

**EARLY YEARS CENTRE
TERMS AND CONDITIONS OF BUSINESS**

1. DEFINITIONS

'Agreement' means this Agreement between the Customer and the Early Years Centre to provide the Services to the Customer in accordance with the Application Form and these Terms and Conditions.

'Application Form' means the form annexed to these Terms and Conditions and provided to Customers by the Early Years Centre in order to allow Customers to apply for their Child to come to the Early Years Centre.

'Child' means the Customer's Child in respect of whom the Services are to be provided.

'Customer' means the person or persons who, having parental responsibility or legal guardianship of the Child, are entering into this Agreement.

'Fees' means the Fees for the Services payable by the Customer to the Early Years Centre in accordance with these Terms and Conditions.

'Early Years Centre' means the University of Southampton Early Years Centre located at Building 41, University Road, SO17 1BJ. The Early Years Centre is a part of the University of Southampton, Highfield, Southampton, SO17 1BJ (the **'University'**). For the purposes of identifying the legal entity only, the words 'Early Years Centre' and 'University' shall mean the same organisation.

'Personnel' means those individuals employed by the University to work in the Early Years Centre and provide the Services.

'Services' means the day time child care services provided to Customers by the Early Years Centre in accordance with these Terms and Conditions.

'Session' means a period of time for which the Services are provided. The Early Years Centre runs two sessions on each weekday, details of which are available on the Early Years Centre website.

'Staff' means full and part time employees of the University of Southampton.

'Student' means full or part time Students enrolled on courses of education at the University, but not any Students who voluntarily suspend their studies at the University.

'Terms and Conditions' means the terms and conditions set out in this document which apply to and govern the Supply of Services by the Early Years Centre to the Customer.

'University Academic Year' means the academic terms to which the University typically operates, and more particularly set out on the University's website:

http://www.southampton.ac.uk/studentadmin/about_saa/term_dates_and_planned_year/

For the avoidance of doubt, Christmas, Easter and summer vacations are deemed to fall outside the University Academic Year.

2. GENERAL TERMS

- 2.1 The Agreement constitutes the entire Agreement between the Early Years Centre and the Customer for Supply of the Services, and the Customer acknowledges that it has not relied upon any statement, promise or representation made or given on behalf of the Early Years Centre which is not set out in the Agreement.
- 2.2 Any variations to the Agreement must be agreed to in writing by the Early Years Centre. The Early Years Centre reserves the right to alter and/or amend these terms and conditions, and will inform Customers of any changes 1 month in advance of any such changes coming into effect.
- 2.3 For the sake of clarity and avoidance of doubt, where customers do not wish to accept any changes of which they are notified in accordance clause 2.2 above, the parties agree that the notice to vary shall be deemed to comply with the provisions of clause 8.3 below.
- 2.4 If the Early Years Centre fails, at any time whilst these Terms and Conditions are in force, to insist that the Customer perform any of their obligations under the Agreement, or if the Early Years Centre does not exercise any of its rights or remedies under these Terms and Conditions, that will not mean that the Early Years Centre has waived such rights or remedies and will not mean that the Customer does not have to comply with those obligations. If the Early Years Centre does waive a default by the Customer, that will not mean that it will automatically waive any subsequent default by the Customer. No waiver by the Early Years Centre of any of these Terms and Conditions shall be effective unless such a waiver is explicitly given in writing.
- 2.5 All warranties not expressly given by the Early Years Centre in this Agreement are excluded from it to the fullest extent allowed by law.
- 2.6 If Court or competent authority decides that any of the provisions of these Terms and Conditions are invalid, unlawful or unenforceable to any extent, that term or condition will, to that extent only, be severed from the remaining Terms and Conditions which will continue to be valid to the fullest extent permitted by law.
- 2.7 Any person who is not a party to this Agreement shall not have any rights under or in connection with it under the Contracts (Rights of Third Parties) Act 1999.
- 2.8 The Agreement shall be governed and construed exclusively in accordance with English law, and any and all disputes that arise under or in connection with it are subject to the exclusive jurisdiction of the English Courts.

3. APPLICATION AND ACCEPTANCE

- 3.1 In order to be eligible to attend the Early Years Centre, the Child must ordinarily be between the ages of 3 months and up to but not including 5 years.
- 3.2 The Early Years Centre may, at its sole discretion, consider applications for children younger than 3 months, which will be considered on a case by case basis.
- 3.3 Customers must apply to the Early Years Centre by completing an Application Form which is available from the Early Years Centre, and must be completed in its entirety.
- 3.4 The Early Years Centre will inform applicants of the Sessions that are available for their Child and provide an Acceptance Form which sets out those details and the cost of those Sessions.
- 3.5 The Customer must complete the Acceptance Form and return it, together with payment of the first month's fees, within 7 days of the date on the letter from the Early Years Centre containing the Acceptance Form.
- 3.6 The completion and returning of the Acceptance Form together with the first month's fees by the Customer to the Early Years Centre constitutes an offer by the Customer to enter into this Agreement for Services on these Terms and Conditions.
- 3.7 The Early Years Centre will communicate its acceptance of that offer by informing the Customer in writing that their Child has been assigned a place at the Early Years Centre in accordance with the details on the Acceptance Form, and at that point the Contract between the Customer and the Early Years Centre will be considered effective.
- 3.8 Any changes to the sessions agreed as above are at the discretion of the Early Years Centre, and must be requested by the Customer at least one month in advance of the requested change.

4. EARLY YEARS CENTRE SESSION AND OPENING TIMES

- 4.1 The Early Years Centre is open from 8am – 6pm Monday to Friday, subject to any notified closure days.
- 4.2 Details of the sessions available for a Child will be set out in the Acceptance Form provided to the Customer in accordance with 3.4 above. Customers are referred to the Early Years Centre website for details of the session times.
- 4.3 The Early Years Centre will provide the Customer with at least one month's notice of a change in the sessions booked for a Child in accordance with 3.4 above.

- 4.4 If the Customer wants to change the sessions being attended by a Child, or intends that their child will be temporarily absent from the planned sessions, (for instance, to go on holiday), they must give the Early Years Centre sufficient notice:
- 4.4.1 Any request to permanently alter the sessions must be made at least 4 weeks (excluding Early Years Centre closure weeks at Easter and Christmas) in advance of the requested change, and any such alteration shall be at the discretion of the Early Years Centre;
 - 4.4.2 Customers are asked to inform the Early Years Centre of any holidays that they intend to take at least 2 weeks in advance of taking that holiday (please note that fees are still payable in accordance with clause 7 below);
 - 4.4.3 Full time students of the University are entitled to one fees holiday in each academic year in accordance with the provisions set out in clause 7.12 – 7.14 below.
- 4.5 Customers will be charged a late collection fee in accordance with clause 7.8 below if they or their authorised nominee is late in collecting a Child after a session.
- 4.6 The Early Years Centre will be closed for a period of time over Christmas and Easter. The Early Years Centre will endeavour to notify Customers of the specific closure days at least one month in advance of these or any other planned closure period.
- 4.7 The Early Years Centre reserves the right to close without notice to Customers in the event of emergencies, although it will use its reasonable endeavours to inform Customers of such closures as soon as possible.

5. EARLY YEARS CENTRE SERVICES AND OBLIGATIONS

- 5.1 The Early Years Centre will provide childcare facilities for the Child at the times set out in the University's Acceptance Form in accordance with clause 3.4 above, (subject to any days on which the Early Years Centre is closed.)
- 5.2 The Early Years Centre will endeavour to accommodate any requests made by the Customer for the Child to attend additional sessions at the Early Years Centre, however the Early Years Centre is not obliged to offer additional sessions where a Child is absent for any reason from a session they are due to attend.
- 5.3 The Early Years Centre will endeavour to notify the Customer as soon as possible of any days on which the Early Years Centre is closed. For the sake of clarity and avoidance of doubt, time shall not be of the essence in delivering the Services, and if the Early Years Centre is unable to provide the Services at the agreed times it may, at its discretion, offer a refund for the missed session or a substitute session(s) and will not be liable for any loss, costs, damages or expenses caused directly or indirectly by a delay in the provision of the Services.

- 5.4 The Early Years Centre will exercise all reasonable care and skill in providing the Services and with respect to the Child's welfare whilst that Child is attending at the Early Years Centre during the Early Years Centre's opening hours.
- 5.5 The Early Years Centre will employ suitably trained, qualified and experienced personnel to provide the Services. Please note that the Early Years Centre does employ trainee members of staff, however where staff are not fully qualified they will always be accompanied by a fully trained member of staff.
- 5.6 The Early Years Centre has an obligation to report to the appropriate authorities any instances where, in its reasonable opinion, it considers that a Child may have been neglected or abused. The Early Years Centre will make such referrals in accordance with its policy on Safeguarding Children, which is available at:
http://www.southampton.ac.uk/earlyyearscentre/useful_resources/policies.page
Such referrals may be made without reference to the Customer or other person with parental responsibility for the Child in question.
- 5.7 The Early Years Centre shall have and maintain all necessary approvals and licences that are needed to provide the Services, and comply with all applicable legislation in its provision of the Services.

6. CUSTOMER OBLIGATIONS

- 6.1 The Customer must complete and return the Application Form (and any other paperwork provided by the Early Years Centre from time to time including but not limited to the 'Path to Plan' and 'My Unique Child' documents) to the Early Years Centre, including the declaration granting their consent to allow Early Years Centre Personnel to arrange for emergency medical treatment in the event the Customer cannot be contacted.
- 6.2 The Customer will pay the Early Years Centre the Fees and any other sums due in accordance with clause 7.
- 6.3 The Customer agrees to complete the registers displayed at the Early Years Centre so as to sign their Child in to and out of the Early Years Centre.
- 6.4 The Customer must notify the Early Years Centre as soon as possible of any medical or educational circumstances which may require special consideration, reasonable adjustments or arrangements to be put in place for the Child. For the sake of clarity this includes details of any long term medical condition.
- 6.5 The Customer must notify the Early Years Centre of the identity of any persons other than themselves authorised to collect the Child from the Early Years Centre. Please note that proof of identity may be required from persons picking up the Child, and the Early Years Centre will not release the Child into the care of any individual where it reasonably believes they do not have the authority to do so from someone with parental responsibility or legal guardianship.

- 6.6 The Customer shall inform the Early Years Centre in writing of any Court Orders or situations of risk in relation to the Child which may give rise to special security considerations, and supply a copy of such Court Orders upon request. The Early Years Centre makes no representation in respect of being able to provide extraordinary security measures, but will endeavour to take all reasonable steps to ensure the protection and welfare of the Child under such circumstances.
- 6.7 The Customer must inform the Early Years Centre as soon as possible (and at least 15 minutes before the end of a session), in the event that they are unable to collect the Child at the end of a session. Please note that a late collection fee applies, details of which are at 7.8 below.
- 6.8 The Customer must notify the Early Years Centre immediately of any changes in their contact details or those of the Child's doctor.
- 6.9 The Customer must comply with any applicable Early Years Centre policies that are from time to time in force. The policies can be reviewed at:
http://www.southampton.ac.uk/earlyyearscentre/useful_resources/policies.page

7. FEES

- 7.1 Payment of the first month's fees is due in advance, within 7 days of the date on which the Customer is sent the Acceptance Form.
- 7.2 In the event that a Child has not yet commenced any Sessions and the Customer decides, after their application has been accepted, that the Child will not in fact attend the Early Years Centre, the fees referred to above at 3.5 and 7.1 are refundable as follows:
- 7.2.1 One months' notice or more = 100% refund;
- 7.2.2 Between 2 and 3 weeks' notice=50% refund; and
- 7.2.3 Less than 2 weeks' notice=0% refund.
- 7.3 The Fees are payable monthly in advance of the expected attendance of the Child at the Early Years Centre and payment is due on the first working day of each calendar month. In the event that the Early Years Centre has to close for any reason (save for those identified in clause 11 below), a refund will be issued.
- 7.4 Any additional Sessions arranged with the Early Years Centre on a one-off basis must be paid in advance.
- 7.5 The fee payable by the Customer is calculated by reference to the number of sessions per month attended by the Child. Fees are set in the summer and are valid for one year from 1 August to 31 July. Customers will be notified by 1 July each year of any changes to the fees. Details of the current fees are set out on the Early Years Centre website:
http://www.southampton.ac.uk/earlyyearscentre/fees_and_funding/index.page

- 7.6 The fees should be paid by standing order or via the University's Online Store at <http://store.southampton.ac.uk/browse/product.asp?compid=1&modid=1&catid=61> although the Early Years Centre will consider alternative methods in exceptional circumstances. The Early Years Centre also participates in childcare voucher schemes. Please enquire with the Early Years Centre for further details of the schemes with which the centre is registered.
- 7.7 Subject to clause 7.11 below, the Fees are payable whether or not the Child attends the Early Years Centre for the agreed sessions, and will not be reduced as a result of absence due to illness or otherwise (including holidays, public or arranged by the Customer.) No refunds will be made for absences.
- 7.8 In addition to the Fees, a minimum late collection charge is payable by the Customer to the Early Years Centre in the event that the Child is not picked up from the Early Years Centre by the end of a Session, and is payable within 30 days of being incurred. The current late collection charge is £15 per Child for every additional 15 minutes or part thereof. This fee is reviewed annually and changes will be highlighted in the Early Years Centre Newsletter.
- 7.9 If the Customer does not pay the Fees and any other charges in full by the due date for payment the Early Years Centre may charge interest on the overdue amount at the rate of 4% a year above the Barclays Bank base rate from time to time. This 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 judgement.
- 7.10 The Customer will be liable for any and all reasonable costs, expenses or other losses incurred in the recovery of late or unpaid Fees, including legal fees, court fees, or fees owed to debt recovery agents working on behalf of the Early Years Centre.
- 7.11 Without limiting any other remedies or rights the Early Years Centre may have, if the Customer does not pay on time the Early Years Centre may cancel or suspend the Services until the outstanding amounts are paid.
- 7.12 Clauses 7.8 and 7.9 shall not apply for the duration of the dispute where the Customer disputes the payment owing in good faith and informs the Early Years Centre within 7 working days of the payment falling due that its contents are in dispute.
- 7.13 Customers who are also current Students are entitled to a Fees holiday allowance of eight weeks in each University Academic Year (on a pro rata basis depending on the number of Sessions and length of time for which their child attends the Early Years Centre), for which period they will not be required to pay the Fees. The pro rata allowance is dependent on the Child not attending the Early Years Centre during that period, does not carry over into any subsequent University Academic Year if it is not taken in any given year, and no payment is made in lieu of any untaken allowance.

- 7.14 The Fees holiday allowance must be taken outside of the University's Academic Year, although the Early Years Centre may at its sole discretion approve requests by Customers to take some or all of it at other times, if there is a demonstrable academic need to do so.
- 7.15 Customers eligible for the Fees holiday allowance must provide the Early Years Centre with at least 1 month's written notice of their desire to take the Fees holiday.
- 7.16 Customers shall not be entitled to use any remaining Fees holiday allowance once notice to terminate the Agreement has been given in accordance with clause 8.3.

8. SUSPENSION AND TERMINATION

- 8.1 No Child suffering from a contagious illness may attend the Early Years Centre, and the Early Years Centre may deny attendance at the Early Years Centre to any Child which it reasonably believes is suffering from a contagious illness.
- 8.2 The Early Years Centre also reserves the right to suspend the provision of Services to the Customer where the Child's behaviour is deemed by the Early Years Centre to be unacceptable or endangers the health, safety or well being of others.
- 8.3 The Agreement may be terminated by either party upon 4 week's written notice, excluding the Early Years Centre closure weeks at Easter and Christmas and any period where all or part of a Customer's Fees holiday allowance is being utilised.
- 8.4 The Early Years Centre may terminate the Agreement immediately and without notice where:
- 8.4.1 the Customer has failed to pay Fees that are due;
 - 8.4.2 the Customer has breached any of their obligations under this Agreement and either refuses or is unable to remedy that breach within a reasonable period of time;
 - 8.4.3 the Customer verbally or physically abuses Early Years Centre Personnel, other Customers or Children; or
 - 8.4.4 The Early Years Centre is permanently closed by the University.
- 8.5 The Customer may terminate this Agreement immediately in the event that the Early Years Centre is in breach of its obligations under this Agreement and either refuses or is unable to remedy that breach within a reasonable period of time.

9. TRANSFER AND ASSIGNMENT

The Customer may not transfer any of their rights or obligations under these Terms and Conditions without the Early Years Centre's prior written consent, which shall not be unreasonably withheld. The Early Years Centre may transfer all or any of its rights and obligations under these Terms and Conditions to another organisation, but this will not affect Customers' rights under these Terms and Conditions.

10. LIMITATION OF LIABILITY

- 10.1 Subject to clause 10.2 below, if either party fails to comply with these Terms and Conditions neither of them shall be responsible for any losses that the other suffers as a result, except for those losses which could reasonably be foreseen would result from a failure to comply with these Terms and Conditions.
- 10.2 The Early Years Centre does not accept liability for loss of or damage to items brought to the Early Years Centre by Customers, including but not limited to toys, books, bottles and hygiene materials.
- 10.3 Neither the Customer nor the Early Years Centre shall be responsible for losses that result from a failure to comply with these Terms and Conditions including, but not limited to, losses that fall into the following categories:
 - 10.2.1 loss of income or revenue;
 - 10.2.2 loss of business;
 - 10.2.3 loss of anticipated savings; or
 - 10.2.4 loss of data.
- 10.4 This clause 10 does not include or limit in any way the Early Years Centre's liability for:
 - 10.3.1 death or personal injury caused by the Early Years Centre's negligence;
 - 10.3.2 fraud or fraudulent misrepresentation;
 - 10.3.3 any breach of the obligations implied by section 2 of the Supply of Goods and Services Act 1982;
 - 10.3.4 losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
 - 10.3.5 any other matter for which it would be illegal or unlawful for the Early Years Centre to exclude or attempt to exclude its liability.

11. EVENTS OUTSIDE THE EARLY YEARS CENTRE'S CONTROL

- 11.1 The Early Years Centre will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by events outside its reasonable control (Force Majeur Event)
- 11.2 A Force Majeur Event includes any act, event, non-occurrence, omission or accident beyond our reasonable control and includes, in particular (without limitation), the following:
- 11.2.1 strikes, lock outs or other industrial action;
 - 11.2.2 civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
 - 11.2.3 fire, explosion, , flood, earthquake, subsidence, epidemic or other natural disaster;
 - 11.2.4 extreme adverse weather conditions;
 - 11.2.5 interruption or failure of utility service, including but not limited to electric power, gas or water;
 - 11.2.6 impossibility of use of the railways, shipping, aircraft, motor transport or other means of public transport; or
 - 11.2.7 impossibility of the use of public or private telecommunications networks.

The Early Years Centre's obligations under these Terms and Conditions are suspended for the period that the Force Majeur Event continues, and the Early Years Centre will extend the time to perform these obligations for the duration of that period. The Early Years Centre will take reasonable steps to bring the Force Majeur Event to a close.

12. NOTICES

- 12.1 All notices sent by the Customer to the Early Years Centre must be sent to The Early Years Centre at Building 41, University Road, SO17 1BJ or EYCentre@soton.ac.uk.
- 12.2 The Early Years Centre may give notice to the Customer by hand or via the email or postal address provided for on the Application Form. Notice will be deemed received and properly served 24 hours after an email is sent or 3 days after the date of posting of a letter by 1st class post. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that the letter was properly addressed, stamped and placed in the post, and, in the case of an email, that the email was sent to the specified email address.