



## Terms and Conditions of Service Nimble Arts Ltd Holiday Clubs

THESE TERMS AND CONDITIONS ARE AGREED ON THE           Date of first registration            
(Date)

**\*\*UPDATED GDPR CONTACT AND PRIVACY CONDITIONS INLCUDED IN SECTION 11 – PLEASE SCROLL DOWN AND MAKE SURE YOU HAVE READ BY 25<sup>th</sup> MAY 2018\*\***

### BETWEEN

“The Customer”           The parent/carer booking with Nimble Arts Ltd            
(Name and address of the Customer)

### AND

“The Club”           Nimble Arts Ltd, c/o Marsland Chambers, 1a Marsland Road, Sale, Cheshire M33 3HP            
(Name and address of the Club, including company number if applicable)

### 1. Interpretation and Definitions

- 1.1. Except where the context requires otherwise, words importing the masculine shall include the feminine; words importing the singular shall include the plural; words importing natural personage shall be equally applicable to corporate personage; and vice versa.
- 1.2. References to any statutory provision, authority, rule or code of practice shall be deemed to include the amended versions, replacements or successors of such.

### 2. Nature of this Document and Formal Application & Acceptance

- 2.1. This document sets out the terms on which the Club will provide childcare services (“the Services”) to the Customer in respect of a particular child (“The Child”), should the customer formally request the Services.
- 2.2. No obligations under this agreement shall become binding on the parties until the Customer has returned a completed Application Form (attached as a schedule to this document) to the Club, and the Club has provided the Customer with written confirmation that the application has been accepted and the Child has been granted a place.

### 3. Operating Hours

3.1. The Club offers the Services between the following hours on the following days:

Monday	Start time: <u>08:00</u>	End Time: <u>17:00 (standard) 18:00 (extended)</u>
Tuesday	Start time: <u>08:00</u>	End Time: <u>17:00 (standard) 18:00 (extended)</u>
Wednesday	Start time: <u>08:00</u>	End Time: <u>17:00 (standard) 18:00 (extended)</u>
Thursday	Start time: <u>08:00</u>	End Time: <u>17:00 (standard) 18:00 (extended)</u>
Friday	Start time: <u>08:00</u>	End Time: <u>17:00 (standard) 18:00 (extended)</u>

(Extended opening till 18:30 from July 2018)

3.2. The Club offers this service during the following school holiday:

2018

Weekdays in schools holidays excluded bank holidays and Christmas holidays.

23<sup>rd</sup> July – 24<sup>th</sup> August Summer.

See Southwark Council Holiday dates:

[http://www.2.southwark.gov.uk/info/36/school\\_term\\_and\\_holiday\\_dates](http://www.2.southwark.gov.uk/info/36/school_term_and_holiday_dates)

- 3.3. The Club does not offer the Services on weekends or public holidays or over Christmas Holidays except by prior special arrangement. Any Services which are provided on a weekend or public holiday shall be subject to terms and rates agreed separately between the parties in writing.
- 3.4. The Club may alter the hours or days on which he offers the Services by giving the Customer 2 weeks written notice.
- 3.5. The Club shall give the Customer 2 weeks written notice of any periods during which it is unable to provide the Services due to staff being on holiday or of any other interruption to service which is planned in advance.

### 4. Fees and Charges

- 4.1. The Club shall charge the Customer £ 5.22 excl. VAT \_\_\_\_\_ for each hour in which the Club provides the Services **within** its standard operating hours, as set out in 3.1 above.
- 4.2. The minimum charging period for the purposes of 4.1 shall be 15 minutes, rounded upwards to the nearest quarter of an hour.
- 4.3. The Club shall charge the Customer £ 5.00 (excl. VAT) \_\_\_\_\_ for every hour in which the Club provides the Services **outside** of its standard operating hours, as set out in 3.1 above.
- 4.4. The minimum charging period for the purposes of 4.3 shall be one hour, rounded upwards to the nearest whole hour.
- 4.5. The charge payable for late collection shall be £8 per child flat charge plus an additional £8 per child per 15 minutes up until collection.

### 5. Payment of Fees

5.1. At the time of booking the Club shall invoice the Customer in respect of:

- a) The Services which it is anticipated will be provided in the following calendar month(s); AND
  - b) All additional charges from the present calendar month (to include late collection charges and fees in respect of extra Services which have already been provided to the Customer).
- 5.2. The Customer agrees to pay the balance due directly on payment or adhere to the terms of the payment plan they agree to at the time of booking.
- 5.3. Online bookings where no payment is received or payment plan agreed to will be cancelled with 2 hours of booking.
- 5.4. The Customer agrees to pay to the Club interest at a rate of 2 percentage points per annum above the Bank of England base rate on any payments which are not settled in accordance with section 5.2 above.

## **6. Booking and Cancellation**

- 6.1. The Customer shall specify on the Application Form the hours and days when he requires the Service to be provided ("the Agreed Periods").
- 6.2. If the Customer wishes to change the Agreed Periods, they must contact The Club in advance of the start of the Agreed Periods. If The Club can fill the booked place directly with another child from the waiting list a full refund for the affected Agreed Periods will be offered. If this is not possible, the following terms apply:

The Club requires at least 14 full days notice of cancellation from the Customer before the day the Child is due to attend to issue a 100% credit note.

The Club requires at least 7 to 13 full days notice of cancellation before the day the Child is due to attend to issue a 50% credit note.

If The Customer cancels the Agreed Periods without giving The Club at least 7 full days notice before the day the Child is due to attend, the Customer will not receive any credit (This policy is subject to the Manager's discretion in mitigating circumstances)

Any changes are subject to the agreement of the Club and the Club makes no guarantee that it will be able to accommodate the Customer's request.

- 6.3. If the Club wishes to change the Agreed Periods, it must give the Customer 2 days written notice of any proposed changes. If the Customer does not agree to the changes, he may treat this agreement as terminated.
- 6.4. If the Customer wishes to cancel any Agreed Period he must let the Club know as soon as possible.
- 6.5. The Club reserves the right to amend its services and activity programme, content, times, dates and venue in the event of unsuitable weather conditions, failure of equipment, building faults and any other operational faults that may arise from time to time, without refund or compensation to The Customer

## **7. Dropping off and Collecting Children**

- 7.1. The Customer must not drop off the Child before the start of an Agreed Period.
- 7.2. The Customer must collect the Child promptly at the end of an Agreed Period.
- 7.3. Where the Customer is unable to collect the Child at the end of an Agreed Period he shall pay the Club:
- a) The appropriate fee for the Services which the Club provides after the end of the Agreed

Period; and

- b) A late collection charge as set out in 4.5, above.
- 7.4. The Customer must advise the Club of the identity of the person who will collect the Child at the end of an Agreed Period. The Club may require the person collecting to provide proof of identity if he has any doubt as to this.

## **8. Customer's Specific Obligations**

- 8.1. The Customer agrees to co-operate with the Club as may be necessary to allow the Services to be provided.
- 8.2. The Customer agrees to provide the Child with a packed lunch where required to do so by the Business. Where he provides a packed lunch, the Customer shall not include any product which contains (or may contain) nuts, in recognition of the fact that other children cared for by the Business may have a nut allergy.
- 8.3. The Customer agrees that where lunch is provided by the Business, this may be subject to an additional charge.
- 8.4. The Customer agrees to dress the Child appropriately for weather conditions.
- 8.5. The Customer understands and acknowledges that agents or employees of the Club will not use any physical punishment to discipline the Child, but consents to agents or employees of the Club using physical restraint where necessary to prevent the Child from coming to harm, wandering into danger or running off.
- 8.6. The Customer understands and acknowledges The Club's right to exclude or refuse any person without notice, if we consider that their presence compromises the good atmosphere of the club. Transport home will be the responsibility of the parent and no refund/credit will be available.
- 8.7. The Customer understands and acknowledges that is The Club is forced to close during the Agreed Period due to the compulsory closure of its hired premises by order of a competent authority (eg School, Local Authority, Environmental Health Etc), due to bad weather (eg Snow, Ice, Flood etc), outbreak of a human infectious or contagious condition (eg Influenza, Meningitis), Industrial Action (teaching strike etc) or for any other reason, customers will still be liable for any fees due/paid, during the entire period of closure.
- 8.8. The Customer agrees to ensure that they have the necessary permission to pass on the personal details of The Child(ren) that they are making a booking for. The Customer agrees to the terms and conditions as set out by third party booking agent My Play Service on booking via the Magic Booking portal.

## **9. Club's Specific Obligations**

- 9.1. The Club shall ensure that wherever the Services are to be provided by an employee or volunteer under his direction that any such person complies with all of the obligations applicable to the Club.
- 9.2. The Club shall provide the Services to a reasonable standard and with the exercise of reasonable skill and care.
- 9.3. The Club shall provide the Services in accordance with all relevant codes of practice and guidelines, observing health and safety requirements.
- 9.4. The Club will endeavour to accommodate requests for changes to Agreed Periods, but this cannot be guaranteed.

- 9.5. Wherever an agent or employee of the Club transports the Child by car, he shall use a seatbelt and appropriate child seat.
- 9.6. The Club shall provide snacks and drinks to the Child.
- 9.7. No agent or employee of the Club shall use any form of physical punishment to discipline the Child, albeit that agents and employees of the Club may use physical restraint where necessary to prevent the Child from coming to harm, wandering into danger or running off.
- 9.8. The Club shall at all times hold such permits, licences and permissions as may be necessary to enable him to provide the Service. The Club shall ensure that at all times all employees or agents who provide the Services have a valid and current Disclosure and Barring Service (DBS) check or equivalent and shall allow the Customer to inspect these on request.
- 9.9. The Club is under a legal obligation to report any instances of suspected abuse or neglect to the relevant authorities, and the Customer acknowledges and understands that this may be done without his prior consent or knowledge.
- 9.10. The Club shall at all times have in force a valid public and employer's liability insurance policy, and such other insurance policies as may be necessary.
- 9.11. The Club shall not accept liability for personal injury or death of any participants unless directly caused by the proven negligence of The Club or its servants
- 9.12. The Club acts as a Data Controller for the purpose of the Data Protection Act 1998. The Club need to collect relevant personal details from The Customer and The Child being booked to enable The Club to process the booking. This information might include names, ages and any applicable medical or dietary restrictions and ,in some cases credit/debit card or other payment details Additionally The Club may use some of your details for future marketing purposes, for example sending you promotional information.

## **10. Sickness and Medical Attention**

- 10.1. Where the Child has any contagious disease the Customer shall not permit him to attend the Club.
- 10.2. For the avoidance of doubt, "Contagious Disease" shall include, but not be limited to, sickness, diarrhoea, impetigo, conjunctivitis or influenza.
- 10.3. Where it appears to the Club that the Child is suffering from a contagious disease it shall be entitled to refuse to take the Child.
- 10.4. The Club accepts no responsibility for the Child contracting any contagious disease or illness through contact with any employee or agent of the Club or any of the other children the Club cares for.
- 10.5. The Customer must provide the Club with details of the Child's state of health and any medical or health-related condition which he suffers with on the registration form. The Customer must inform the Club immediately if this changes.
- 10.6. Where the Child suffers from any medical or health-related condition, the Customer shall provide the Club with instructions on how to manage this condition, including any medication and direction for its administration
- 10.7. The Club shall not be liable for any adverse effects which result from the administration of medication provided by the Customer.

## **11. Privacy and Data Protection**

11.1 By agreeing to the terms of this agreement you are also agreeing to our Privacy Policy. Please read the policy here:

<http://www.nimblearts.co.uk/wp-content/uploads/2018/05/Nimble-Arts-Privacy-and-Data-Protection-Policy.pdf>

And the Privacy Notice here:

<http://www.nimblearts.co.uk/wp-content/uploads/2018/05/Nimble-Arts-Ltd-Customer-Privacy-Notice.pdf>

11.2 By selecting the tick box next to 'Nimble Arts Ltd Communication' when signing up for a Magic Booking account or in My Account – My Details – Newsletters you are consenting to receive marketing emails from Nimble Arts

11.3 By un-ticking the box 'Nimble Arts Ltd Communication' when signing up for a Magic Booking account or in My Account – My Details – Newsletters you are consenting to receive emails and phone calls/texts relating only to a booking you have in place, your account or payment information or your child.

## **12.Termination & Probationary Period**

- 12.1. This agreement shall continue until terminated in accordance with this section.
- 12.2. The first two weeks of this agreement shall be a probationary period ("the Probationary Period"), during which either party may terminate the agreement at any time without penalty.
- 12.3. After the end of the Probationary Period, this agreement may be terminated without penalty by either party giving the other one month's written notice of termination.
- 12.4. Without prejudice to the above, this agreement may be terminated immediately where any of the following circumstances arise:
  - a) Either party commits a serious breach or persistent breaches of this agreement including but not limited to the non-performance, neglect or default of any of his duties as outlined herein (including a failure on the part of the Customer to make payment within agreed timescales) and after notice of this breach has been given to the defaulting party it remains unremedied and unrectified \_ days after such notice.
  - b) Either party commits a breach of this agreement which cannot be remedied.
  - c) Either party becomes insolvent or enters into a CVA or IVA or ceases to carry on the whole or substantially the whole of its business.
- 12.5. Upon termination of this agreement the Customer shall pay to the Club such sums as may represent work done and expenses incurred up to and including the date of the termination.
- 12.6. Any right to terminate this agreement shall be without prejudice to any accrued rights or liabilities arising out of this agreement which are in existence at the date of termination.

## **13.Disclaimer and Exclusions**

- 13.1. The Club shall not be responsible for loss or damage to any property which the Customer sends with the Child.
- 13.2. The Club shall not be responsible in any circumstances to the Customer or any third party for any loss of profit or indirect or consequential economic damage or loss, howsoever caused, whether as a result of negligence, misrepresentation, breach of contract or otherwise.

13.3. Nothing in the forgoing shall be read as restricting or limiting in any way the Club's liability for death or personal injury caused by negligence.

#### **14. Indemnity**

The Customer shall indemnify the Club against any loss or damage which results from the Customer's breach of this agreement or failure to abide by any of its terms.

#### **15. Force Majeure**

Neither party shall be liable for any delay or failure in performing its obligations or duties under this agreement which results from circumstances outside his reasonable control including but not limited to acts of God, industrial action, war, fire, threat of terrorism, civil disturbance or rioting, government or regulatory action, breakdown in plant or machinery, or shortage of raw materials or supplies.

#### **16. Whole Agreement, Governing Law, Severability and Miscellaneous Provisions**

- 16.1. This document constitutes the entirety of the agreement between the parties. It supersedes any prior representations which may have been made, whether orally or in writing. Any modification to this agreement must be made in writing and signed by both parties.
- 16.2. This agreement shall be governed by the Law of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English Courts.
- 16.3. All clauses, sub-clauses and parts thereof shall be severable and shall be read and construed independently. Should any part of this agreement be found invalid this will not affect the validity or enforceability of any other provision or of this agreement as a whole.
- 16.4. All terms, conditions and covenants contained in this agreement shall bind the parties and their heirs, legal representatives, successors to title and permitted assignees.
- 16.5. Nothing in these terms and conditions shall incur any rights on a third party and no third party may enforce any provision of this contract under the *Contracts (rights of Third Parties) Act*.
- 16.6. The failure by either party to enforce any provision of this agreement shall not be deemed a waiver or limitation of that party's right to subsequently compel and require strict compliance with every provision of this agreement.

#### **SIGNED BY THE ABOVE NAMED**

***On Behalf of the Club***

***The Customer***

\_\_\_\_\_  
C M Burgis  
(Sign)

\_\_\_\_\_  
DIGITALLY ACCEPTED ON BOOKING  
(Sign)

Catherine Burgis  
(Print Name)

\_\_\_\_\_  
(Print Name)

Director  
(Position - eg. the owner of the club, or, if the Club is a company, a manager or director.)

\_\_\_\_\_  
(Date)

1<sup>st</sup> May 2017  
(Date)