

## Terms and Conditions of Business

of

### Street Farm Day Nursery

#### 1) Definitions

The following expressions shall have the following meanings:

- a) "Nursery" means Street Farm Day Nursery of Station Road, Elmswell, Bury St Edmunds, Suffolk, IP30 9HD.
- b) "Customer" means any party who enters into a contract for Services with the Nursery;
- c) "Child" means the child who shall attend the Nursery and for whom the daycare services are to be provided;
- d) "Registration Form" means a booking document, registration form, letter of engagement, quotation or other written instruction describing the Services and requesting a contract for those Services;
- e) "Services" means the nursery daycare services as described in the Registration Form and these Terms and Conditions;
- f) "Fees" mean the payment for Services as outlined in these Terms and Conditions and the Registration Form;
- g) "Terms and Conditions" means the terms and conditions of supply of Services as set out in this document and any subsequent terms and conditions agreed in writing by the Nursery;
- h) "Agreement" means the contract between the Nursery and the Customer for the provision of the Services incorporating these Terms and Conditions.

#### 2) General

- a) These Terms and Conditions shall apply to the Agreement for the supply of Services by the Nursery to the Customer and shall supersede any other documentation or communication between parties.
- b) Any variation to these Terms and Conditions must be agreed in writing by the Nursery.
- c) Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Nursery may be entitled in relation to the Services, by virtue of any statute, law or regulation.

#### 3) Registration Form

- a) The Registration Form is attached to these Terms and Conditions.
- b) The Registration Form shall remain valid for a period of one year and reviewed at six monthly intervals.
- c) The Registration Form must be accepted by the Customer in its entirety.
- d) The Agreement between the Nursery and the Customer, incorporating these Terms and Conditions, shall only come into force when the Nursery confirms acceptance in writing to the Customer by way of a welcome pack.

#### 4) Services and Delivery

- a) The Services are as described in the Registration Form and in these Terms and Conditions.
- b) Any variation to the Services must be agreed by the Nursery in writing.
- c) The Services shall commence on the date the Customer receives notification that the Child has been awarded a place at the Nursery and continue until terminated by either party according to the terms of this Agreement.
- d) Dates given for the delivery of Services are estimates only and not guaranteed. Time for delivery shall not be of the essence of the Agreement and the Nursery shall not be held liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Services.

#### 5) Nursery Year

The Nursery year starts on the 1<sup>st</sup> January.

## 6) Opening Times

- a) The Nursery shall be open from 2<sup>nd</sup> January to 31<sup>st</sup> December
- b) The hours of operation shall be from 8.00 a.m. to 6.00 p.m. Monday – Friday. We do offer a service for a 7.45am start these are subject to availability. Term time only sessions are available only for those children aged 3 claiming government funding.
- c) The Nursery may alter these opening times and shall give written notice to Customers of any such changes.
- d) The Nursery shall be closed on all public and bank holiday (whilst we do charge for bank holidays we only charge for 51 weeks per year), and any other times as intimated to the Customer in writing.
- e) Late collection of the Child shall result in a late collection charge of £5.00 per every 15 minutes.

## 7) Fees

- a) A non-refundable registration fee of £35.00 will be payable by the Customer on submission of the Registration Form.
- b) Should the Nursery be unable to fulfil an offer of a place the registration fee shall be refunded to the Customer.
- c) The Fees are as specified in the Registration Form.
- d) All Fees are to be paid electronically, showing as cleared funds by the 1<sup>st</sup> of each month.
- e) The first month's fees should be paid electronically and should be received by the nursery no later than the start date; failure to pay by the start date will result in a loss of place.
- f) The Nursery will accept settlement of either part or full payment of fees by external funders including recognised childcare voucher providers; however, if monies are not received by the agreed settlement date it will become the Customer's responsibility to settle the outstanding fees immediately.
- g) Invoices are issued monthly in advance. Fees are calculated by multiplying the weekly fee by 51 and dividing by 12 to give regular monthly payments, please note bank holidays are included in this calculation please refer to 6d.
- h) Any additional items required for the care of the Child, extra nursery activities or penalty charges shall be charged according to the month they become due.
- i) The Nursery may accept an alternative method of payment ; however, it is the Customer's responsibility to obtain a receipt from the manager as proof of payment.
- j) The Customer will pay interest on all late payments at a rate of 5% per annum above the base lending rate of Lloyds TSB.
- k) The Nursery is also entitled to recover all reasonable expenses incurred in obtaining payment from the Customer where any payment due to the Nursery is late.
- l) The Customer is not entitled to withhold any monies due to the Nursery.
- m) In the event that fees are not paid by the due date, The Nursery reserves the right to exclude the Child from the Nursery and terminate this agreement without notice.
- n) The Nursery is entitled to vary the price to take account of any additional Services requested by the Customer which were not included in the original Registration Form or any reasonable increase in rates, if applicable. Any variation will be communicated to the Customer in writing by the Nursery giving no less than one months notice.
- o) Fees remain due if the Child is absent from Nursery for any reason including sickness or holiday.
- p) A late payment charge of £20.00 is payable for Fees not paid on time.
- q) Any returned cheques will incur a £5.00 administration fee.

## 8) Age of Child

The Nursery caters for children from birth to eight years of age.

## **9) Change of Sessions**

- a)** Full and part-time sessions must fit into the session times detailed in the Nursery prospectus. Individual needs may be accommodated; however, the Nursery reserves the right to give the Customer no less than 1 month's notice if they are no longer able to offer this.
- b)** The Nursery is entitled to change the sessions offered to the Child giving one month's notice to the Customer. Should the Customer find the changes unacceptable they shall be entitled to remove the Child from the Nursery with immediate effect.
- c)** If the Customer wishes to change the sessions the Child is registered for they must notify the Nursery at least one month before such changes are required and any changes are subject to the agreement of the Nursery.
- d)** Additional sessions may be booked at short notice, subject to availability required and the prior agreement of the Nursery; these sessions must be paid for at the point of booking.
- e)** Refunds on extra sessions will only be given if the Nursery receives one month's notice.
- f)** In order to ensure the correct child / adult ratio is maintained at all times the nursery is unable to swop children's sessions.

## **10) Customer Obligations**

- a)** The Customer agrees to cooperate with the Nursery.
- b)** The Customer shall refrain from directly or indirectly recruiting any person employed or engaged by the Nursery for the purpose of providing the Services for a period of six months following the Child's attendance at the Nursery. If the Customer does breach this contract by way of hiring an employee then a fee equal to 20% of the employee's gross annual salary at the time of resignation will be due.
- c)** With the exception of comfort toys, the Customer shall not allow the Child to bring any of their own toys to the Nursery without the permission of the Nursery. The Nursery accepts no responsibility for lost or damaged items.
- d)** All Children must bring in at least one change of clothing; all clothing and personal belongings must be named and placed in a small named bag. Please ensure you provide suncream during the warm weather and hats, gloves and scarves during the cold cold months.
- e)** Due to the high number of children with nut allergies the Customer shall not send food or empty food packaging into the Nursery or use creams, sun creams or oils on their own child that contain nut oil.
- f)** Please familiarise yourself with the nursery policies and procedures included in your welcome pack, there is also a copy of all policies located in the nursery hall. Copies can be provided on upon request.

## **11) Nursery Obligations**

- a)** The Nursery shall supply the Services as specified in the Registration Form and in these Terms and Conditions.
- b)** The Nursery shall perform the Services with reasonable skill and care and to a reasonable standard and in accordance with recognised codes of practice and government guidelines.
- c)** The Nursery shall inform the Customer as soon as possible of any changes to hours or sessions and shall try to accommodate any requests made by the Customer.
- d)** The Nursery shall provide the Customer with regular verbal updates on the Child's progress.
- e)** The Nursery shall try to offer siblings a place at the Nursery wherever possible but this cannot be guaranteed.
- f)** The Nursery must report to the proper authorities any instances where they have reason to believe that the Child has been the subject of neglect or abuse. This may be done without informing or obtaining the consent of the Customer.
- g)** The Nursery does not supply nappies.
- h)** The Nursery does supply baby milk.
- i)** The Nursery shall hold valid and adequate insurance policies for running a business of this nature.
- j)** The Nursery shall maintain staffing levels according to national recommended standards at all times.
- k)** The Nursery holds no responsibility for any work undertaken by it's employees outside of their terms and conditions of employment.

## **12) Sickness and Medical Information**

- a) In line with government health guidelines a Child suffering from any contagious disease is not permitted to attend the Nursery and must stay away for a minimum of 48 hours following their ailment. Please refer to the nursery illness policy for specific guidelines.
- b) The Nursery reserves the right to refuse admission to any child they suspect of having a contagious condition; or to request that the Customer collects the Child if he / she becomes unwell during Nursery hours.
- c) The Customer must inform the Nursery immediately if their Child is suffering from a contagious disease.
- d) The Nursery accepts no liability for the contraction of any illness transmitted at the Nursery.
- e) The Customer must complete and return the Nursery's standard medical health record located within the registration form prior to the first attendance and must inform the Nursery immediately of any change to this information.
- f) The Customer must complete a medical consent form prior to the first attendance to permit the Nursery staff to administer first aid as well as any medicines supplied by the Customer for the Child.
- g) The Nursery shall not be held responsible for any negative effects caused by the administration of any medication supplied by the Customer for the Child.

## **13) Child Details**

- a) The information supplied in the Registration Form must be accurate and the Nursery is entitled to rely on this information. The Nursery will not be held responsible if they are unable to contact the Customer as a result of the contact details being out of date.
- b) The Customer must notify the Nursery immediately of any changes or alterations to personal information.
- c) Children will not be released to anyone other than those listed on the Registration Form
- d) The Nursery shall comply with all data protection legislation.
- e) The Customer must advise the Nursery if the Child is the subject of any court order and supply a copy of such an order if requested.
- f) The Nursery may take photographs of the Child for promotional or educational purposes. The Customer is required to complete the permissions form set out within the registration form.

## **14) Absence and Collection**

- a) The Customer must advise the Nursery as soon as possible if the Child is to be absent from the Nursery.
- b) The Customer must advise the Nursery as to the identity of the person who shall collect the Child at the end of a session. If that person is not known to the Nursery proof of identity may be requested, and a password system will be used. If the Nursery is not satisfied as to the credibility of such a person the Child shall not be released.
- c) If the Customer is unable to collect the Child at the appointed time a late collection charge may be payable as specified in Condition 6f of these Terms and Conditions.

## **15) Personal Property**

- a) The Nursery shall not be liable for any loss or damage to any personal property brought onto the Nursery premises or any damage or injury resulting from any such items.
- b) All clothing must be clearly marked with the name of the Child.

## **16) Complaints Policy**

- a) In the event that the Customer is unhappy with the Services these issues should be raised with the Nursery Manager in the first instance.
- b) If the Customer wishes to make an official complaint this should be carried out in accordance with the Nursery's standard complaints procedure available from Nursery staff.

## 17) Termination

- a) The Agreement shall continue until the Services have been provided in 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.
- b) The Customer may terminate this Agreement by giving one full calendar months notice in writing of the intention to withdraw the Child from the Nursery, termination ending at the end of the month.
- c) The Nursery may terminate this Agreement by giving one months notice in writing of the intention to cease to provide the Services.
- d) The Nursery may terminate this Agreement with immediate effect if the Customer or Child demonstrates any physical or verbal abuse towards staff or other children.
- e) The Customer may terminate the Agreement if the Nursery fails to comply with any aspect of these Terms and Conditions and this failure continues for a period of 12 weeks after notification of non-compliance is given.
- f) The Nursery may terminate the Agreement if the Customer has failed to make over any payment due within one week of the sum being requested.
- g) Either party may, with immediate effect, terminate the Agreement by notice in writing to the other if:
  - i) the other party commits a material breach of these Terms and Conditions and, 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; or
  - ii) the other party commits a material breach of these Terms and Conditions which cannot be remedied under any circumstances; or
  - iii) the Nursery passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect; or
  - iv) the Nursery ceases to carry on its business or substantially the whole of its business; or
  - v) the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- h) In the event of termination the Customer must make over to the Nursery any payment for Services incurred up to the date of termination.
- i) 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.

## 18) Warranty

Both parties warrant their authority to enter into this Agreement and have obtained all necessary approvals to do so.

## 19) Limitation of Liability

- a) The Nursery shall not be liable under any circumstances to the Customer or any third party for any indirect or consequential loss of profit, consequential or other economic loss suffered by the Customer howsoever caused, as a result of any negligence, breach of contract, misrepresentation or otherwise.
- b) Nothing in these Terms and Conditions shall exclude or limit the liability of the Nursery for death or personal injury, however the Nursery shall not be liable for any direct loss or damage suffered by the Customer howsoever caused, as a result of any negligence, breach of contract or otherwise in excess of the sum insured under the insurance policy held by the Nursery in the insurance year in which the Customer's claim is first notified.

## 20) Indemnity

The Customer shall indemnify the Nursery against all claims, costs and expenses which the Nursery may incur and which arise directly or indirectly from the Customer's breach of any of its obligations under these Terms and Conditions.

**21) 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.

**22) Assignment**

The Customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Nursery.

**23) Third Party Rights**

Nothing in these Terms and Conditions intend to or confer any rights on a third party.

**24) 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.

**25) 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.

**26) Notices**

Any notice to be given by either party to the other may be served by email, fax, personal service 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, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

**27) Entire Agreement**

These Terms and Conditions supersede any previous agreements, arrangements, documents or other undertakings either written or oral.

**28) Governing Law**

These Terms and Conditions 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.