

**The Terms and Conditions**  
of  
**Saplings Nursery**

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## TERMS AND CONDITIONS

### 1. Definitions

1.1 The definitions below apply in these terms and conditions.

“Child” the child or children

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

“Services” the services of a day care nursery Monday to Friday, including bank and public holidays, 3 staff training days per annum, together with any other services which we provide, or agree to provide, to you;

“Us” Saplings Nursery

1.2 A reference to **writing** or **written** includes standalone email, it also includes a signed letter attached to an email and a letter sent in the post.

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 online reservation or request form and deposit, 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. (i.e. notice received on 31<sup>st</sup> of the month, will end the contract at the end of the following month; notice received on 11<sup>th</sup> month, will end the contract at the end of the following month). However, the contract can, in some circumstances be terminated immediately under clause 19.

3.2 The place deposit is refundable, providing these terms and conditions are followed when terminating our Services and other terms do not apply. As soon as notice to terminate is received, we apply the deposit back to your account as a payment before the final invoice is generated and we enter the leave date for the Child

3.3 You are liable for fees during the notice period. If you fail to give proper notice, we reserve the right to withhold a refund of your deposit.

DEPOSIT CALCULATOR		
£150	£250	£400
1-2-day BOOKINGS	3-day BOOKINGS	4- & 5-day BOOKINGS

### 4. Suspension of Services

The Services may be suspended, meaning the Child is temporarily not able to attend in the circumstances set out in our Critical Incident Policy or in the circumstances set out in clause 19. In the event services are suspended individually for a child, either of us may terminate the contract with immediate effect. Suspension from nursery does not incur fees under notice. We reserve the right to withhold refunding the place deposit, depending on the reason for suspension and the subsequent need to terminate a place.

## 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 the Child:
    - 6.1.2.1 Any known medical condition, health problem, allergy, or clinically diagnosed dietary requirement
    - 6.1.2.2 Any prescribed medication
    - 6.1.2.3 Any family circumstances or court orders affecting the Child
    - 6.1.2.4 Any concerns about the Child's safety
    - 6.1.2.5 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.
- 6.3 If the 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 after terminating this contract.
- 6.5 You shall not employ or use the services of staff between our opening hours Monday to Friday 7.30am – 6.30pm including before their shift begins and after their shift ends.
- 6.6 Outside of operating hours you may employ staff services for babysitting duties, provided this does not compromise their fitness / ability to attend the workplace when required to do so.
- 6.7 You must declare to us your intention to employ any part time member of staff on days they do not work for us

## 7. Payment, Charges and Late Payment

- 7.1 You shall pay the fees and any charges invoiced, and in accordance with clause 19 & 20, including any increase in fees notified in accordance with 2 months' notice
- 7.2 Where the Child is unable to attend for any reason but our service remains available full charges will be due.
- 7.3 We will charge for bank holidays and staff training days.
- 7.4 £7.50 per 15 minutes or part thereof that you are late in collecting
- 7.5 VAT is not charged on nursery fees (nursery provision is an exempt supply for VAT purposes).
- 7.6 The fees and charges are based on hours of attendance per Child, per core day and are fully inclusive within minimal exceptions.
- 7.7 Extra hours must be requested in writing these will be charged at the published rate and will be raised in the next invoice, to be paid promptly.
- 7.8 The fees must be paid monthly in advance, by the last working day of the preceding month (i.e. fees for July should clear our account on the last working day of June)
- 7.9 All payments must normally be made by bank transfer, including childcare vouchers or the government tax free childcare system. We may agree to payment by cash or major credit/debit card, but it is your responsibility to obtain a receipt from us as proof of payment. No payment shall be deemed to have been made until it is cleared our bank account.
- 7.10 We may increase fees every 6 months. We will give you written notice of any such increase at least TWO months before the proposed date of increase.
- 7.11 If a payment for fees fails to materialise within 5 working days after the due date, we will charge a on-off administration fee that represents 10% of the outstanding balance for that month.
- 7.12 Without restricting any other legal right that we may have, if your account remains unpaid after 10 working days beyond the original due date, we will:

- 7.12.1 charge interest @ 8.75% per cent per month or part month on outstanding balances. Unless otherwise notified to you in writing, interest shall accrue daily (0.29%) backdated to the due date until the date payment of the overdue amount is received, whether before or after judgment. You must pay us the interest together with the overdue amount.
- 7.12.2 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.
- 7.12.3 In the event fees or charges remain unpaid for 31 days or more, they will be deducted from the deposit held on account and we will suspend all services until payment has been made in full.
- 7.12.4 We will terminate your child's place / contract permanently after two consecutive months of non-payment.
- 7.13 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 full calendar month's written notice of a reduction in the number of sessions and/or hours you require once the Child has started with Us. (Refer to 3.1)

**9. Prior to starting**

- 9.1 The notice to cancel prior to starting is 4 calendar months or 17 weeks, the place deposit will be refunded if 17 or more weeks' notice is given in writing.
- 9.2 Cancellations received with less than the required notice, will mean the place deposit is retained by us and not eligible for refund in accordance with 3.1
- 9.3 See Table 1 for details

TABLE 1	
Months	No. Weeks
<4	13-16
<3	9-12
<2	0-8

**10. Government Funded Education**

- 10.1 If you wish to take up your universal or extended government entitlement, you are required to complete and sign a Parental Declaration on a termly basis, detailing how and when you will take up the sessions. We do not share funding with any other setting
- 10.2 Our charges will not be made in respect of the sessions detailed in the Parental Declaration; we are entitled to make a reasonable charge for meals or additional activities provided during any free session, such services remain fully inclusive in the entitlement offered under the terms of the Parental Declaration.
- 10.3 Any chargeable hour's balance after 15 universal / plus 15 extended hours have been applied (30 hours), will be charged at a slightly higher rate than the average for the relevant tariff. Information is provided to parents at an annual meeting to discuss the management of 30 hours.

**11. Welfare of the Child**

- 11.1 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 more often to a much higher standard.
- 11.2 We will respect the Child's rights and freedoms which must be balanced with the lawful needs and rules of the nursery and rights and freedoms of others.
- 11.3 Your consent to physical contact as may be lawful in accord with good practice, 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 is assumed to have been given
- 11.4 Nappies are provided by the nursery
- 11.5 We provide all formula milk for bottle feeding babies
- 11.6 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
- 11.7 We will manage behaviour of the Child in accordance with techniques and sanctions detailed in Promoting **Positive Behaviour Policy**.
- 11.8 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.

**12. Health and medical matters**

- 12.1 If the Child becomes ill during a nursery session the senior team leader 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 in our care, we will contact you to notify you immediately. In the event we are unable to contact you, we will act in 'loco parentis' i.e. we shall be authorised to make the decision on your behalf should consent be required for urgent medical treatment recommended by a doctor unless you withdraw consent on the Registration form.

- 12.2 If the Child is suffering from an illness, with symptoms, he/she should not be brought to the nursery until such time as the symptoms are no longer present. Please refer to the illness/communicable disease list supplied in our Policies on minimum periods of exclusion from the nursery.
- 12.3 You must notify us if the Child is absent due to illness
- 12.4 If the Child has been sent home from nursery unwell, he/she will not be allowed to return for at least 24 hours. If the Child has been sent home with vomiting or diarrhoea, he/she will not be allowed to return to the nursery for minimum 48 hours. If the child is prescribed antibiotics, he/she will not be allowed to return for 24-36 hours
- 12.5 In the event of an epidemic or pandemic, local authority or government guidance must be followed in accordance with setting operating procedures
- 12.6 For administering medication to the Child, please refer to our **Medication Policy**.
- 12.7 Please also see clause 6.1.2 on matters we need to be informed about.

### 13. Food/dietary requirements

- 13.1 We will work with you to provide suitable food for your Child, if they have a special dietary requirement or any allergies clinically 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. You are required to email [anna.davies@saplingsnursery.co.uk](mailto:anna.davies@saplingsnursery.co.uk) and provide us with the details of your child's formal dietary plan from either the consultant or dietician.
- 13.2 Menus will be displayed for inspection, and available on the website and parents and children are encouraged to contribute their review.
- 13.3 We do not accept food or drinks from home, including the option for packed lunches
- 13.4 If you wish to bring in a cake for a birthday celebration, this must be shop bought only, not homemade and **MUST NOT CONTAIN NUTS**
- 13.5 Any sweets brought in to be shared, will be given to parents on collection of the child
- 13.6 **All visitors, parents, staff and children are not permitted to consume nuts prior to attending the nursery at any time on the day of attendance. Please check ingredients of foods consumed before and enroute to the setting. We are a strict nut-free zone.**

### 14. 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.

### 15. Limitation of liability

- 15.1 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).
- 15.2 All terms implied by law are, to the fullest extent permitted by law, excluded or deleted from the contract.
- 15.3 Nothing in these terms and conditions in any way limits our liability for fraud, or for death or personal injury resulting from negligence.
- 15.4 We shall not be liable for any loss or damage to any toys, equipment or bags, clothing or any other personal belongings you may bring to nursery
- 15.5 We shall not be liable for any loss of any profits, or consequential loss; or any other indirect loss; and
- 15.6 Subject always to clause 15.3, 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 during the course of the contract.

### 16. Data protection

- 16.1 Linda Davies is the registered Data Controller for Us
- 16.2 Details of your name, address and payment record may be submitted to a credit reference agency
- 16.3 We may use photographs and/or videos taken of your Child during observation and assessment for staff training purposes. If you do not wish the Child to be included in such photographs or videos, you will inform us by completing the relevant Permission Consent in the Registration Form, or at any subsequent date by emailing Cheryl Rae, Nursery Administrator [admin@saplingsnursery.co.uk](mailto:admin@saplingsnursery.co.uk)
- 16.4 Any personal data related to You or your Child will be dealt with in accordance with our privacy notice, available on most of our website pages.
- 16.5 Personal data will be processed by and on behalf of Us in connection with the Service only.
- 16.6 Payment card details taken over the phone are never recorded, spoken or written down.
- 16.7 Once CCTV is re-installed, surveillance is 24 hours a day, 365 days a year. Images recorded are stored on a Network DVR and overwritten in a cyclical manner every 4 weeks. Our Code of Conduct under Data Protection for the use and management of CCTV surveillance will be available to all users, employees, visitors.

### 17. Security

Under non-pandemic conditions, parents with children attending are welcome to visit the nursery at any time without notice. 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. Providing

your password to a non-authorised person will not enable that person to collect on your behalf. We will contact you in this event for Authorisation, which will require a two-step process.

- Step 1: Provide the full name, address or telephone number of the person collecting
- Step 2: Person collecting will be asked to confirm the matching details provided

### **18. Complaints and concerns**

Please address any complaint or concern to Linda Davies, in the first instance, and if the matter is not resolved within a reasonable period, please refer it to Cheryl Rae (Nursery Administrator). Please also refer to our **complaints and compliments policy** which shall apply to any complaints received by us.

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

19.1 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:

- 19.1.1 The other party fails to pay any amount due under the contract on the due date for payment and remains in default for 28 days or more; or
- 19.1.2 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
- 19.1.3 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.

19.2 On termination of the contract for any reason:

- 19.2.1 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
- 19.2.2 Any clause in these terms and conditions which implicitly is intended to survive termination shall continue in force.

### **20. Events beyond our control**

- 20.1 If a Critical Incident event occurs, beyond our reasonable control (e.g. a fire, flood, outbreak, strike, civil action, act of terrorism, war etc.) 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.
- 20.2 If a Critical Incident event occurs and the nursery is forced to close, in part or in full, on a temporary basis for 5 days or more for reasons beyond our control, in our reasonable opinion necessary or in the interests of the Child to do so, we may close the nursery even if our business interruption insurance will not cover us for the closure. In these circumstances, we may seek a voluntary contribution of 20-30% of the regular fees to enable us to cover ongoing overheads and retain your child's place
- 20.3 Other events include, but not limited to, closures/restrictions in operating hours less than 5 days duration in severe weather conditions, breakdown of heating, water supply restrictions, electricity failure, sewerage failure, external environmental calamity, government restrictions that impact staff availability; or if the owner of the premises closes the premises and denies us access; or any other illness or infectious disease that may come to light in the future (See page 8. **Coronavirus and Other Infectious Diseases Addendum** for specific details in a pandemic) These closures will continue to require payment of full fees unless they extend to closures in excess of 5 days duration (see 20.2 above)
- 20.4 In respect of such events, you may provide us with a written request to cancel your place without notice; the place deposit will be refunded

### **21. 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.

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

- 22.1 We may change these terms and conditions where such a change arises from changes in regulations or legislation affecting us.
- 22.2 We may change other terms excluded from 22.1 above with 56 days' notice.
- 22.3 We will review the contract annually and any changes will be agreed in writing and signed by each party

**23. No other terms**

Each party acknowledges that, in entering into the contract to provide care & education to your child, neither party has not relied on anything said or written that is not written in the contract. This applies unless fraud is established.

**24. Assignment**

The contract between us under the terms & conditions outlined, is personal to you. You shall not, without our written consent, transfer to anyone else any of your rights or obligations under the contract and the agreement to it written terms & conditions.

**25. Rights of third parties**

A person who is not a party to the contract and therefore not subject to these terms & conditions, shall not have any rights under or connection with it.

**26. Governing law and jurisdiction**

The contract, including these terms & conditions 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.

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## Coronavirus and Other Infectious Diseases Addendum

Between March-June 2020, Early Years settings were forced to close by the government, except for services to children of Critical Workers. During the closure period, we were permitted to retain funding for preschool age children and no parent was charged and a full refund was applied where payment was received in advance.

Also during this time we were permitted to claim furlough for eligible staff, which included a percentage calculation where funding was granted. Some staff were not eligible for furlough.

The above two factors as well as financial support from parents during this time, enabled us to cover our outgoings and continue to offer a child care provision from July 2020 onwards. To these parents we were very grateful.

The details below outline to you our position as a result of 3 publications from the Competitions & Marketing Authority who provide the legal framework for fairness between consumer and service provider.

You will note from our Terms & Conditions para. 20 **Events beyond our Control** we outline to you in para. 20.2 that an 'optional 20-30%' will be requested to support our ongoing costs in certain circumstances. We have excluded any reference to government pandemics.

Any service contract that becomes 'frustrated' by guidance or law may be terminated by either of the parties; e.g. government announcements of infectious diseases (viral, bacterial, water-borne, parasitic or fungal), whether sporadic, endemic, epidemic or pandemic circumstance, or any other illness/infection that may come to light in the future.

Parents may offer to contribute to ongoing costs or they may cancel their place without notice and be refunded any deposit held, including all advanced fee payments for services not accessed.

Below is the statement in the latest [Actions for Early Years settings](#) (6 January 2022) – I would urge you to read the linked documents to understand the Consumer Law determining our contract with you in these unprecedented times.

### **Charging parents and carers if their child is unable to take up their place**

Providers should continue to be fair and balanced in dealings with parents or carers and must continue to avoid unfair charging practices. Providers should refer to:

- [CMA open letter to the early years sector](#) published by the Competitions and Markets Authority (CMA) on 28 July 2020
- CMA's detailed advice on [nursery and early years sector: COVID-19 restrictions and consumer law](#)
- CMA's broader [statement on coronavirus \(COVID-19\), consumer contracts, cancellation and refunds](#)

Each case needs to take account of individual contracts considered from the perspective of both parties and the application of the law and guidance to both providers as businesses and parents as consumers. The general principle is that providers should not charge parents or carers for services that cannot be provided. If there is a barrier to accessing childcare, based on government guidance or the law, the provider should not charge the parents or carers for this period.

Our voluntary contribution request is based on our experience during 2020 – if we had not received financial support from parents of between 20-30% we would not have survived and our services would no longer be available in the community.