



## **Apple Daycare Ltd.**

### **TERMS AND CONDITIONS**

#### **1 Definitions**

1.1 The definitions below apply in these terms and conditions.

“Child” the child who is being cared for;

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

“Services” the services of a daycare nursery during the days or half days (excluding bank and public holidays) together with any other services which we provide, or agree to provide, to you;

“Us” Apple Daycare Ltd.

“Month” clear calendar month (i.e. notice received on the 1st of a month will end the agreement on the last day of that month or later, but notice received on the 2nd of a month, will end the agreement on the last day of the following month or later.

1.2 A reference to writing or written includes faxes and email (email: when receipt is confirmed by the Nursery).

1.3 Any requirement in this agreement 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 Agreement**

2.1 An agreement for the Services will be formed between you and us once you have given us a submitted Online Registration Form [and paid cleared funds a £100 deposit if requested], and we have confirmed to you [in writing] that your application for a place has been successful and or payment of the first months fees.

2.2 These terms and conditions govern the agreement 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 our Agreement**

- 3.1 The agreement shall last until it is terminated by either you or us giving to the other, in writing, at least one full calendar month's notice (i.e. notice received on the 1st of a month could end our agreement on the last day of that month, but notice received on the 2nd of a month, would end our agreement on the last day of the following month). However, our agreement 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 and/or registration fee.
- 3.3 If during your notice period you move your child to another setting and transfer your government funded care there you will become responsible for your fees in full at Apple Daycare.

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

- 4.1 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. If the Services are suspended for a period of more than one month, either of us may terminate our agreement by giving the other one month's written notice.

### **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.

### **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. Any known medical condition, health problem, allergy, or diagnosed dietary requirement;
  - 6.1.2.2 Any prescribed medication;
  - 6.1.2.3 Any lack of any vaccination which the Child would ordinarily have by their age;
  - 6.1.2.4 Any family circumstances or court orders which might affect the Child's welfare or happiness;
  - 6.1.2.5 Any concerns about the Child's safety; and
  - 6.1.2.6 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 whenever they change.
- 6.3 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.
- 6.4 If our performance of our obligations under our agreement is prevented or delayed by anything you do (or fail to do), we shall not be liable.
- 6.5 You shall not employ (or attempt to employ) whether directly or indirectly any member of our staff without our consent, whether during the term of our agreement or for a period of six months after the end of our agreement. <sup>[1]</sup><sub>[SEP]</sub>

Where: <sup>[1]</sup><sub>[SEP]</sub>

- a. a member of our staff; or <sup>[1]</sup><sub>[SEP]</sub>
- b. a member of our staff who has had contact with your Child; or <sup>[1]</sup><sub>[SEP]</sub>
- c. a member of our staff who has had contact with your Child in the six months prior to leaving employment with us;

is employed or otherwise engaged by you, whether directly or indirectly, to provide childcare services of any type to the Child previously registered with us, including but not limited to services competing with the Services, within six months of Apple Daycare Ltd, then you shall pay to us a sum equivalent to four months' salary for that employee at the time when that employee's employment with us was terminated. You



agree that this figure represents the costs to us of recruiting and training a suitable replacement member of staff and you shall pay such sum immediately on request.

## **7 Charges and Payments**

- 7.1 You shall pay the charges for the requested childcare as invoiced.
- 7.2 Charges are due even if the Child is absent.
- 7.3 We will not charge for bank holiday.
- 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, per hour and include lunch and tea for under three years olds, there is a charge for evening meals for those over three years old see our fees tariff on our website.
- 7.6 Extra hours (or parts of an hour, minimum half 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 If you have more than one child attending the Nursery, you will be eligible for a 10% discount on the fees for the eldest child. Should your children have different attendance patterns, the 10% discount will be applied to the child with the lowest invoice rate.
- 7.8 The charges must be paid monthly in advance, by the first day of the month.
- 7.9 All payments must normally be made by bank transfer 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 £30).
- 7.10 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.
- 7.11 Without restricting any other legal right that we may have, if you fail to pay us on time, we may:
- 7.11.1 Charge interest on the overdue sum from the due date for the payment at the annual rate of [7]% above the base lending rate from time to time of HSBC, accruing on a



daily basis and being compounded quarterly until payment is made, whether before or after any judgement is obtained, and you shall pay the interest immediately on demand.

- 7.11.2 Charge you a reasonable administration fee (currently £50); and
- 7.11.3 Suspend all Services until payment has been made in full, which will include the suspension of the Child, or even terminate our agreement permanently, charges for the notice period would still apply.
- 7.12 If you are 60 days or more late in paying us, we may also charge you our reasonable costs of seeking to recover the overdue payments. Such costs will be added to your running account and should be paid within 30 days of notification of them to you.
- 7.13 If you owe us any money, and make a claim against us, we may set off what you owe us against what you are claiming from us.

## **8 Reducing Sessions**

- 8.1 You are required to give us one clear calendar 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 prevailing rate per meal as listed on our tariff of fees page on our website. [You may bring a cold packed lunch instead if you prefer, but we will not heat up food].

## **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 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, for those children under three years old, Parents of Children older than three years old, who are not potty trained must provide their own disposable nappies.
- 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.
- 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.



- 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 supplied by parents for after school/holiday club Children will be heated up by us.

## **13 Reporting of Neglect or Abuse**

- 13.1 We have an obligation to report to the relevant authorities any suspicions we have that your Child has suffered neglect or abuse, and we may do 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 sub agreementors') liability to you in respect of our agreement (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 our agreement.
- 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. Subject to this proviso,
- 14.3.1 We shall not be liable for:
- 14.3.1.1 Any loss or damage to any toys, equipment or bags, clothing etc. you may bring into our nursery;
- 14.3.1.2 Loss of any profits, or consequential loss; and



- 14.3.2 Our total liability (in agreement, 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 our agreement.

## **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.

## **16 Security**

- 16.1 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**

- 17.1 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.

## **18 Termination for Breach of Agreement, or Bankruptcy/Insolvency**

- 18.1 Without restricting any other legal rights which the parties may have, either party may terminate our agreement 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 agreement 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 our agreement 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 our agreement 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, E-Coli 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 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 you for the time the nursery is closed. For example, we may close because of severe weather conditions, outbreak of flu (Including Pandemic and if the Government forbids settings from opening), swine flu or other illnesses etc. Also, we close if the owner of the premises closes the premises and denies us access.

## **20 Invalid Clauses**

If any part of the agreement is found by any court or similar authority to be invalid, illegal or unenforceable, that part shall be struck out, but the rest of our agreement 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 in these terms and conditions provided we give you at least one month's written notice of our intention to do so.



## **22 No Other Terms**

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

## **23 Assignment**

- 23.1 Our agreement is personal to you. You shall not, without our written consent, transfer to anyone else any of your rights or obligations under our agreement.

## **24 Rights of Third Parties**

- 24.1 A person who is not a party to our agreement shall not have any rights under or connection with it.

## **25 Governing Law and Jurisdiction**

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