

# TERMS AND CONDITIONS OF REGISTRATION

## September 2021

### 1 DEFINITIONS

The following expressions shall have the following meanings:

“**Agency**” means Carly Painter, acting as a sole trader under the trade name Sunrise Nanny Agency and Sunset Babysitting Agency. Her contact address is 146 Capstone Road, Bournemouth BH8 8RT;

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

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

“**Client**” means any family, third party, individual, partnership, agency or other organisation or entity which contracts with the Agency 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;

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

“**Registration**” means the Registration provided by the Agency to the Candidate upon acceptance by the Agency of the Registration 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 Agency 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 REGISTRATION FORM AND THE AGENCY’S OFFER OF REGISTRATION

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

3.2 The Agency's acceptance of the Registration 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 AGENCY**

4.1 The Agency 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 Agency will, subject to the Candidate's Registration Form and these Terms and Conditions, act as the Candidate's Agency 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 Agency and the Candidate nor shall it constitute a partnership or joint venture.

4.4 The Agency 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 Agency is in the business of procuring Engagement for nannies, babysitters, maternity nurses, proxy parents, sleep / troubleshoot consultants and mother's help sleep and private domestic staff accordingly nothing in this Agreement or these Terms and Conditions shall restrict the Agency from acting as Agency for any third party and providing to it services the same or similar to those set out in these Terms and Conditions.

4.6 The Candidate is under no obligation to accept any referral or job to which he / she has been introduced by the Agency, and the Agency is under no obligation to procure interviews or job offers on his / her behalf.

4.7 The Agency will use its reasonable endeavours to ensure that the Candidate is correctly employed by the Client with an employment contract and payroll / pension set up for the Candidate. The Candidate acknowledges that the legal obligation however lies with the Client and not the Agency.

#### **5 CANDIDATE OBLIGATIONS**

5.1 The Candidate should not engage in any conduct which is detrimental to the interests of the Agency, would negatively affect the Agency's relationship with the Client or is likely to bring the Agency into disrepute. In particular the Candidate shall always ensure they present themselves in a neat and tidy fashion.

5.2 The Candidate warrants that he/ she is over 18 years of age with at least two years' professional childcare experience, demonstrated either with a recognized childcare qualification or at least five years; experience within a childcare setting. He / she is eligible to work in the UK and has a current valid first aid qualification. For the placement of junior nannies, after school nannies, babysitters, housekeepers or mothers' help, the agency will consider candidates with less experience / qualifications.

5.3 The Candidate shall, before the commencement of the Registration, have provided the Agency with satisfactory evidence of their identity which shall include, but not be limited to, a copy of the Candidate's passport, birth certificate, qualifications, visas and driving licence (if applicable). Where the Agency has been unable to meet the Candidate in person, the Candidate shall provide certified copies of the above and / or has conducted an online screen interview showing the original documents to the Agency.

- 5.4 Where the Candidate has worked in the UK before, he / she shall provide the Agency with his / her DBS code for Update Service, with the corresponding certificate or DBS issued within last 12 months. The Enhanced DBS / police check must be suitable for the workforce that they want to work in and furthermore must be enhanced for a role involving children. In the event the Candidate requires a new or updated Enhanced DBS to be carried out, the cost of any such Enhanced DBS and the subscription to the DBS Update Service shall be borne by the Candidate.
- 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 employment, 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 Agency with: (a) up to date copies of such qualifications and/or authorisations; and (b) the names of at least two referees (who are not relatives of the Candidate) who the Candidate agrees that the Agency 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 Agency 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 shall immediately inform the Agency should there be any reason or circumstance under which it would be detrimental to the interests of the Agency, the Client or the Candidate for the Candidate to take up a particular position with a Client.
- 5.10 The Candidate shall inform the Agency of any interviews arranged between the Client and the Candidate, excluding those already organised by the Agency with the Client on behalf of the Candidate.
- 5.11 Although the Agency will endeavour to introduce the Candidate to Client families as well suited as possible, the decision about whether to accept a job offer is entirely the Candidate's responsibility and the Candidate acknowledges that the Agency does not offer any warranty as to the suitability of the job or the character of the Client.
- 5.12 The Client acknowledges that any offer of employment is subject to the receipt of satisfactory references with respect to the Candidate.
- 5.13 Where a Candidate is self-employed, the Candidate will be responsible for payment of their own tax and national insurance contribution liabilities. The Agency shall have no responsibility for reporting to HMRC on the Candidate's behalf and in no circumstances shall an employee relationship be created between the parties.
- 5.14 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 Agency 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 Agency 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 Agency within 12 months

of such introduction, the Candidate shall inform the Agency immediately and provide the Agency with full details of the offer including a copy of the offer letter/contract of employment if requested.

- 5.16 The Candidate shall notify the Agency 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 AGENCY OBLIGATIONS

- 6.1 The Agency 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 Agency shall provide the Registration with reasonable skill, care and in accordance with the recognised codes of practice and statutory obligations.
- 6.3 The Agency 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 Agency 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 not 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 Registration 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 Agency may terminate this Registration without notice at any time and for any reason at the Agency's sole discretion.
- 7.3 The Candidate shall be entitled to terminate the Registration at any point by giving notice in writing to the Agency or if the Agency 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 Agency shall be limited to the sum insured under the professional indemnity insurance policy held by the Agency 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 Agency's liability for:

8.2.1 death or personal injury caused by the negligence of the Agency; or

8.2.2 fraud or fraudulent misRegistration; or

8.2.3 any other matter for which it would be illegal or unlawful for the Agency to exclude or attempt to exclude the Agency'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 Registration 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.