

TERMS AND CONDITIONS OF BUSINESS OF THE RSC NURSERY

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| <p>1 DEFINITIONS</p> <p>The following expressions shall have the following meanings:</p> <p>1.1 “Nursery” means the RSC Nursery based at 51 & 52 Waterside, Stratford-upon-Avon, Warwickshire, CV37 6BA;</p> <p>1.2 “Customer” means the person named as parent/legal guardian in the Registration Form who enters into a contract for Services with the Nursery;</p> <p>1.3 “Child” means the child who shall attend the Nursery and for whom the daycare services are to be provided as named in the Registration Form;</p> <p>1.4 “Registration Form” means the document containing the Customer’s registration details which forms part of the starter pack the Customer will receive once the Nursery has received the Customer’s commitment fee.</p> <p>1.5 “Services” means the nursery daycare services as described in clause 3.1 of these Terms and Conditions;</p> <p>1.6 “Fees” means the payment for Services as outlined in these Terms and Conditions;</p> <p>1.7 “Terms and Conditions” means the terms and conditions relating to the supply of the Services as set out in this document and any subsequent terms and conditions agreed in writing by the Nursery;</p> <p>1.8 “Agreement” means the contract between the Nursery and the Customer for the provision of the Services incorporating these Terms and Conditions.</p> <p>2 GENERAL</p> <p>2.1 These Terms and Conditions shall apply to the Agreement for the supply of the Services by the Nursery to the Customer and shall supersede any other documentation or communication between parties.</p> <p>2.2 Any variation to these Terms and Conditions must be agreed in writing by an authorised representative of the Nursery.</p> <p>2.3 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.</p> <p>2.4 The Agreement between the Nursery and the Customer, incorporating these Terms and Conditions, shall only come</p> | <p>into force when the Nursery confirms receipt of the Customer’s completed confirmation form and payment of the commitment fee in writing to the Customer.</p> <p>3 SERVICES AND DELIVERY</p> <p>3.1 The Services are the provision by the Nursery of daycare nursery services for the Child for the benefit of the Customer as detailed further in the starter pack which the Customer receives when they have paid their commitment fee.</p> <p>3.2 Any variation to the Services must be agreed by an authorised representative of the Nursery in writing.</p> <p>3.3 The Services shall commence on the start date set out in the confirmation letter and shall continue until terminated by either party according to the terms of this Agreement.</p> <p>3.4 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 or non-performance of the Services.</p> <p>4 OPENING TIMES</p> <p>4.1 The Nursery is open for 50 weeks of the year. It is closed for 2 weeks over the Christmas period and it is also closed on bank holidays.</p> <p>4.2 The hours of operation of the Nursery shall be from 08:00 to 18.00.</p> <p>4.3 The Nursery caters for children from the age of 6 months to school age.</p> <p>4.4 The Nursery may alter these opening times and shall give written notice to the Customer of any such changes or if it has to close for unforeseen circumstances.</p> <p>4.5 Late collection of the Child shall result in a late collection charge of £15 for every 30 minutes.</p> <p>5 FEES</p> <p>5.1 In order for the Customer to secure a place offered to the Child, the Customer must pay a £100 commitment fee when they return their completed confirmation form to the Nursery. This commitment fee shall be deducted from the Customer’s first invoice unless an accepted place is not taken up, in which case, subject to clause 5.2, such sum shall be retained by the Nursery.</p> |
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- 5.2 Should the Nursery be unable to fulfil an offer of a place the commitment fee shall be refunded to the Customer.
- 5.3 The Fees are payable monthly in advance, based on the booked sessions for the Child set out in the confirmation form. There will be no charge for days when the Nursery has a planned closure in accordance with clause 4.
- 5.4 The Fees must be paid by Bank Transfer. The Nursery also accepts payment by childcare vouchers from recognised voucher schemes.
- 5.5 Any additional items required for the care of the Child, extra nursery activities or penalty charges shall be charged in the following month's invoice after such payments become due.
- 5.6 The Customer must settle all payments for the Services within 28 days from the invoice date.
- 5.7 The Customer will pay interest on all late payments at a rate of 4% per annum above the base lending rate of the Bank of England.
- 5.8 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.
- 5.9 The Customer is not entitled to withhold any monies due to the Nursery, except where disputing an invoice in good faith.
- 5.10 The Nursery is entitled to vary the Fees to take account of:
- (a) any additional Services requested by the Customer which were not included in the original confirmation form;
 - (b) any reasonable increase in rates, if applicable;
- provided that any variation is notified to the Customer in writing by the Nursery.
- 5.11 Fees remain due if the Child is absent from Nursery for any reason.

6 CHANGE OF SESSIONS

- 6.1 Any changes to the agreed sessions for the Child will be discussed and agreed in advance by the Nursery and the Customer.
- 6.2 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.
- 6.3 Additional sessions required on an individual basis may be given subject to the prior agreement of the Nursery and these will be added to the following month's invoice.

7 CUSTOMER OBLIGATIONS

- 7.1 The Customer agrees to cooperate with the Nursery in all matters relating to the provision of the Services and comply with all the policies which are referred to on the Nursery's website (as may be updated from time to time).
- 7.2 The Customer shall refrain from directly or indirectly recruiting any person employed or engaged by the Nursery for the purpose of providing the Services during and for a period of six months following the end of the Child's attendance at the Nursery.
- 7.3 The Customer shall not allow the Child to bring in any of their own toys to the Nursery without the permission of the Nursery.
- 7.4 If notified by the Nursery of a child with a nut allergy, the Customer shall not send food or empty food packaging into the Nursery or use creams, sun creams or oils on the Child that contain nut oil until further notice from the Nursery.
- 7.5 It is the Customer's sole responsibility to ensure that the Child is appropriately dressed, particularly for all weather conditions.
- 7.6 The Customer must provide the supplies listed on the 'What You Need To Provide' document that the Nursery shall give to the Customer. This includes, but is not limited to, formula or breast milk if the Child is not yet of age to drink cow's milk as well as nappies, wet wipes and nappy creams. The Nursery may charge the Customer for these items if they are not provided by the Customer.

8 NURSERY OBLIGATIONS

- 8.1 The Nursery shall supply the Services as specified in these Terms and Conditions.
- 8.2 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.
- 8.3 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 in respect of the Services.
- 8.4 The Nursery shall provide the Customer with regular verbal updates on the Child's progress. The Customer may also request appointments with the Nursery manager.
- 8.5 The Nursery shall try to offer siblings a place at the Nursery wherever possible but this cannot be guaranteed.
- 8.6 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.
- 8.7 The Nursery shall hold valid and adequate insurance policies for running a business of this nature.
- 8.8 The Nursery shall maintain staffing levels according to national recommended standards at all times.
- 9 ACCIDENTS, SICKNESS AND MEDICAL INFORMATION**
- 9.1 A Child suffering from any contagious disease is not permitted to attend the Nursery. This includes, but is not limited to, sickness, diarrhoea, impetigo and conjunctivitis.
- 9.2 The Nursery reserves the right to refuse admission to any child it reasonably suspects of having a contagious condition.
- 9.3 The Nursery accepts no liability for the contraction of any illness by a Child transmitted at the Nursery.
- 9.4 The Customer must complete and return the Nursery's standard medical health record (included in the Registration Form) prior to the first attendance of the Child at the Nursery and must inform the Nursery immediately of any change to this information.
- 9.5 Where the Child is on medication, the Customer must complete a medical consent form prior to the first attendance of the Child at the Nursery after being prescribed such medication to permit the Nursery staff to administer any medicines supplied by the Customer for the Child. All medication must be clearly labelled displaying the pharmacist prescription label and dosage instructions. It is the Customer's responsibility to ensure all long term medicines for use by the Child, e.g. for the treatment of asthma, are within the 'use by' date.
- 9.6 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.
- 9.7 If the Child has been prescribed antibiotics, they must be administered at home for 48 hours before the Child can be permitted to attend the Nursery.
- 9.8 The Nursery shall not administer any unprescribed medication.
- 9.9 The Customer shall be informed of all accidents and shall be required to sign an accident form which records the details of the accident and any injuries the Child sustains.
- 9.10 The Nursery shall have the right to administer basic first aid and treatment to the Child when required.
- 9.11 For accidents of a more serious nature, including those involving hospital treatment, all reasonable attempts will be made by the Nursery to contact the Customer however, failing this, the Nursery is authorised to act on behalf of the Customer and to authorise treatment where required.
- 10 CHILD DETAILS AND DATA PROTECTION**
- 10.1 The information supplied by the Customer in the confirmation form and the Registration Form must be accurate and the Nursery is entitled to rely on this information in order to provide the Services. The Customer must notify the Nursery immediately of any changes to this information.
- 10.2 The Nursery shall comply with all data protection legislation in relation to the provision of the Services and in any event with the principles of the EU Data Protection Directive 95/46 as implemented by the Data Protection Act 1998 in relation to any personal data (as defined in the Directive).
- 10.3 In particular and without limitation, the Nursery warrants that it has in place now and will on a continuing basis have in place and take all necessary technical and organisational measures to keep any personal data secure and to protect it against accidental loss or unlawful destruction, alteration, disclosure or access and agrees to use such personal data only for the performance of the Services.
- 10.4 Following a reasonable period after termination of the Agreement, subject to other legal or compliance requirements, the Nursery shall securely delete any personal data relating to the Child in accordance with data protection legislation.
- 10.5 The Customer may request a copy of all personal data that the Nursery holds in relation to the Child and shall be entitled to ask the Nursery to remove or correct any information that the Customer believes to be inadequate.
- 10.6 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.
- 10.7 The Nursery may take photographs and/or recordings of the Child for promotional or educational purposes

after having obtained the Customer's consent to do so.

11 ABSENCE AND COLLECTION

- 11.1 The Customer must advise the Nursery as soon as possible if the Child is to be absent from the Nursery.
- 11.2 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. If the Nursery is not satisfied as to the credibility of such a person the Child shall not be released.
- 11.3 Persons collecting a child must be over the age of 18 years.
- 11.4 If the Customer is unable to collect the Child at the appointed time a late collection charge may be payable as specified in clause 4.5 of these Terms and Conditions.

12 PERSONAL PROPERTY

- 12.1 The Customer shall ensure that any personal property brought by the Customer and/or the Child to the Nursery are safe and appropriate for the nursery environment.
- 12.2 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.
- 12.3 All clothing must be clearly marked with the name of the Child.

13 COMPLAINTS POLICY

- 13.1 In the event that the Customer is unhappy with the Services, any issues should be raised with the Nursery manager in the first instance.
- 13.2 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.

14 TERMINATION

- 14.1 The Agreement shall continue until the Services have been provided up to the date mutually agreed in writing by both parties or until terminated by either party in accordance with these Terms and Conditions, whichever is earlier.
- 14.2 The Customer may terminate this Agreement by giving the Nursery one month's notice in writing of their intention to withdraw the Child from the Nursery.
- 14.3 Except where otherwise stated in these Terms and Conditions, the Nursery may terminate this Agreement by giving 14

days' notice in writing of its intention to cease to provide the Services.

- 14.4 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.

- 14.5 Either party may, with immediate effect, terminate the Agreement by notice in writing to the other if:

- (a) 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
- (b) the other party commits a material breach of these Terms and Conditions which cannot be remedied under any circumstances; or
- (c) 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
- (d) the Nursery ceases to carry on its business or substantially the whole of its business; or
- (e) 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.

- 14.6 In the event of termination the Customer must pay to the Nursery any sums for the Services incurred up to the date of termination.

- 14.6 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.

15 WARRANTY

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

16 LIMITATION OF LIABILITY

- 16.1 The Nursery shall not be liable under any circumstances to the Child, the

- Customer or any third party for any indirect or consequential loss of profit, consequential or other economic loss suffered by the Customer or any third party howsoever caused, as a result of any negligence, breach of contract, misrepresentation or otherwise by the Nursery, its staff and/or representatives.
- 16.2 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, injury or damage suffered by the Child, the Customer or any third party unless caused as a result of any negligence, breach of contract by the Nursery, its staff and/or representatives 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 to the Nursery.
- 17 **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.
- 18 **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.
- 19 **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.
- 20 **THIRD PARTY RIGHTS**
Nothing in these Terms and Conditions intends to or confers any rights on a third party.
- 21 **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.

22 **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.

23 **NOTICES**

Any notice to be given by either party to the other may be served by email, personal delivery 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 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.

24 **ENTIRE AGREEMENT**

These Terms and Conditions supersede any previous agreements, arrangements, documents or other undertakings either written or oral in connection with the provision of the Services.

25 **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.