shall be due in full by the Client.

## 5. The Client's Obligations

- 5.1 The Client shall provide to the Agency all information which is reasonably required for the Agency to provide the Services. The Client shall use its best and reasonable endeavours to ensure that such information is complete, accurate and up-to-date.
- 5.2 The Client shall ensure that all information provided to the Agency does not contain any material which could be regarded as offensive, indecent, obscene, illegal, dishonest, untruthful, defamatory or discriminatory.
- 5.3 The Client shall ensure that all information provided to the Agency does not contain any material which infringes the rights of any third parties (including, but not limited to, intellectual property rights).
- 5.4 The Client must provide the Agency with details of the vacancy, that the Client wishes to fill, which must include the type of work required, the date of commencement, the duration, the hours, rates of pay and location.
- 5.5 The Client must inform the Agency of any Health and Safety risks or requirements of the vacancies the Client wishes to fill, as well as the action taken by the Client to minimise and control such risks.
- 5.6 During the Client's Engagement of the Candidate, the Client will ensure that the Candidate is provided with a suitable and safe working environment which in no way may compromise and affect the welfare of the Candidate and will

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ensure that the place of work is clean and hygienic and complies with appropriate health and safety laws.

- 5.7 The Client warrants that it shall immediately, and in any event within 24 hours of the Agency's first provision of information relating to the Candidate's identity, inform the Agency if the Client believes that it is aware of the identity of the Candidate other than via information supplied by the Agency. The Client agrees that it will be deemed not to have been aware of the identity of the Candidate prior to the Agency's provision of the information relating to the Candidate's identity.
- 5.8 The Client acknowledges that the Agency is under no obligation to provide the Services until all required information has been provided by the Client in accordance with sub-Clause 5.1.
- 5.9 The Client shall inform the Agency immediately in the event that any relevant information changes following the submission of that information to the Agency.
- 5.10 Subject to the provisions of sub-Clauses 4.2 and 4.7, the Agency shall not verify or otherwise check any Candidate details, howsoever they may be provided to the Client.
- 5.11 It shall be the sole responsibility of the Client to ensure that Candidates are suitable for the relevant vacancies and to obtain any take steps to verify the references provided by the Agency.
- 5.12 It shall be the sole responsibility of the Client to obtain any required permits (including, but not limited to, work permits).
- 5.13 It shall be the sole responsibility of the Client to arrange for any required medical examinations or investigations.
- 5.14 The Client must notify the Agency immediately of any offer of an Engagement that it makes to a Candidate.
- 5.15 The Client must notify the Agency immediately of the acceptance of any offer

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of Engagement that is made to a Candidate and, if employed for a Permanent or Temporary Engagement, provide details of the Candidate's Remuneration.

- 5.16 The Client must notify the Agency immediately if, following the Engagement of a Candidate, the Candidate's remuneration increases at any time and the Introduction Fee detailed in clause 6 will be increased accordingly.
- 5.17 The Client must provide the Agency with a copy of the job offer or contract given to the Candidate.
- 5.18 Notwithstanding sub-Clauses 4.2 and 4.7 above the Client must satisfy itself as to the suitability of a Candidate for any vacancy and the Client must be responsible for taking up references and checking the validity of qualifications and certificates.
- 5.19 The Client accepts that the Agency acts only as an introduction agency for childcare and domestic placements and therefore holds no employer responsibility for any Candidate whether introduced on a Permanent Engagement or a Temporary Engagement.
- 5.20 The Client is responsible for payment of Remuneration to the Candidate.
- 5.21 The Client shall inform the Agency immediately, in writing, of serious dissatisfaction with performance or conduct of the Candidate. The Agency shall endeavour to find a suitable replacement subject to Clause 6.
- 5.22 For any Permanent Engagement, the Client will comply with UK employment and tax law, including, but not limited to the provision of a contract of employment, payslips, correct deductions for tax and national insurance, as well as any pension contributions, if the Candidate is eligible.
- 5.23 If the Client or a member of the Client's family or any acquaintance or associate of the Client, passes on the details of a Candidate to any other person or persons within 12 months of the Candidate's introduction to the Client by the Agency, resulting in the Engagement of the Candidate, the Client shall be liable for payment of the relevant full Engagement Fee in accordance with

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Clause 6.

- 5.24 If the Client wishes to cancel the Engagement of the Candidate, it shall be required to provide at least 7 days' written notice ahead of the Engagement. Failure to provide such notice shall result in the Client being required to pay 50% of the Introduction Fee.

## 6. Fees and Payment

- 6.1 The Introduction Fee payable by the Client to the Agency upon the commencement of an Engagement by a Candidate shall be calculated as detailed in the fees Schedule of these Terms and Conditions.
- 6.2 The Client will not be liable for any fees until a Candidate Engagement is agreed whereby the Agency will render an invoice to the Client.
- 6.3 The Client must pay the Agency's invoice when the Permanent Engagement is confirmed, before the agreed start date and, in any event, within 7 days of receiving the invoice. If the Permanent Engagement is arranged at short notice, payment of the Engagement Fee shall be due within 24 hours of commencement of the agreed Engagement.
- 6.4 The Agency shall send the Client an invoice on an as and when basis for all Temporary Engagements. Payment of the invoice shall be due within 7 days from the date of the invoice or immediately if the Engagement has started.
- 6.5 The Agency reserves the right to charge interest at the rate of 8% above the Bank of England rate of interest per annum on any invoiced fees that remain unpaid by the Client from the due date to the date of payment.
- 6.6 If the placement fails during the first eight weeks of a Permanent Engagement, the Agency will endeavour to find a suitable replacement Candidate at no extra cost to the Client. If the Agency is unable to find a suitable replacement candidate within this time, or the Client finds an alternative Candidate through another source, then the Agency shall refund the Introduction Fee in

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accordance with clause 6.7 below.

- 6.7 If a Permanent Engagement fails within 8 weeks and no suitable replacement is found, the Client will be entitled to a partial refund of the Introduction Fee. Subject to clause 6.6 above, the Client shall be entitled to a partial refund on a sliding scale according to when the Candidate leaves and not when the Candidate is given notice or gives notice to leave the Engagement, as detailed in the fee Schedule attached to these Terms and Conditions.
- 6.8 Where a Candidate has agreed to an Engagement but fails to commence at any time, the Client shall be entitled to a full refund.
- 6.9 The Introduction Fee charged for the introduction of any applicant is applicable to one Engagement only. If, however, the number of days/hours is extended at any time, the Client shall be liable for an additional and appropriate fee, according to the Agency's fee structure.
- 6.10 Should a Temporary Engagement become a Permanent Engagement at any stage, the Client shall be liable for a Permanent Engagement fee minus the Temporary Engagement one already paid and as detailed in the fee Schedule attached to these Terms and Conditions.
- 6.11 The Client shall make payment of the Agency's invoice in GBP by either BACS to the bank account nominated from time to time by the Agency or by credit or debit card using a third party payment processor namely Stripe. Any associated payment fees shall be the responsibility of the Client. If the Agency receives a payment which is less than the invoice amount, due to fluctuations in exchange rates, they shall inform the Client and a further payment shall be due to settle the invoice in full.

## 7. Confidentiality

- 7.1 Each Party undertakes that, except as provided by sub-Clause 7.2 or as authorised in writing by the other Party, it shall, at all times:

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- 7.1.1 keep confidential all Confidential Information;
  - 7.1.2 not disclose any Confidential Information to any other party;
  - 7.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to these Terms and Conditions;
  - 7.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
  - 7.1.5 ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 7.1.1 to 7.1.4 above.
- 7.2 Either Party may:
- 7.2.1 disclose any Confidential Information to:
    - 7.2.1.1 any sub-contractor or supplier of that Party;
    - 7.2.1.2 any governmental or other authority or regulatory body; or
    - 7.2.1.3 any employee or officer of that Party or of any of the aforementioned persons;to such extent only as is necessary for the purposes contemplated by these Terms and Conditions, or as required by law, and in each case subject to that Party first informing the person in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 7.2.1.2 above or any authorised employee or officer of any such body) obtaining and submitting to the other Party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and
  - 7.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is, or has become, public

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# HAMPSTEAD NANNIES

est. 1998

knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.

- 7.3 The provisions of this Clause 7 shall continue in force in accordance with their terms, notwithstanding the termination of these Terms and Conditions for any reason.

## 8. Data Protection

- 8.1 In this Clause 8:

8.1.1 “Data Protection Legislation” means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended;

8.1.2 “GDPR” means EU Regulation 2016/679 General Data Protection Regulation and recently incorporated UK equivalent UK GDPR; and

8.1.3 “personal data” means personal data as defined in the Data Protection Legislation.

- 8.2 All personal data that either the Agency or the Client (“First Party”) may use will be collected, processed, and held by that First Party in accordance with the provisions of Data Protection Legislation and the rights under the Data Protection Legislation of the other party being, as the case may be, either the Agency or the Client (“Other Party”) and the rights under the Data Protection Legislation of any third party.

## 9. Liability

- 9.1 With the exception of death or personal injury the Agency shall not be liable or responsible for any loss or damages of any nature whether direct or indirect including any loss of profits or any consequential damages suffered or

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est. 1998

incurred by the Client as a result of the Introduction of a Candidate to the Client by the Agency, the Engagement of a Client Introduced by the Agency or the failure of the Agency to Introduce any Candidate to the Client.

- 9.2 Permanent Engagement Candidates are under the direct control of the Client. The Client is therefore responsible for any and all acts or omissions of the Candidate which occur in the course of the Engagement.

## 10. Termination

- 10.1 Subject to the remaining provisions of this Clause 10, the contract shall continue for the Term which shall be agreed between the Parties prior to the start of the Engagement.

- 10.2 Either Party has the right to terminate with immediate effect in writing or if the other:

10.2.1 has committed a material breach of these Terms and Conditions, unless such breach is capable of remedy, in which case the right to terminate will be exercisable if the other Party has failed to remedy the breach within 14 days after a written notice to do so; or

10.2.2 goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.

- 10.3 In the event of termination for default committed by the Client, all payments required under these Terms and Conditions shall become due and immediately payable.

- 10.4 Any and all obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of the Contract shall survive termination under this Clause 10.

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est. 1998

## 11. Indemnity

The Client shall indemnify the Agency against any costs, liability, damages, loss, claims or proceedings which may arise out of its use of the Services or out of any breach of any part of these Terms and Conditions.

## 12. Force Majeure

Neither Party to these Terms and Conditions shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, pandemics, governmental action or any other event that is beyond the control of the Party in question.

## 13. Law and Jurisdiction

13.1 These Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

13.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

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