

## **TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT OVERSEAS STAFF (TO BE DIRECTLY ENGAGED BY THE CLIENT)**

### **1. DEFINITIONS**

*1.1 In these Terms the following definitions apply:*

**"Agency"**

*means Imperial Household Staff Limited (Registered Number 07218704) trading as Imperial Nannies and Governesses of 17 Radley Mews W8 6JP;*

**"Client"**

*means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) to which the Candidate is introduced;*

**"Candidate"**

*means the person introduced by the Agency to the Client for an Engagement including any officer, employee or other representative of the Candidate if the Candidate is a corporate body, and members of the Agency's own staff;*

**"Cancellation Fee"** means the fee payable by the Client to the Agency when the Client withdraws an Offer of Engagement made to the Candidate prior to the Candidate commencing the Engagement which is calculated in accordance with clause 3.11;

**"Commencement Date"** means the date the Terms were accepted by the Client either expressly or implied through actions and, for the avoidance of doubt, all the provisions of the Terms shall be deemed to become effective at this date.

**"Data Protection Laws"** means the Data Protection Act 2018, the General Data Protection Regulation (EU 2016/679) and any applicable statutory or regulatory provisions in force from time to time relating to the protection and transfer of personal data.

**"Engagement"**

*means the engagement (including the Candidate's acceptance of the Client's offer), employment or use of the Candidate by the Client or by any third party to whom the Candidate has been introduced by the Client (with or without the Agency's knowledge or consent), on a permanent, temporary or short-term basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; or through a limited company of which the Candidate is an officer, employee or any other representative; and "Engage", "Engages" and "Engaged" shall be construed accordingly*

**"Engagement Commencement"** means the date the engagement commences

**"Introduction"**

*means i) the Agency's disclosure of a Candidate's name and/or detailed particulars either verbal or written, by telephone, in person or by electronic mail ii) the Client's acceptance of an interview either by telephone or in person iii) any interaction with the Agency's Candidate will be construed as an Introduction*

**"Introduction Fee"** means the fee payable by the Client to the Agency for an Introduction resulting in an Engagement as calculated in accordance with clause 3.4;

**"Losses"**

*means all losses, liabilities, damages, costs, expenses, fines, penalties or interest, whether direct, indirect, special or consequential (including, without limitation, any economic loss or other loss of profits, business or goodwill, management time and reasonable legal fees) and charges, such items arising out of or resulting from actions, proceedings, claims and demands;*

**"Offer of Engagement"** means the Clients Offer of Engagement either directly to the Candidate or through the Agency;

**"Position"**

*means the vacancy or vacancies the Client advises the Agency to recruit for;*

**"Remuneration"**

*includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Candidate for services rendered to or on behalf of the Client or any third party;*

**"Replacement Candidate"** means any Candidate Introduced by the Agency to the Client to fill the Engagement following the Introduction of another Candidate whose Engagement either did not commence or was terminated during the first 12 weeks of the Engagement;

**"Overseas Engagement"** means an Engagement that is determined by the Agency (in its sole discretion) to be an Overseas Engagement as described in clause 3.4;

**"Vulnerable Person"** means any person who by reason of age, infirmity, illness, disability or any other circumstance is in need of care or attention, and includes any person under the age of eighteen.

*1.2 Unless the context requires otherwise, references to the singular include the plural and the masculine includes the feminine and vice versa.*

*1.3 The headings contained in these Terms are for convenience only and do not affect their interpretation.*

### **2. THE CONTRACT**

*2.1 These terms of business ("the Terms") constitute the contract between the Agency and the Client for the Introduction of permanent staff (to be engaged directly by the Client) and are deemed to be*

*accepted by the Client by virtue of an Introduction, the Engagement of a Candidate (in whatever capacity whether it be for the original vacancy as outlined by the Client or in another capacity), or the passing by the Client of any information about a Candidate to any third party following an Introduction.*

*2.2 These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by Mrs Sarajane Ambrose, Managing Director of the Agency, these Terms prevail over any other terms of business or purchase conditions (or similar) put forward by the Client and supersede all previous agreements.*

*2.3 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between Mrs Sarajane Ambrose and the Client and are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.*

*2.4 The Agency acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) when Introducing Candidates to the Client for direct Engagement by that Client.*

*2.6 The Client authorises the Agency to seek Candidates using discreet strategic advertising in various appropriate publications and internet media including the Agency's website.*

*2.7 It is the Client's responsibility to ensure that only one Agency is engaged in respect of the Engagement of a Candidate. The Client must inform the Agency in writing within 4 hours if details of any Candidate Introduced have already been received from another agency, or through another source. If the Agency a) receives no such notification, and the Candidate is engaged by the Client, the full Introduction Fee will be payable to the Agency. If the Client makes an Offer of Engagement to the Candidate the Agency is entitled to charge a Cancellation Fee. The Agency reserves the right to ask the Client for written documentation to demonstrate dates of all communications from other agencies or sources.*

### **3. NOTIFICATION AND FEES**

*3.1 The Client agrees to:*

*3.1.1 notify the Agency immediately of the terms and offer of an Engagement which it makes to the Candidate;*

*3.1.2 notify the Agency immediately that its offer of an Engagement to the Candidate has been accepted and to provide details to the Agency of the Remuneration agreed with the Candidate together with any documentary evidence as requested by the Agency; and*

*3.1.3 pay the Introduction Fee, to be calculated in accordance with the provisions of this clause 3, by the due date for payment in clause 3.3;*

*3.2 The Introduction Fee, as calculated in clause 3.4, is payable if the Client Engages the Candidate within the period of 12 calendar months from the date of (a) the Introduction, (b) the Client's withdrawal of an offer of Engagement, (c) the Candidate's rejection of an offer of an Engagement, (d) the last interview or (e) any other meeting or communication between the Client and Candidate, whichever is the later.*

*3.3 The Introduction Fee shall be payable within 7 days of the date of the invoice or 10 days prior to the Engagement Commencement whichever is sooner. The Candidate will not be permitted by the agency to travel to join the Client without the agency receiving full payment of the Introduction Fee. The Agency's invoice which shall be rendered once the Candidate accepts the offer of the Engagement, whether such offer is conditional or not;*

*3.4 A Registration Fee of £195 + VAT will be charged on all Overseas Engagements to be paid upon registering the position. The Introduction Fee on Overseas Engagements is calculated upon the Remuneration during the first 12 months of the Engagement as follows:*

*3.4.1 23% of Remuneration of the annual net salary + VAT*

*3.5 Each Engagement shall be categorised by the Agency at its sole discretion, having regard to the anticipated location(s) where the Candidate will be required to work in carrying out the Engagement, as either a UK Engagement or an Overseas Engagement and the Client agrees and accepts that each decision of the Agency shall be final and binding.*

*3.6 VAT is charged at the standard rate on all fees to Clients in the European Union. All invoices must be paid in full in GB Pounds 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. The Company's VAT Number is: 989 715447.*

*3.7 Where the Remuneration is not known, the Agency will charge an Introduction Fee calculated in accordance with clause 3.4 based on its determination of the Remuneration taking into account the market rate level of remuneration applicable for the position in which the Candidate has been Engaged and with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally.*

*3.8 To enable the Agency to calculate any increase in the Introduction Fee and raise additional invoice(s) accordingly, the Client undertakes to (i) to provide, promptly on request, details of the actual number of hours each week worked by the Candidate in such 12 month period and (ii) that such details will be true, accurate and complete*

*3.9 The Client's obligations under this clause 3 shall be performed without any right of the Client to invoke set-off, deductions, withholdings or other similar rights.*

*3.10 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 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 payment.*

*3.11 If, after an Offer of Engagement has been made to the Candidate, the Client decides for any reason to withdraw it prior to the Candidate accepting the Engagement, the Client shall be liable to pay the Agency a Cancellation Fee of 50% of the Introduction Fee.*

3.12 In the event that any Agency staff with whom the Client has had personal dealings accepts an Offer of Engagement with the Client while employed by the Agency (or within 3 months of leaving employment at the Agency), the Client shall be liable to pay the Agency a fee equivalent to the Introduction Fee calculated in accordance with clause 3.4. For the avoidance of doubt, the Client shall not be entitled to a refund for any fee due under this clause in any circumstances.

#### 4. REPLACEMENT CANDIDATE

4.1 If, after an offer has been made and accepted, the Engagement (a) does not commence because the Candidate withdraws their acceptance; or (b) once it has commenced, is terminated by either the Candidate or the Client (except in circumstances where the Candidate is made redundant) within 12 weeks of the Commencement Date, the Agency will endeavour, without additional charge, to find one suitable Replacement Candidate based on the original specification given for the position the Client is seeking to fill (ie "like-for-like" replacement). If a suitable Replacement Candidate is Engaged the Client will remain only liable for the original Introduction Fee, based on the original Engagement, and no additional Introduction Fee shall be charged unless the Replacement Candidate's Remuneration is higher than that of the original Candidate.

4.2 In order to qualify for a Free Replacement Candidate as set out in Clause 4.1, the Client must comply with the provisions of Clause 3.1 and must notify the Agency in writing of the termination of the Engagement or the non-commencement of the Engagement within 48 hours of its termination or non-commencement; and

4.2.1 the work the Candidate was Engaged for was as set out and agreed prior to the Offer of Engagement.

4.2.2 the Candidate did not leave the Engagement due to discrimination, violence or other acts against the Candidate.

4.2.3 the Candidate has been paid up-to-date according to their Contract to include but not limited to their notice period and any provisions purchased for the household including those for the children and travel expenses incurred during the course of their duties.

4.2.4 the Engagement is terminated by either the Client or the Candidate.

4.2.5 the Engagement can not have terminated (or offer of Engagement have been withdrawn) for reasons of personality clash, the role being made redundant or the household being restructured.

4.3 For the purposes of this clause 4 the date of termination of the Engagement shall be the date on which the Candidate ceases working or would have ceased working for the Client, but for any period of garden leave or payment in lieu of notice, whichever is the later.

4.4 In circumstances where clause 3.10 applies, the full Introduction Fee is payable and there shall be no entitlement to a free replacement.

4.5 If subsequent to the Client receiving a Replacement Candidate the original Candidate is re-Engaged in any capacity within a period of 12 calendar months from the date of termination or any communication, the Agency will be entitled to charge a further Introduction Fee and the Client shall not be entitled to any further free replacements in relation to the re-Engagement of this Candidate.

#### 5. INTRODUCTIONS TO THIRD PARTIES

Introductions of Candidates are confidential. If a Client discloses a Candidate's details to a third party, that will be deemed to be a "**Third Party Introduction**". If that Third Party Introduction results in an Engagement of the Candidate by the third party within 12 months of the Agency's Introduction of the Candidate to the Client, then the Client will be liable to the Agency for payment of an Introduction Fee calculated in accordance with clause 3.4. Neither the Client nor the third party shall be entitled to a Free Replacement under clause 4 in any circumstances.

#### 6. SUITABILITY CHECKS

6.1 The Agency endeavours to ensure the suitability of Candidates Introduced to the Client to work in the position which the Client seeks to fill by taking reasonably practicable steps to:

6.1.1 ensure that the Engagement would not be detrimental to the interests of either the Client or the Candidate;

6.1.2 ensure that both the Client and Candidate are aware of any requirements imposed by law or by any professional body;

6.1.3 confirm that the Candidate is willing to work in the position.

6.2 Notwithstanding clause 6.1 the Client must satisfy itself as to the suitability of the Candidate for the position they are seeking to fill. The Client is responsible for:

6.2.1 taking up any references provided by the Candidate before Engaging the Candidate;

6.2.2 checking the Candidate's right to work and obtaining permission to work as may be required by the law of the country in which the Candidate is Engaged to work;

6.2.3 the arrangement of medical examinations and/or investigations into the medical history of any Candidate; and

6.2.4 satisfying any medical and other requirements, qualifications or permission required for the Candidate to work in the Engagement.

6.3 To enable the Agency to comply with its obligations under clause 6.1 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the following:

6.3.1 any information it has suggests it would be detrimental to the interest of either the Client or the Candidate for the Candidate to work in the position which the Client seeks to fill;

6.3.2 the type of work that the Candidate would be required to do;

6.3.3 the location and hours of work;

6.3.4 the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position;

6.3.5 any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;

6.3.6 the date the Client requires the Candidate to commence the Engagement;

6.3.7 the duration or likely duration of the Engagement;

6.3.8 the minimum rate of Remuneration, expenses and any other benefits that would be offered;

6.3.9 the intervals of payment of Remuneration; and

6.3.10 the length of notice that the Candidate would be entitled to give and receive to terminate their Engagement or employment with the Client.

6.4 Where the Candidate is Introduced for a position which involves working with, caring for or attending a Vulnerable Person, the Agency shall, in addition to the obligations in clause 6.1, take reasonably practicable steps to:

6.4.1 obtain confirmation of the Candidate's identity;

6.4.2 obtain confirmation that the Candidate has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body; and

6.4.3 obtain and offer to provide copies to the Client of two references from persons who are not relatives of the Candidate and who have agreed that the references they provide may be disclosed to the Client; and any relevant qualifications or authorisations of the Candidate. If the Agency has taken all reasonably practicable steps to obtain such information and has been unable to do so fully it shall inform the Client of the steps it has taken to obtain this information in any event.

#### 7. CONFIDENTIALITY AND DATA PROTECTION

All information relating to a Candidate is confidential and subject to the Data Protection Laws and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the Data Protection Laws in receiving and processing the data at all times. In addition information relating to the Agency's business which is capable of being confidential must be kept confidential and must not be divulged to any third party, except information which is in the public domain.

#### 8. INFORMATION TO BE PROVIDED

When the Agency Introduces a Candidate to the Client the Agency shall inform the Client that they have obtained confirmation of the matters set out in clause 6.1 [and in the case of a position which involves working with Vulnerable Persons the matters in clause 6.4]. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any public or bank holiday) following, save where the Candidate is being Introduced for an Engagement which is the same as one in which the Candidate has worked within the previous 5 business days and such information has already been given to the Client.

#### 9. LIABILITY

9.1 The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking a Candidate for the Client or from the Introduction to or Engagement of any Candidate by the Client or from the failure of the Agency to introduce any Candidate. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.

9.2 The Client shall indemnify and keep indemnified the Agency against any Losses incurred by the Agency arising out of any non-compliance with the Data Protection Laws, and/or as a result of any breach of these Terms by the Client.

#### 10. NOTICES

All notices which are required to be given in accordance with this Agreement shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, by email or facsimile transmission. Any such notice shall be deemed to have been served if by hand when delivered, if by first class post 48 hours following posting and if by email or facsimile transmission, when that email or facsimile is sent.

#### 11. SEVERABILITY

If any of the provisions of these Terms shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining terms, which shall continue to be valid to the fullest extent permitted by applicable laws.

#### 12. GOVERNING LAW AND JURISDICTION

12.1 These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

12.2 Where these Terms are also provided in another language other than English, whilst the translation is believed to be accurate, no warranty to that effect is given, and the English language will prevail.

Signed by the Client \_\_\_\_\_ Title \_\_\_\_\_ Print Name \_\_\_\_\_

Signed for and on behalf of the Client \_\_\_\_\_ Print Name \_\_\_\_\_

I confirm I am authorised to sign these Terms on behalf of the Client

Date \_\_\_\_\_

Signed for and on behalf of the Agency \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_