

# BLOOMING YEARS NURSERY SCHOOL - TERMS AND CONDITIONS

## 1. Definitions

1.1 The definitions below apply in these terms and conditions.

**“Child”** the child or children who are named in Part A;

**“You”** the person, firm or company who purchases Services from us;

**“Services”** the services of a daycare nursery during the days or half days indicated in Part A (\*excluding bank and public holidays) (**\*delete as appropriate**), together with any other services which we provide, or agree to provide, to you;

**“Us”** the nursery named in Part A.

1.2 A reference to **writing** or **written** includes faxes but not email.

1.3 Any requirement in this contract for either party not to do something includes an obligation on that party not to allow that thing to be done.

## 2. Formation of the contract

2.1 A contract for the Services will be formed between you and us once you have given us a signed, fully completed, registration form [and a £ **[insert amount]** booking fee], and we have confirmed to you [in writing] that your application for a place has been successful.

2.2 These terms and conditions govern the contract between you and us for the Services. No other terms apply unless they are in:

2.2.1 A handbook issued to you by us,

2.2.2 A policy issued to you by us,

2.2.3 A letter that is signed by both you and us.

2.3 In the case of any uncertainty as to which terms apply, these terms and conditions will apply.

## 3. Duration of the contract

3.1 The contract shall last until it is terminated by either you or us giving to the other, in writing, at least one [full calendar] months' notice. However, the contract can, in some circumstances be terminated immediately under clause 18.

3.2 You are liable for the fee during the notice period. If you fail to give proper notice, you may lose your deposit.

#### **4. Suspension of the Services**

The Services may be suspended (meaning the Child is temporarily not able to attend the nursery) in the circumstances set out in our Critical Incident Policy or in the circumstances set out in clause 19.

#### **5. Our Obligations**

- 5.1 We will use all reasonable efforts to provide the Services to you, in accordance in all material respects with these terms and conditions and any other documents referred to in 2.2 above.
- 5.2 We welcome staff and children from many different backgrounds and ethnic groups. Human rights and freedoms are respected and we will do all that is reasonable to ensure that our culture, policies and procedures are made accessible to children who have disabilities and to comply with their social and moral obligations under the Special Educational Needs and Disability Act 2001 or Equality Act 2010 in order to accommodate the needs of children, applicants and members of staff who have disabilities for which, after reasonable adjustments, we can cater adequately
- 5.3 If we determine, in our sole discretion (after appropriate and reasonable analysis) that reasonable adjustments cannot be made for a Child and as such we cannot continue to adequately provide for that Child (or admit them as the case may be) then we shall be permitted to request that you withdraw the Child without being charged fees in lieu of notice.

#### **6. Your obligations**

- 6.1 You shall:
  - 6.1.1 Co-operate with us
  - 6.1.2 Provide to us such information as we may reasonably require about
    - 6.1.2.1 The Child (e.g.
      - 6.1.2.1.1 Any known medical condition, health problem, allergy, or diagnosed dietary requirement
      - 6.1.2.1.2 Any prescribed medication
      - 6.1.2.1.3 Any lack of any vaccination which the Child would ordinarily have by their age
      - 6.1.2.1.4 Any family circumstances or court orders affecting the Child
      - 6.1.2.1.5 Any concerns about the Child's safety; and
    - 6.1.2.2 Your contact details, and those of your authorised persons who may collect the Child.
- 6.2 You must (a) ensure that these details are accurate and (b) keep these details up-to-date, by promptly informing us in writing whenever they change.
  - 6.2.1 As regards arrivals and departure of a child, please refer to the nursery's Arrivals and Departures Policy. Please ask for a copy of it if necessary.
- 6.3 If our performance of our obligations under the contract is prevented or delayed by anything you do (or fail to do), we shall not be liable.

- 6.4 You shall not employ (or attempt to employ) any member of our staff without our consent, until six months from the end of this contract.

## **7. Charges and payment**

- 7.1 You shall pay the charges as set out in Part A or in accordance with clause 19.
- 7.2 Where the Child is unable to attend but our service remains available full charges will be due.
- 7.3 We [will] OR [will not] charge for bank holidays and/or staff training days.
- 7.4 VAT is not charged on nursery fees (nursery provision is an exempt supply for VAT purposes).
- 7.5 The quoted charges are per Child and include lunch and tea.
- 7.6 Extra hours (or parts of an hour) will be charged for (at the ruling rate) and must be booked and paid for at least 24 hours in advance.
- 7.7 The charges must be paid monthly in advance, by the first day of the month.
- 7.8 All payments must normally be made by bank (direct debit, transfer, tax free childcare) or childcare vouchers. We may agree to payment by cash, cheque or major credit/debit card, but it is your responsibility to obtain a receipt from the nursery manager as proof of payment. No payment shall be deemed to have been made until it is cleared into our bank account. If a cheque bounces, or payment fails, we may charge a reasonable administration fee (currently £ 50).
- 7.9 We may increase our charges once per year. We will give you written notice of any such increase at least one month before the proposed date of increase.
- 7.10 Without restricting any other legal right that we may have, if you fail to pay us on time, we may:
- 7.10.1 Make an interest charge of up to 1.5% per cent per month or part month on late payment. Unless otherwise notified to you in writing, interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us the interest together with the overdue amount. In addition we will be entitled to recover from you the full amount of our administrative and other costs incurred in recovering any unpaid sum including legal costs and disbursements on an indemnity basis.
- 7.10.2 and
- 7.10.3 Suspend all Services until payment has been made in full, which will include the suspension of the Child, or even terminate the contract permanently.
- 7.11 If you owe us any money, and make a claim against us, we may offset what you owe us against what you are claiming from us.

## **8. Reducing sessions**

You are required to give us one month's written notice of a reduction in the number of sessions you require.

## **9. Free nursery education**

- 9.1 If you wish to take up your free nursery education, you are required to complete and sign a Parental Declaration on a termly basis, detailing how and when you will take up the free sessions.
- 9.2 Our charges will not be made in respect of the free sessions as detailed in the Parental Declaration, but we are entitled to make a reasonable charge for meals or additional activities provided during any free session. Meals are charged at the rate of £ 2.5 per meal.

## **10. Welfare of the Child**

- 10.1 We will do all that is reasonable to safeguard and promote the Child's welfare and to provide care to at least the standard required by law and often to a much higher standard.
- 10.2 We will respect the Child's human rights and freedoms which must, however, be balanced with the lawful needs and rules of our nursery and rights and freedoms of others.
- 10.3 Your consent to such physical contact as may be lawful accord with good practice and be appropriate and proper for teaching and instruction and for providing comfort to a Child in distress, or to maintain safety and good order, or in connection with the Child's health and welfare.
- 10.4 Nappies are provided by the nursery.
- 10.5 Parents should provide sealed formula milk for bottle feeding babies. Bringing in and storing made-up formula milk may increase the chance of a baby becoming ill and should be avoided.
- 10.6 Labelled mother's breast milk will be stored in the fridge and an area will be made available for mothers to breast feed their babies or express milk should they need to do so.
- 10.7 As regards behaviour management techniques and sanctions, please refer to the nursery's Promoting Positive Behaviour Policy. Please ask for a copy of it if necessary.
- 10.8 The nursery uses emergency procedures for accidents, evacuations, incidents and allergic reactions, please refer to the individual policies and procedures and ask for a copy where required.

## **11. Health and medical matters**

- 11.1 If the Child becomes ill during the nursery session the nursery manager will contact you or the emergency contact indicated on the registration form. You must inform us immediately of any changes to these contact details.

If your child requires urgent medical attention while under our care, we will if practicable attempt to contact you and obtain your prior consent. However, should we be unable to contact you we shall be authorised to make the decision on your behalf should consent be required for urgent treatment recommended by a doctor (including anaesthetic or operation, or blood transfusion) unless you have previously notified us you object to blood transfusions)).

- 11.2 If the Child is suffering from a communicable illness, he/she should not be brought to the nursery until such time as the infection has cleared. A full copy of our infection control policy is available from the nursery manager. Please refer to the illness/communicable disease list supplied in your information on minimum periods of exclusion from the nursery.
- 11.3 You must notify the nursery manager if the Child is absent from the nursery through sickness.

- 11.4 If the Child has been sent home from the nursery because of ill health, he/she will not be re-admitted for at least 24 hours. If the Child is prescribed antibiotics, he/she will not be allowed to return to the nursery for 48 hours. If the illness is a communicable illness, then clause 11.2 shall also apply and the Child will be unable to attend the nursery until such time as the infection has cleared.
- 11.5 As regards medication, and the administration of it to a Child, please refer to the nursery's Medication Policy. Please ask for a copy of it if necessary.
- 11.6 Please also see clause 6.1.2 on matters we need to be informed about.

## **12. Food/dietary requirements**

- 12.1 We will work with you to provide suitable food for your Child, if they have a special dietary requirement or any allergies as diagnosed by a doctor or dietician. All reasonable care will be taken to ensure that a Child does not come into contact with certain foods with support from parents and external professionals should the need arise.
- 12.2 Menus will be displayed for inspection, and parents and children will be able to feed into the review of these.
- 12.3 No packed lunches can be supplied by parents.

## **13. Reporting of neglect or abuse**

We have an obligation to report to the relevant authorities any suspicions we have that your Child has suffered neglect or abuse, and where necessary we may do so without your consent and/or without informing you.

## **14. Limitation of liability**

- 14.1 This clause sets out our (and our employees', agents', consultants' and subcontractors') liability to you in respect of the contract (including any breach of it, any statement we make to you about it, our termination of it).
- 14.2 All terms implied by law are, to the fullest extent permitted by law, excluded or deleted from the contract.
- 14.3 Nothing in these terms and conditions in any way limits our liability for fraud, or for death or personal injury resulting from negligence.
- 14.4 We shall not be liable for:
  - 14.4.1.1 Any loss or damage to any toys, equipment or bags, clothing etc. you may bring into our nursery
  - 14.4.1.2 Loss of any profits, or consequential loss; or any other indirect loss; and
- 14.5 Subject always to clause 14.3, our total liability (in contract, tort including negligence or breach of statutory duty, or otherwise) shall be limited to cumulative price paid by you for the Services over the course of the contract.

## **15. Data protection**

- 15.1 You agree that details of your name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of us in connection with the Services.
- 15.2 We may take photographs and/or videos of your Child for promotional or training purposes only. If you do not wish for your Child to be included in such photographs or videos, please inform us by completing the 'permission form' given to you on enrolment, or by writing to the nursery manager.
- 15.3 Any personal data related to You or your Child will be dealt with in accordance with our privacy notice, which can be found at [\_\_\_\_\_].

## **16. Security**

Parents are welcome to visit the nursery, but we will not admit anyone without prior notification. It is your responsibility to ensure that we are aware of who will be collecting your Child. No Child will be allowed to leave the building with any person who has not been notified as an authorised person to collect the Child on your behalf.

## **17. Complaints and concerns**

Please address any complaint or concern to the supervisor in charge, in the first instance, and if the matter is not resolved within a reasonable period, please refer it to the nursery manager. Please also refer to our complaints and compliments policy which shall apply to any complaints received by us.

## **18. Termination for breach of contract, or bankruptcy/insolvency**

- 18.1 Without restricting any other legal rights which the parties may have, either party may terminate the contract without liability to the other immediately on giving written notice to the other if:
  - 18.1.1 The other party fails to pay any amount due under the contract on the due date for payment and remains in default for 10 days or more; or
  - 18.1.2 The other party commits a material breach of any of the terms of the contract and (if such a breach is capable of being remedied) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
  - 18.1.3 The other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986.
- 18.2 On termination of the contract for any reason:
  - 18.2.1 You shall immediately pay all of our outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, we may submit an invoice, which shall be payable immediately on receipt; and
  - 18.2.2 Any clause in these terms and conditions which implicitly is intended to survive termination shall continue in force.

## **19. Events that are beyond our control**

- 19.1 If any event beyond our reasonable control (e.g. a fire, flood, epidemic or pandemic outbreak, strike, civil action, act of terrorism, war etc.) occurs, for which we have business interruption insurance, we may close the nursery without liability to you and we will not charge you for the fees for the time the nursery is closed. We will keep you informed, in such an event.
- 19.2 If the nursery is forced to close for reasons beyond the nursery's control or if it is, in our reasonable opinion, necessary or in the interests of the Child to do so, we may close the nursery even though our business interruption insurance will not cover us for the closure. In these circumstances, we will charge a retainer of 50% of your regular monthly fee to enable the nursery to hold your child's place and cover unavoidable ongoing overheads during this time.

For example, we may close because of severe weather conditions, outbreak of flu, swine flu, COVID-19, any epidemic or pandemic or other illnesses, if the owner of the premises closes the premises and denies us access, etc.

## **20. Invalid clauses**

If any part of the contract is found by any court or similar authority to be invalid, illegal or unenforceable, that part shall be struck out, but the rest of the contract shall apply.

## **21. Changes to these terms and conditions**

- 21.1 We may change these terms and conditions where such a change arises from changes in regulations or legislation affecting us.
- 21.2 We may change any other terms only with express written agreement from You.

## **22. No other terms**

Each party acknowledges that, in entering into the contract, it has not relied on anything said or written that is not written in the contract. This applies unless fraud is established.

## **23. Assignment**

The contract is personal to you. You shall not, without our written consent, transfer to anyone else any of your rights or obligations under the contract.

## **24. Rights of third parties**

A person who is not a party to the contract shall not have any rights under or connection with it.

## **25. Governing law and jurisdiction**

The contract, and any dispute or claim arising out of it or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by the law of England. The courts of England shall have exclusive jurisdiction to settle any such dispute or claim.