



Chicagoland's Premier Domestic Placement Agency

www.firstclasscare.com

**FAX TO: 847.559.0689**

## **FAMILY SERVICE AGREEMENT**

This Service Agreement (the "Agreement") is between First Class Care, Inc. ("First Class Care"), 3330 Dundee Rd. Suite C2 Northbrook, IL 60062, and \_\_\_\_\_ ("Client" whether singular or plural). This Agreement sets forth the terms and conditions of both First Class Care and Client for the location, referral and employment of "Care Specialists." "Care Specialists" include, but are not limited to, nannies, newborn care specialists, babysitters, house managers, chefs, elder care providers, housekeepers and any individuals referred to Client by First Class Care. Care Specialists may be either live-in or live-out, full time or part time, and permanent or temporary.

### **I. SERVICES:**

Client desires to directly employ a Care Specialist to perform certain child care, companion care, or domestic duties as specified by Client. Client retains First Class Care to make reasonable efforts according to applicable law to locate and refer to Client a Care Specialist to perform such services for Client. However, Client understands and agrees that signing up with First Class Care does not guarantee that First Class Care will find a suitable Care Specialist for Client.

### **II. CONFIDENTIAL INFORMATION:**

Client understands and agrees that all information and materials about Care Specialists are to be kept strictly confidential and are to be used only in conjunction with First Class Care's referral services. **If Client provides Care Specialist information to another party and the other party hires the Care Specialist without compensating First Class Care its full placement fee**, Client will be responsible for paying First Class Care's full fees as stated in this Agreement as if First Class Care had placed the Care Specialist with a client.

### **III. CLIENT IS THE CARE SPECIALIST'S EMPLOYER:**

Client understands and agrees that the Care Specialist's work schedule and the method, manner and means of employment, and any other terms and conditions of employment, will be determined by Client and the Care Specialist. First Class Care will not be responsible for the Care Specialist's direction, supervision, control or compensation, and First Class Care is not the Care Specialist's employer or co-employer with Client. Rather, Client will be solely responsible for the Care Specialist's direction, supervision, control and compensation, and **Client understands and agrees that it is the Care Specialist's employer**. Accordingly, Client understands and agrees that it will be responsible for all employer related taxes, withholdings, obligations and requirements according to applicable law.

### **IV. FEES:**

1. Client agrees to pay all fees as stated in this Agreement when a referral by First Class Care results either directly or indirectly in the engagement or employment by Client of a Care Specialist referred to Client by First Class Care. Additionally, Client agrees to pay all fees in a timely manner according to the terms of this Agreement, and specifically agrees to pay all placement fees no later than a Care Specialist's first day of employment or other engagement with Client. Client agrees to pay a fee to First Class Care for each Care Specialist Client employs or otherwise engages.

#### **2A. Long-Term Care Specialists:**

If Client employs or otherwise engages a full-time or part-time Long-Term Care Specialist (defined as an individual hired to work for Client for six months or more), Client agrees to pay First Class Care a placement fee of 10% of the Care Specialist's annualized first year total gross compensation. The minimum placement fee for a Long-Term Care Specialist shall be \$500.

#### **2B. Temp Care Specialists:**

If Client employs or otherwise engages a full-time or part-time Temp Care Specialist (defined as an individual hired to work for Client for fewer than six months), Client agrees to pay First Class Care a placement fee

of 15% of the Temp Care Specialist's annualized first year total gross compensation for the full term of the Care Specialist's employment with client. The minimum placement fee for a Temp Care Specialist employed for 5-10 days shall be \$300; the minimum placement fee for a Temp Care Specialist employed for more than 10 days shall be \$500.

**2C. Newborn Care Specialist:**

If Client employs or otherwise engages a Newborn Care Specialist, Client agrees to pay First Class Care a placement fee of \$15 for single babies and twins or \$30 for triplets or more multiples for each day or portion(s) thereof the Newborn Care Specialist provides services to Client. Client agrees to pay First Class Care a minimum placement fee of \$300 upon the acceptance of a job offer by a Newborn Care Specialist, regardless of the number of days of service, or portion(s) thereof the Newborn Care Specialist provides. Client will pay the balance of the Newborn Care Specialist placement fee to First Class Care within 3 business days of completion of the Newborn Care Specialist's services for Client. Newborn Care Specialists, whether or not registered or licensed as medical or paramedical professionals, are referred under this Agreement only to perform non-medical services.

**2D. Other Care Specialists:**

First Class Care will recruit and refer to Client other Care Specialists including single day, weekend, and evening temps whose services will be required for at least 4 hours each day. Client agrees to pay a placement fee to First Class Care of \$30 for each day or portion(s) thereof the Care Specialist will provide services to Client upon the acceptance of a job offer by a Care Specialist. Client understands and agrees that any cancellation of services must be made at least 48 hours in advance.

3. **"Total gross compensation"** as defined in this Agreement includes all compensation in whatever form, including but not limited to hourly wages, salary, bonuses and the value of insurance and room and board, received by the Care Specialist from Client.

4. Client understands and agrees to pay any additional placement fees to First Class Care if Client employs or otherwise engages a Care Specialist for a period(s) longer than reported to First Class Care. For example, if Client initially retains a babysitter referred by First Class Care for 3 days, Client owes a placement fee of \$90 (3 days x \$30) which must be paid upon acceptance of the job offer by the babysitter. If Client then engages the babysitter for additional days, Client agrees to pay First Class Care an additional placement fee of \$30 per day up to a maximum of 5 days, after which the Care Specialist shall be regarded as a temp care specialist under paragraph 2B of this Agreement.

5. If a Care Specialist's hours or compensation increase during the time of the placement, Client agrees to inform and pay First Class Care for any additional hours or compensation using the applicable formula according to the terms of this Agreement. Except as stated in this Agreement, all fees are non-refundable, earned in full, and due and payable according to the terms of this Agreement.

If any fees or portions thereof are not paid when due, First Class Care will charge interest on the unpaid amount of the fee. Interest will be calculated by multiplying the unpaid balance by the periodic rate of .416% per month (FIVE PERCENT [5%] ANNUAL PERCENTAGE RATE). The unpaid balance will bear interest until paid. If Client's account is turned over to an agency or other entity for collection, all fees and interest, including but not limited to attorney's fees and costs, incurred relating to the collection activity will be added to Client's original balance and become payable to First Class Care according to the terms of this Agreement. Finally, Client agrees to pay First Class Care any charge First Class Care incurs if Client's check or other payment is returned or refused for any reason.

Client further agrees to provide First Class Care with a valid credit card number, expiration date and other information; understands and agrees that First Class Care shall charge Client's credit card for all fees and charges owed to First Class Care if Client fails to pay all fees and charges in a timely manner according to the terms of this Agreement; hereby irrevocably authorizes First Class Care to place charges on said account in accordance with this Agreement; and agrees to pay all such charges and fees billed to Client's credit card according to the terms of this Agreement. Client will immediately give First Class Care new credit card information should Client cancel the credit card or should Client's ability to use the credit card cease, for any reason.

**V. ADDITIONAL CONDITIONS:**

1. Client agrees to contact First Class Care before offering to employ or engage any Care Specialist.
2. Client will not disclose any information about any Care Specialist to any third party without prior written consent from First Class Care.
3. Client will not request that a Care Specialist recommend any other Care Specialists for hire.

## **VI. ADDITIONAL REFERRAL POLICY:**

Upon fulfillment of the conditions listed herein, subject and limited to the terms of this Agreement, First Class Care provides the following Additional Referral Policy:

1. If Client's Care Specialist (excluding Newborn Care Specialists, babysitters and Temp Care Specialists) fails to remain in the position for a period of 30 days, Client will receive a refund of all fees paid, less 25% of the annualized total gross compensation earned by the Care Specialist while employed by Client, or First Class Care will make reasonable efforts according to applicable law for 30 days from the date Client provides notice to First Class Care to refer one additional Care Specialist to Client
2. If Client's Care Specialist (excluding Newborn Care Specialists, babysitters and Temp Care Specialist) remains in the position for more than 30 days, but less than 180 days, First Class Care will make reasonable efforts according to applicable law for 30 days from the date Client provides notice to First Class Care to refer one replacement Care Specialist to Client.
3. First Class Care will make reasonable efforts according to applicable law to recruit a replacement who meets Client's job qualifications. However, recruiting a Care Specialist who meets such qualifications may not be possible and is not guaranteed.
4. First Class Care's obligations under this Additional Referral Policy are expressly conditioned on Client's (1) notification to First Class Care in writing within three days of a Care Specialist's departure from her or his position with Client; (2) satisfaction of all of its obligations under this Agreement, including but not limited to payment of all First Class Care's fees and charges in a timely manner; (3) not materially changing the Care Specialist's job description; (4) abiding by all applicable laws; and (5) not engaging in any acts of moral turpitude. Determining compliance with these conditions is in the sole and absolute discretion of First Class Care.

If Client fails to satisfy all of these aforementioned conditions, First Class Care shall have no further obligations to Client. Further, First Class Care shall be obligated to make reasonable efforts according to applicable law to provide additional referrals to Client only for the first Care Specialist Client hires or otherwise engages from First Class Care. First Class Care is under no obligation to make reasonable efforts to provide additional referrals if any Care Specialist after the first Care Specialist leaves Client's employment for any reason or at any time. First Class Care's obligation to make reasonable efforts according to applicable law to provide additional referrals shall not apply if the Care Specialist gives Client notice of her intention to terminate her employment with Client at the end of the applicable 30 or 180 day period as stated herein or any time thereafter.

Finally, if Client increases the compensation paid to a replacement Care Specialist from the compensation paid to the original Care Specialist, Client agrees to pay First Class Care an additional fee representative of the compensation difference according to the applicable formula in this Agreement.

## **VII. DISCLAIMER/WAIVER/HOLD HARMLESS/LIMITATION OF LIABILITY:**

First Class Care assumes no liability or responsibility for, and makes no representations or warranties about, any information, credentials, material, errors, omissions, services, Care Specialists, candidates, referrals, employees or potential employees (including but not limited to the qualifications or performance of individuals or Care Specialists) it provides to Client. Client understands and agrees that Client's use of First Class Care's services is at Client's own risk. Except as specified in this Agreement, First Class Care does not provide and specifically disclaims any express or implied guarantees or warranties to Client. Additionally, First Class Care does not employ or exercise control or discretion over Care Specialists and disclaims all responsibilities for Care Specialists' conduct or omissions.

By signing this document, Client hereby waives and releases First Class Care and its owners, agents, employees, officers, directors, shareholders, attorneys, representatives, and affiliated entities from all liability, including but not limited to liability arising from negligence, equipment, or the actions of any third party (including but not limited to Care Specialists or anyone referred to Client by First Class Care), arising under law or otherwise.

This Agreement does not govern claims that cannot be released by private agreement or that cannot lawfully be waived. In addition, this Agreement does not limit either party's right, where applicable, to file, cooperate with or participate in an investigative proceeding of any governmental entity, or to file charges that do not seek personal relief for released claims with any governmental entity.

Additionally, Client shall indemnify, defend and hold First Class Care and its owners, agents, employees, officers, directors, shareholders, attorneys, representatives, and affiliated entities harmless against any damages or liability whatsoever arising out of or in any way in connection with the interviewing, selection, employment, or association of a Care Specialist or other person referred to Client by First Class Care, regardless of how, when, or where any damages or liability was incurred.

Finally, in no event shall either party to this Agreement be liable for consequential, incidental, exemplary, punitive, special or indirect damages of any kind. Further, a party's aggregate liability for damages of any kind under this Agreement shall be limited to the amount of the placement fee received by or owed to First Class Care

from Client. If any waiver, exclusion or limitation of damages is not permitted by law, the parties' liability to each other is limited to the maximum extent permitted by law.

**VIII. MISCELLANEOUS:**

This Agreement shall be governed by and interpreted according to Illinois law. Any action or proceeding commenced regarding this Agreement shall be brought in Cook County, Illinois.

This Agreement is entered into by First Class Care and Client without reliance upon any statement, representation, promise, inducement, or agreement not expressly contained herein. This Agreement constitutes the entire agreement between First Class Care and Client and supersedes all prior oral and written agreements between First Class Care and Client with respect to the subjects covered in this Agreement. This Agreement shall not be amended or modified except in a mutually agreed upon writing signed by Client and an authorized representative of First Class Care.

Client represents that it has carefully read and fully understands the scope and effect of all of the provisions of this Agreement; that it has had all such time that it desires within which to consider this Agreement; that it has had the opportunity to consult with an attorney of its own choosing and at its own expense to review this Agreement; and that it has availed itself of this opportunity to the extent, if any, that it wished to do so.

The terms of this Agreement are severable. The invalidity or unenforceability of any provision within this Agreement shall not affect the application of any other provision, provided that the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable. Further, consistent with the purposes of this Agreement, any otherwise invalid provision may be reformed and, as reformed, enforced by any party to this Agreement.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original. Such counterparts, when taken together, shall constitute but one agreement.

Failure or delay on the part of either party to this Agreement to exercise any right, remedy, power or privilege under this Agreement shall not operate as a waiver of any other right, remedy, power or privilege. A waiver, to be effective, must be in writing and must be signed by the party making the waiver. A written waiver of a default shall not operate as a waiver of any other default or of the same type of default on a future occasion.

Neither party to this Agreement shall assign or transfer this Agreement or any interest herein without the prior written consent of the other party.

The rights and remedies provided in this Agreement shall be the sole and exclusive rights of the parties to this Agreement against one another relating to the subject matter of this Agreement.

The section captions contained in this Agreement are for convenience only and do not constitute a part of its terms and provisions.

I hereby irrevocably authorize charges to the following credit card as provided in the foregoing Agreement.

\_\_\_\_\_  
| Visa, MasterCard, Discover, Amer. Ex Number      Expiration Date      Security Code

Name as It Appears on The Card (Print) \_\_\_\_\_

Complete Billing Address \_\_\_\_\_

Authorized Signature \_\_\_\_\_

**The parties to this Agreement hereby certify, represent and warrant that they have carefully read this Agreement, that they fully understand its final and binding effect, and that they agree to all of its terms and conditions.**

\_\_\_\_\_  
Client      Date

\_\_\_\_\_  
Client      Date

\_\_\_\_\_  
FIRST CLASS CARE, INC      Date

Approved Fcc: 4/09