

Au Pair Care Australia Pty Ltd ("APCA") is an introductory service provider who screens, matches and introduces potential Nannies to Australian Families for a possible placement. We thank you for your interest in our Introduction Service.

Our service is designed to match potential live-in and live-out Nannies with Australian Families.

During the Placement, our Nannies can expect a remuneration package for their time caring for children with benefits including applicable entitlements, accommodation and board.

During the Placement, the Family can expect:

- Assistance with caring for the children and light household duties which are relevant to the children.
- Someone who will embrace the experience and become part of your family.

Please refer to our website, [www.aupaircareaustralia.com.au](http://www.aupaircareaustralia.com.au) to read more about the amazing benefits of hiring a Nanny.

\*Terms and Conditions are subject to change and therefore should be referred to before each introduction is made.

Please do not hesitate to contact our team at Au Pair Care Australia, if you have any questions, or refer to our website [www.aupaircareaustralia.com.au](http://www.aupaircareaustralia.com.au)

Kind Regards

Michelle Gee

Director

Au Pair Care Australia

[info@aupaircareaustralia.com.au](mailto:info@aupaircareaustralia.com.au)

## THE SERVICE

Our service can be divided into 5 main stages as set out below. Performance of our services is subject to our terms and conditions.

### **1. REGISTER / ENQUIRE & CONSULTATION**

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If you make an enquiry with us, we will be in contact to start the application process or go through any questions you may have on wanting to hire a Nanny or become a Nanny.

Once we receive your application form, we will interview you to establish and confirm your suitability for our program.

We require that Nannies provide a resume/CV to assist their applications.

If the application and interview process is successful, families only, will be required to pay a non-refundable Registration Fee of **\$150.00**. This will be invoiced to you and is required to be paid within 7 days in accordance with our terms and conditions.

We will begin sourcing Nannies that match your requirements and needs within 48 hours of receiving the registration fee / registration form. If no Nannies meet the requirements at the time of registration, then we will do our best to source a suitable Nanny as soon as possible.

Our screening and matching process can take as little as 3-4 weeks, however it can take longer depending on your requirements. If a match is not made in the meantime, we will continue to provide you with potential matches for up to 6 months following payment of the Registration Fee.

### **2. SCREENING AND MATCHING PROCESS**

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APCA will conduct a telephone call or Skype/Whatsapp interview with all potential Nannies/Families.

References are required for all applicants.

Nannies will also be resourced on how to apply for a working with children's check (if they don't already have one).

You will only be provided with profiles from Families/Nannies that have agreed to submit the following documents:

- At least 1 reference (Families) & 2 references (Nannies); and
- A current police/criminal check report for each person who is over the age of 18 (both potential Nannies and members of potential Family's household).
- Working with Children's Check
- First Aid Certification

We will provide all nominated referees on your behalf with a reference form which asks a series of questions about the Nanny or Family. We will only provide you with profiles that best suit you in our absolute discretion. The selection is usually based on common interests and requirements between the Family and the Nanny.

However, it is also your responsibility to interview the potential Nanny / Family and to determine the suitability of a potential match as it is ultimately your decision to offer or accept a placement based on the information received.

### **3. INTRODUCTION**

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We will provide profiles to both Families and Nannies, however the contact information will only be visible on the Nannies profile for the Family to contact them.

When a Family selects a Nanny that they would like to learn more about, we encourage them to make contact with the Nanny within 48 hours and interview them.

This is a great opportunity to ask any questions that you may have.

Our team at Au Pair Care Australia will be available to be contacted throughout this introduction process.

### **4. FORMAL INVITATION AND CONFIRMATION**

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When each of the Nanny and the Family advise us that they wish to exchange contact information to start negotiating a potential placement, APCA will invoice the Family for the Introduction Fee to be paid within 7-14 days as per invoice and our terms and conditions. Please see our website for current pricing.

Once the Family have paid their respective Introduction Fees, we will then send an email to both the Nanny and the Family confirming the Successful Introduction. This email will contain the contact information and other important information.

There are no further costs paid to APCA once the Introduction Fee is paid. Refunds are only payable in limited circumstances as set out in our terms and conditions.

We will continue to present you with profiles for up to 6 months from payment of the Registration Fee (see above) until you have a Successful Introduction.

We recommend that the Family offer the Nanny with a formal invitation email. The Nanny will then freely decide to accept or decline. We recommend but not require that the formal invitation letter contain the agreed terms of your arrangement. We suggest that you come to agreement in relation to at least the following matters:

- Commencement date
- Work schedules/shifts, days off, roles and responsibilities;
- Any applicable entitlements such as accommodation and board;
- Expectations to exchange cultural and language experiences;
- Use of the Family's home and motor vehicles;
- Insurances;
- Consequences of cancellation of Placement including any reimbursements payable;
- Expectations of the Family's home, such as child discipline, appropriate conduct and activities, special requirements for the children (e.g. allergies, observance of religious customs etc); and
- Emergency Plans, such as evacuation from the home, days of extreme fire risk, handling medical issues with the children etc.

We further recommend that you obtain professional legal and financial advice before confirming a Placement. For particular information regarding Australian workplace law, the following services may be of some assistance to you as a starting point: Fairwork Australia, Australia Tax Office, The Federation of Community Legal Centres Victoria and the Law Institute of Victoria.

### **5. SUPPORT AND RESOURCE**

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APCA will continue to communicate and resource the Nanny with relevant information to help them familiarise themselves before their commencement.

We cannot guarantee matters which are outside our control. For a successful placement, we suggest regular feedback and communications between Nannies and Families.

## TERMS AND CONDITIONS

**BETWEEN** You

**AND** Au Pair Care Australia Pty Ltd (ABN 35 608 789 108) ("**APCA**")

### **RECITALS:**

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- A.** You have engaged APCA to carry out the Services subject to the terms and conditions referred to in these terms and conditions.
- B.** You, by registering with APCA, agree to the provision of the Services and are bound by these terms and conditions.

## **TERMS AND CONDITIONS**

### **1. DEFINITIONS AND INTERPRETATION**

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#### **1.1 Definitions**

In these terms and condition's the following definitions apply –

- 1.1.1 "**Claim**" means a claim, demand, suit, action or proceeding of any kind or nature.
- 1.1.2 "**Nanny**" means a person retained to work with a Family to provide childcare and other services in exchange for fair reward, if applicable, including board, meals and remuneration as agreed.
- 1.1.3 "**Family**" means a family who retains a Nanny to live in or live out of their home and provide services to them.
- 1.1.4 "**Losses**" means all the losses, liabilities, damages and claims (including taxes), and all related costs and expenses (including any and all reasonable legal fees and reasonable costs of investigation, litigation, settlement, judgement, interest and penalties on a full indemnity basis).
- 1.1.5 "**Personnel of a party**", means officers, employees, agents and contractors of a party.
- 1.1.6 "**Services**" means the practice of introducing Nannies and Families as per the attached schedule marked "Services".
- 1.1.7 "**Successful Introduction**" occurs when both the Nanny and the Family have notified APCA that they consent to the exchange of their contact information with the other and the Family have paid their respective Introduction Fees.
- 1.1.8 "**Workplace Laws**" means state or federal industrial and employment laws, workers compensation laws and occupational, health and safety laws.
- 1.1.9 "**Confidential Information**" means all information provided by APCA or its agents to you

pursuant to these terms regarding a potential match Nanny/Family but does not include;

- (a) information previously known to you free of any obligation to keep it confidential (whether in documentary form or not);
- (b) information which has been or is subsequently made public without any breach of these terms and conditions; or
- (c) information disclosed by any third party who is not under any confidentiality obligation to APCA in respect of that information.

## **1.2 Interpretation**

In these terms and conditions unless the contrary intention appears:-

- 1.2.1 Words importing the singular shall be deemed to include the plural and vice versa.
- 1.2.2 Words importing any gender shall be deemed to include all other genders.
- 1.2.3 Words importing persons shall be deemed to include all bodies, associations, Corporate or Incorporate or Vice Versa.
- 1.2.4 Headings are included for convenience only and shall not effect the interpretation of these terms and conditions.
- 1.2.5 Words and Phrases defined elsewhere in these terms and conditions shall have the meaning therein subscribed to them.
- 1.2.6 A reference to any of the parties by their defined terms include the parties, executors, administrators or permitted assigns or being a company, its successors or permitted assigns.
- 1.2.7 Every Agreement or undertaking expressed or implied by which more persons than one agree to or undertake any obligations or derive any benefit under these terms and conditions binds or enures for the benefit of them jointly and severally.
- 1.2.8 Any consideration or amount payable under these terms and conditions is exclusive of GST. For the purpose of this clause, GST means a goods and services tax, or a similar value added tax, levied or imposed under the GST Law, and the GST Law has the same meaning given to it in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

## **2. SERVICES**

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### **2.1 Terms of Service**

The Services sold by APCA are sold on these terms and conditions. Any applications received by APCA from you for the supply of the Services shall constitute an irrevocable acceptance of these terms and conditions by you to the extent permissible by law.

### **2.2 Discretion to refuse / terminate services**

APCA has absolute discretion to reject an application by you at any stage and to refuse to continue to provide services to you. Where APCA exercises this discretion, any payments made by you to them less the \$150.00 non-refundable deposit fee for that application will be refunded.

### 2.3 Termination by you

You may terminate the Services before completion at any time by written notice to APCA. Termination does not relieve you of your obligation to pay the APCA any outstanding fees due and payable pursuant to these terms and conditions.

## 3. PAYMENT

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### 3.1 Fees

In consideration of the provision of the Services to you, **Families** agree to pay -

- 3.1.1 The Non-Refundable Registration Fee to APCA of \$150.00 upon acceptance of your application; and
- 3.1.2 The Introduction Fee to APCA upon confirmation by APCA that a Family and a Nanny wish to exchange contact information. The Introduction Fee payable will be the applicable introduction fee as at the time of paying the Registration Fee as published on the APCA website.

### 3.2 Payment

All fees unless otherwise stated are payable net and payment of all fees must be made within 7-14 days of the invoice issued to you for that fee. If any payment is not made by you to APCA on the due date thereof:

- 3.2.1 APCA will charge an amount 4% higher than the rate specified in the Penalty Interest Rate Act 1983 (Victoria) on all overdue accounts until such time as payment is made in full;
- 3.2.2 APCA reserves the right, and without prejudice to its other rights hereunder and at law, to cancel or suspend services until such payment has been made; and
- 3.2.3 All monies owing to APCA shall become immediately due and payable and you shall indemnify APCA against all Losses incurred by the APCA as a result of such default.

### 3.3 Cancellation prior to a Successful Introduction – Non Refundable Deposit

If a Family cancels their registration prior to a successful introduction, you will still be subject to paying the non refundable registration fee.

### 3.4 Cancellation of a Placement

You acknowledge that a Placement may be cancelled at any time by the Family or the Nanny (or by mutual agreement) following a Successful Introduction either before or during commencement of the Placement. In the event of cancellation:

- 3.4.1 the Family and the Nanny are solely responsible for finalising the cancellation in accordance with any agreement between them and any applicable law (including but not limited to such matters as return flights or temporary accommodation for the Nany, payment of any accrued wages or entitlements, workplace law notice provisions, flight cancellation fees, reimbursements for incurred expenses etc).
- 3.4.2 If a Nanny cancels the Placement any time before commencement of the Placement and a new Successful Introduction with a replacement Nanny is not confirmed within 6 weeks following the initial cancellation, APCA will refund the Family's Introduction Fee to the

Family less a \$200 administration fee.

- 3.4.3 If a Family cancels the Placement any time before commencement of the Placement and a new Successful Introduction with a replacement Nanny is not confirmed within 6 weeks following the initial cancellation, APCA will refund the Families Introduction Fee less a \$200 administration fee and the non refundable registration fee.

### **3.5 No other refunds**

Other than as provided for in this clause 3, no refunds will be payable by APCA for cancellations by either a Nanny a Family.

## **4. OBLIGATIONS OF THE APCA**

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APCA must provide the Services that relate to you in your role as either Nanny or Family in a conscientious and workmanlike manner.

## **5. YOUR OBLIGATIONS**

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### **5.1 Relationship between Nanny and Family**

You acknowledge that -

- 5.1.1 APCA is not responsible for any contractual negotiations between Nannies and Families including arrangements as to agreed work, remuneration, other benefits and family expectations, policies and procedures.
- 5.1.2 APCA strongly recommends but does not require that Families and Nannies enter into a written agreement (such as in the formal invitation letter) regarding the expectations of the relationship prior to each party accepting a Placement.
- 5.1.3 APCA strongly recommends that you obtain independent legal and financial advice before accepting a Placement.
- 5.1.4 Nothing in these terms and conditions, or any circumstances associated with it or its performance, gives rise to any agency or partnership between APCA and the Family.
- 5.1.5 Nothing in these terms and conditions, or any circumstances associated with it or its performance, gives rise to an employment relationship between APCA and any Nanny.

### **5.2 Adherence to applicable Laws**

You are wholly responsible for complying with all laws relevant to your participation in the Placement, including, but not limited to:

- 5.2.1 Where you are an Nanny, immigration law; and
- 5.2.2 Where you are a Family, applicable workplace laws in relation to hiring the Nanny.

### **5.3 Own Skill and Judgement**

- 5.3.1 You will enter into the Placement based on the reliance of your own skill and judgement of the Nanny / Family. It is ultimately your decision to offer or accept a placement based on your own interview and information obtained.

## **6. WARRANTIES BY YOU**

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### **6.1 General Warranty**

You acknowledge and warrant that all information supplied to APCA is true, correct and complete to the best of your knowledge.

### **6.2 Unauthorised contact**

You warrant that you will not attempt to contact any potential matches or to make contact with any APCA Nannies / Families unless given permission by APCA. All correspondence with potential matches shall be through APCA who shall retain the right to vet or withhold such correspondence in its absolute discretion.

### **6.3 The Family**

If you are to be a Family, you warrant that:

- 6.3.1 equal employment opportunity principles shall be adhered to by you in so far as no unlawful discrimination shall take place in the selection process of a Nanny;
- 6.3.2 the Nanny will not be required to work in a position inconsistent with agreed terms of the Placement;
- 6.3.3 the Nanny will not be required to perform unpaid, trial work;
- 6.3.4 the Nanny will be properly remunerated at all times for any work performed during the Placement;
- 6.3.5 you have not been found in breach of workplace laws, and are not awaiting the outcome of any proceedings involving any alleged breach of workplace laws;
- 6.3.6 you shall be solely liable for the costs of maintaining the Nanny, including, but not limited to, remuneration, accommodation and meals, leave entitlements, superannuation, and insurances; and
- 6.3.7 It is the responsibility of the Family to assess the driving ability of the Nanny before allowing the Nanny to drive a car in Australia.

### **6.4 Nanny**

If you are to be a Nanny, you warrant that:

- 6.4.1 You have not been found in breach of any law related to your suitability to care for children unsupervised, and are not awaiting the outcome of any proceedings involving any alleged breach of such law;
- 6.4.2 You have disclosed all matters reasonably relevant to your ability and suitability to care for children unsupervised;
- 6.4.3 You have or will obtain the necessary Visa to enable you to enter Australia and perform the role required by the Family;
- 6.4.4 You are eligible for a Working with Children Check card, a current and clean Police Check and a current First Aid Certificate; and
- 6.4.5 With regard to your qualifications and experience (if any) as nominated by you -



- (a) you are competent and have the necessary skills to carry out the work required by Family; and
- (b) meet the job requirements outlined the Family.

## **7. INDEMNITY AND LIMITATION OF LIABILITY**

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### **7.1 Indemnity**

You indemnify the APCA against all Losses that the APCA may sustain or incur as a result, whether directly or indirectly, of any breach of these terms and conditions by you, and any other Claims arising out of, or in connection with, the operation of these terms and conditions, caused by any negligent act or omission or wilful misconduct of you, except to the extent that such Losses arose, or were caused by, the acts or omissions of the APCA.

### **7.2 Limitation of liability**

You agree that -

7.2.1 APCA shall not be liable for matters outside its control, including but not limited to -

- (a) the success of the Placement and the relationship between Nanny and Family; or
- (b) whether the Nanny will obtain the skills, qualifications, requirements or opportunities made available to them as part of performing the Services, e.g. the Working with Children Check, Police Check, First Aid certification etc.

7.2.2 APCA shall not be liable in respect of any Claims arising out of, or in connection with, the Placement, caused by any negligent act or omission or wilful misconduct of any Nanny/ Family suggested by APCA to you as a potential match for a Placement; and

7.2.3 None of the APCA's Personnel shall be personally liable in respect of the APCA's obligations or any liabilities under these terms and conditions. You expressly release the APCA's Personnel from all and any liability that may arise.

## **8. PRIVACY AND USE OF CONFIDENTIAL INFORMATION**

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### **8.1 Use of your information**

You agree that any information, including confidential information, provided by you to APCA may be provided to potential match Nannies/Families (as the case may be). All information collected by APCA will be handled in accordance with the APCA Privacy Policy.

### **8.2 Confidential Information/Non-Disclosure**

You agree that:

8.2.1 As a part of the APCA program, you may become acquainted with or have access to confidential information about potential Nannies and Families, and agree that both during and after the term to maintain the confidential information and to prevent its unauthorised disclosure to or use by any other person, firm or company, unless or until authorised in writing to disclose any confidential information by an officer of APCA;

- 8.2.2 you shall not:
- (a) use the confidential information for any purpose other than to assess whether or not to agree to a Placement with a potential Nanny/Family;
  - (b) for whatever reason, either for yourself or any third party, appropriate, copy, memorise or in any manner reproduce any of the confidential information,
- 8.2.3 you must return any or all of confidential information howsoever embodied on the request of APCA;
- 8.2.4 Nothing in these terms and conditions shall impose an obligation on you with respect to maintaining confidence regarding information which is generally known or available by publication, commercial use or otherwise than as a result of a breach by you of your obligations in this clause; and
- 8.2.5 damages would not be an adequate remedy in the event of breach of this clause and APCA is therefore entitled to seek injunctive relief to prevent or limit breach of this clause.

## **9. INSURANCE**

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### **9.1 General**

In accordance with clause 7, APCA recommends but does require you to take out appropriate insurances before commencement of a Placement relevant to your role as either a Nanny or a Family. You acknowledge that -

- 9.1.1 Elements of the Placement may fall outside "standard" insurance policies, such as Home and Contents, Workcover, Public Liability, Motor Vehicle insurances (if a Nanny is to drive a Family's car), Travel Insurance etc;
- 9.1.2 You are wholly responsible for assessing the suitability and coverage of new or existing insurances for yourself; and
- 9.1.3 You are wholly responsible for making enquiries as to whether the insurance coverage of your matched Nanny/Family is sufficient for your needs and for making any agreements between you and your matched Nanny/Family regarding payment of excesses/co-payments.

## **10. DISCLAIMER**

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You acknowledge that the Nanny's experience is only what is outlined in their Resume/CV unless otherwise specifically indicated. Families must use their own judgment when determining appropriate duties for the Nanny given their children's needs and in consideration of the Nanny's experience and training (or lack thereof).<sup>1</sup>

## **11. GENERAL**

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### **11.1 Documents**

You undertake to execute all documents and do all things necessary to carry out the objects of these terms and conditions.

## 11.2 Waiver

Any indulgence by one party to another or failure to enforce a provision shall not prejudice the rights of that party under these terms and conditions nor be deemed to be a novation hereof or a waiver of the parties rights against the other.

## 11.3 Entire Agreement

These terms and conditions constitutes the entire agreement between you and APCA and no representation, warranties or guarantees or other terms and conditions whether expressed or impliedly of whatever nature not contained or recorded in these terms and conditions have been made or agreed to.

## 11.4 Jurisdiction

These terms and conditions is governed by and shall be interpreted in accordance with the laws from time to time enforced in the State of Victoria Australia and each of you and APCA hereby submits to the non-exclusive jurisdiction of the Courts of Victoria and any Court competent to hear appeals therefrom.

## 11.5 Notice

Any notice or other communication (each a 'notice') given under these terms and conditions is:

11.5.1 to be in writing addressed to the address of the intended recipient shown in these terms and conditions or to such other address as has been most recently notified by the intended recipient to the party giving the notice; and

11.5.2 deemed to have been given and served:

<b>Method</b>	<b>Time</b>
By hand/courier	at the time of delivery
Ordinary mail	7 business days after the day of posting
Facsimile	at the time recorded on the transmitting machine
Email	when the sender's computer indicates that the message has been received provided it has not bounced

However, if delivery or receipt is after 5.00 pm on a business day, the notice is deemed to have been given and served on the next business day. For the purpose of this clause, a reference to time is a reference to the local time in Melbourne, Victoria, Australia and a reference to a business day means a gazetted business day in Melbourne, Victoria, Australia.

## 11.6 Severance

Notwithstanding termination of these terms and conditions for any reason, all clauses of these terms and conditions that are expressly intended to continue to be binding and enforceable shall continue to be binding and enforceable. In addition, all obligations to pay any sum due, keep Confidential Information confidential, and all other covenants shall continue to be fully binding and fully enforceable.

**11.7 Variation**

These terms and conditions may only be varied by written agreement signed by the parties. Any variation, modification or waiver not in writing signed by the parties shall be of no force and effect.

**11.8 No Assignment by Parties**

These terms and conditions are personal and shall not be assigned without the written consent of the other party.