



# The ALMOND PARK Nursery

## TERMS AND CONDITIONS

### 1 Introductory

- 1.1 In these terms and conditions:
  - 1.1.1 "Almond Park" means The Almond Park Nursery Ltd, 2 Marshall Place Perth, PH2 8AH trading as The Almond Park Nursery;
  - 1.1.2 "child" means the child named on the Nursery Registration Form;
  - 1.1.3 "parent/guardian" means the person or persons signing the Nursery Registration Form as parent or guardian of the child (and where more than one person so signs, means those persons on a joint and several basis);
  - 1.1.4 "nursery" means the nursery operated by the Almond Park Nursery Ltd at 10-12 Macbeth Moir Road Musselburgh EH21 8JE;
  - 1.1.5 "Nursery Registration Form" means Almond Park's form with that title as completed by the parent/guardian;
  - 1.1.6 "Fee Sheet" means the document describing the fees payable by the parent/guardian to Almond Park relating to the nursery as issued by Almond Park to the parent/guardian; and
  - 1.1.7 "Settle-in Details" means the document to be completed by the parent/guardian prior to child's starting date providing various details about the nursery arrangements for the child.
- 1.2 These terms and conditions form part of the contract between Almond Park and the parent/guardian in relation to the place to be made available to the child at the nursery (the "contract"). The contract comprises these terms and conditions, the Nursery Registration Form, the Settle-in Details and the Fee Sheet.

### 2 The Nursery Place

- 2.1 Almond Park will use its reasonable endeavours to accept the child into the nursery on the Preferred Start Date as detailed on the Nursery Registration Form. If the child cannot be accepted into the nursery on the Preferred Start Date, Almond Park will notify the parent/guardian of the actual start date, as far in advance of the Preferred Start Date as possible. The actual start date will not be before the Preferred Start Date.
- 2.2 If the actual start date is more than 28 days after the Preferred Start Date the parent/guardian will have the right to terminate the contract as set out in clause 8.4.
- 2.3 Following the actual start date, Almond Park will accept the child into the nursery during each session as detailed on the Nursery Registration Form.
- 2.4 The nursery year runs from April 1st to March 31st. The nursery closes for ten working days each year, as published by Almond Park annually in advance. The child will not be accepted into the nursery on the published closure days. The parent/guardian will pick up the child from nursery no later than the relevant



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session-end time detailed on the Nursery Registration Form. The parent/guardian will pay the late pick-up fees detailed on the Fee Sheet if it fails so to do.

- 2.5 Almond Park may make it a condition of accepting any child into the nursery that a minimum number of sessions are booked. The current minimum number of sessions is set out in the Fee Sheet.

### 3 The Forms

- 3.1 The parent/guardian guarantees that the information supplied by the parent/guardian on the Nursery Registration Form is true and complete, and that the information to be supplied on the Settle-in Details will be true and complete.
- 3.2 Should any information provided by the parent/guardian on the Nursery Registration Form or the Settle-in Details change at any time, the parent/guardian will immediately provide Almond Park with the up to date information in writing.

### 4 Registration Fee

- 4.1 The Non-Refundable Registration Fee referred to on the Fee Sheet will be paid by the parent/guardian to Almond Park on the signature by the parent/guardian of the contract.

### 5 Payment of Nursery Fees

- 5.1 All Nursery Fees are payable by Direct Debit and are payable in advance. On the 28<sup>th</sup> day of each calendar month (each "due date") the nursery fees as detailed on the Fee Sheet for the child's scheduled attendance at the nursery for the coming month will be collect from your bank paid in advance. If a child commences mid-month a pro rata fee for that month plus the full month fee for the following month is due payable on the date the child starts nursery.
- 5.2 At the start of each calendar month, Almond Park will produce an invoice to the parent/guardian for the additional charges as detailed on the Fee Sheet (or as separately advised in advance) in relation to the child's attendance at nursery in the previous calendar month, including any unscheduled additional sessions, the cost of any outings or special classes or sessions, and any late pickup charges. The due date for each invoice will be the date falling 7 days after its date, again any additional charges as detailed will be collected by direct debit from the authorised bank account.
- 5.3 Without prejudice to any other right or remedy that Almond Park may have, if any amounts due to Almond Park fail to be paid within 5 days of their due date, Almond Park may charge interest on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of the Royal Bank of Scotland plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment.
- 5.4 If any fees or charges (including late payment charges) are outstanding for more than 14 days from the relevant due date then Almond Park may terminate the contract in accordance with clause 8.5.
- 5.5 Almond Park reserves the right to increase the nursery fees (or any of them) at any time by giving one month's written notice of the proposed increase and the revised Fee Sheet to the parent/guardian.



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- 5.6 There shall be no pro-rata reduction of fees if during the period of the contract the child is (or is to be) withdrawn from the nursery or absent from the nursery for any period due to illness or holidays or for any other reason. Accordingly, where such circumstances are envisaged the parent/guardian is obliged to make the full monthly payment in advance, and there will be no obligation on Almond Park to repay fees paid in advance to the parent/guardian where such circumstances arise.

### 6 Policies

- 6.1 The policies of Almond Park from time to time in relation to the nursery will be available in the parents' room at the nursery, and copies of such policies will be provided to the parent/guardian on the reasonable request of the parent/guardian.
- 6.2 Almond Park and the parent/guardian will each, in so far as relevant to them, comply with these policies.

### 7 Behaviour of the child

- 7.1 If, in the reasonable opinion of Almond Park, it is considered that the continued presence of the child is detrimental to the health, safety or wellbeing of the child, or other children at the nursery, or the teachers or other staff employed or engaged at the nursery then:
- 7.1.1 Almond Park may require the parent/guardian to immediately collect the child from the nursery;
- 7.1.2 Almond Park will discuss its concerns with the parent/guardian;
- 7.1.3 Almond Park may refuse to accept the child into the nursery for a reasonable period (a "re-adjustment phase") to be specified by Almond Park.
- 7.1.4 If following a re-adjustment phase the child is re-introduced into the nursery and in the reasonable opinion of Almond Park it is again considered that the continued presence of the child is detrimental to the health, safety or wellbeing of the child, or other children at the nursery, or the teachers or other staff employed or engaged at the nursery then Almond Park may in addition to its rights above terminate the contract in accordance with clause 8.6, if it considers, acting reasonably, that a further re-adjustment phase is inappropriate.
- 7.2 Notwithstanding clause 5.5, during any re-adjustment phase, no nursery fees will be payable by the parent/guardian, and any nursery fees paid in advance will be refunded pro rata by Almond Park.

### 8 Termination

- 8.1 Unless otherwise agreed between Almond Park and the parent/guardian, the contract will terminate on the "Finish Date" as detailed on the Nursery Registration Form.
- 8.2 Either party may terminate the contract by the service of not less than one calendar months' notice in writing to the other. During that period of notice Almond Park will continue to accept the child into the nursery (subject to the other



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terms of the contract) and the parent/guardian will pay all fees due by it in accordance with the contract.

- 8.3 If the parent/guardian withdraws the child from the nursery (without giving at least one calendar months' notice in writing to Almond Park) for any reason then, after no fewer than 28 days of continuous absence, Almond Park may terminate the contract by written notice to the parent/guardian.
- 8.4 If the parent/guardian has the right to terminate the contract in accordance with clause 2.2 (start date) it may do so by written notice to Almond Park.
- 8.5 If Almond Park has the right to terminate the contract in accordance with clause 5.3 (non-payment) it may do so by giving no less than 14 days' notice in writing, unless prior to the expiry of that notice full payment is received.
- 8.6 If Almond Park has the right to terminate the contract in accordance with clause 7.1.4 (behaviour) it may do so by written notice to the parent/guardian.
- 8.7 Upon termination of the contract, howsoever arising, the child will cease forthwith to be accepted into the nursery.

### 9 Non-solicitation of nursery staff

- 9.1 During the term of the contract and for the period of six months following its termination (howsoever arising) the parent/guardian will not employ or otherwise engage, seek to employ or otherwise engage, entice away or attempt to entice away from the employment of Almond Park any person or persons who is or has been employed by Almond Park in connection with the nursery, unless in the latter case that person has ceased to be employed by Almond Park for a period of more than 6 months.
- 9.2 The parent/guardian shall indemnify Almond Park fully in respect of all and any costs, claims, damages and expenses incurred by or made against Almond Park as a result of any breach of clause 9.1, including the costs and expenses reasonably and properly incurred by Almond Park in replacing any member of staff engaged, employed or enticed away in breach of that clause such as agency fees, advertising costs, and the cost of Almond Park management time in interviewing candidates.

### 10 Limitations on Liability

- 10.1 If Almond Park is affected by an event beyond its reasonable control (such as, without limitation, fire or flood) which prevents it from performing its obligations under the contract it will notify the parent/guardian, but Almond Park will not be liable for any failure or delay directly caused by that event. During any period where due to such an event the child cannot be accepted into the nursery, no nursery fees will be payable by the parent/guardian, and any fees paid in advance will be refunded pro rata by Almond Park.
- 10.2 Almond Park shall not be liable to the parent/guardian for the loss of or damage to any property left with or worn by the child, save in the case of Almond Park's negligence, in which case Almond Park's liability shall be limited, in so far as permitted by law, to £50 in aggregate per event.



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### 11 General

- 11.1 The parent/guardian may not assign or otherwise transfer the contract.
- 11.2 Other than as expressly provided for herein, no variation of the contract will be valid unless it is in writing and made between a duly authorised representative of Almond Park and the parent/guardian.
- 11.3 Any delay by a party in exercising a right under the contract will not constitute or be deemed to be or a waiver of that right.
- 11.4 The contract constitutes the entire agreement between the parties in respect of its subject matter, and supersedes all previous agreements and understandings in that respect.
- 11.5 All notices under the contract served must be in writing and posted to the address of the relevant party as specified in the contract and, in the case of notices served by the parent/guardian, marked for the attention of "the Nursery Manager".
- 11.6 If there are two persons named as parent/guardian on the Nursery Registration Form:
- 11.6.1 a notice served by Almond Park shall be valid if served on either or both of them;  
And
- 11.6.2 a contract variation shall be valid if agreed between Almond Park and either or both of them.
- 11.7 The headings in these terms and conditions are inserted only for convenience and shall not affect their construction.
- 11.8 Where the contract expressly provides that nursery fees paid in advance are to be refunded "pro rata", the factors shall be the number of sessions paid for, and the number of those sessions where the child has not attended or will not attend the nursery as a result of the event leading to the fees being refundable.
- 11.9 In the event of any provision of the contract being found by a court with jurisdiction to be void or unenforceable in full or in part, then that provision or part of it shall be removed, but the remainder of the contract shall remain in full force and effect.
- 11.10 The contract shall be governed by and construed in accordance with the law of Scotland and the parties submit to the exclusive jurisdiction of the Scottish courts.