

## ANNEX 2 – SUPPLEMENTARY GENERAL TERMS AND CONDITIONS

This annex contains the Topkids general terms and conditions (the “**Supplementary General Terms and Conditions**”). These apply in addition to the most recent version of the “*General Terms and Conditions for Childcare, Day Care and After School Care*” of the Childcare Sector Organisation (the “**Sectoral Terms and Conditions**”).

In these Supplementary General Terms and Conditions, words written with a capital letter have the same meaning/definition ascribed to them as in the Sectoral Terms and Conditions, unless expressly stated otherwise.

In the event of any ambiguity or conflict between these Supplementary Terms and Conditions and the Sectoral Terms and Conditions, these Supplementary Terms and Conditions will prevail.

The Sectoral Terms and Conditions and the Supplementary General Terms and Conditions are also jointly referred to as the “**General Terms and Conditions**”. These General Terms and Conditions are an integral part of the Agreement between the Parent and the Childcare Provider.

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where these Supplementary Terms and Conditions and the Agreement refer to “Provider”, this is understood to have the same meaning as “Company” in the Sectoral Terms and Conditions.
- 1.2 In these Supplementary Terms and Conditions, “including” and the phrases “inclusive of” and “such as” mean “including but not limited to”, “inclusive of but not limited to” and “such as but not limited to”, respectively.
- 1.3 The term “Parent” in these General Terms and Conditions and the Agreement also refers to the caregiver, foster parent or legal guardian who has authority over the child and authority to enter into an agreement for the child’s Childcare.

### 2. AMENDMENTS

- 2.1 The Provider is also entitled to unilaterally amend the Agreement and/or the General Terms and Conditions without compelling reasons within the meaning of Article 15 of the Sectoral Terms and Conditions, provided that this is done in accordance with applicable mandatory laws and regulations. The following arrangements apply to any intended amendment:
  - 2.1.1 the Provider communicates the intended change to the Parent at least one month in advance and, in case of price changes, at least one month and one week in advance according to Article 16 of the Sectoral Terms and Conditions;
  - 2.1.2 if the amendment results in the Provider providing a service that differs substantially from the agreed service within the meaning of Section 6:237 of the Dutch Civil Code, the Parent has the right to terminate the Agreement from the date on which the amendment takes effect. The Parent must communicate their wish to terminate the Agreement in writing to the Provider within one month after the intended change was announced by the Provider (or within one month and one week in the case of a price change).

- 2.2 The Provider is not obliged to agree to any amendments to the Agreement requested by the Parent and is only bound by such changes if they are expressly accepted in writing by an authorised representative.
- 2.3 If an Agreement for a period of less than 52 weeks (the “**Term**”) is terminated prematurely by the Parent, the Provider has the right to retroactively recalculate and increase the fee payable by the Parent such that the same amount has been paid in total over the relevant Term as would have been paid had the Agreement been terminated at the end of the Term (and not terminated prematurely). In that case, the Parent must then pay the difference to the Provider after receiving the relevant invoice.
- 2.4 The website or other information channels of the Provider will state the period within which applications for Childcare (including for regular days, extra days, swap days, etc.) can be cancelled free of charge.
- 2.5 The Provider has the right to change the Childcare location or to merge it with another Childcare location during school holidays and/or inset days.
- 2.6 If the Parent changes the Agreement more than twice in a 12-month period, for each change after the fourth change the Parent owes the Provider an administrative fee of €25 for each child. The Provider has the right to increase this amount annually in accordance with the consumer price index (CPI) for all households.

### **3. TERMINATION AND SUSPENSION**

- 3.1 In addition to that stated in the Sectoral Terms and Conditions, the Provider has the right to suspend all or part of its obligations under the Agreement with immediate effect (including the right to deny access to the Parent and/or Child) or to terminate the Agreement with immediate effect if one or more of the following circumstances occurs:
  - 3.1.1 the Parent fails to fulfil one or more obligations arising from the Agreement (including the General Terms and Conditions) and that failure is not fully remedied within 14 calendar days (one month in the case of a payment obligation) of a written request to that effect;
  - 3.1.2 the relationship between the Parent or the Child on the one hand and the Provider or its staff on the other hand has, in the reasonable opinion of the Provider, been disrupted to such an extent that the Provider cannot reasonably be required to continue the Agreement (including the situation where a Parent regularly brings or picks up the Child late);
  - 3.1.3 one or both Parents or Guardians lose custody of the Child;
  - 3.1.4 the Provider is unable to fulfil its obligations under the Agreement for one month or more due to circumstances that cannot be attributed to it (for example, full or partial closure of the Childcare centre or restriction of the Provider’s activities in connection with laws and regulations, measures or recommendations aimed at protecting or promoting safety or public health, including in connection with COVID-19);
  - 3.1.5 the Childcare service is used for fewer half-days than agreed between the Parties, notwithstanding the Parent’s obligation always to pay at least the agreed (minimum) number of half-days until the Agreement is terminated, regardless of whether those half-days are actually used (flexible care excepted);

3.1.6 a decision is made to dissolve the Provider, a petition is filed for the Provider's bankruptcy or a moratorium is granted to the Provider.

If the Provider exercises its rights under Article 3.1, this does not create any obligation to pay the Parent (that is, there is no obligation to make a refund and no obligation to reimburse any damage or costs).

3.2 If the Provider suspends its obligations under Article 3.1, the Parent remains obliged to fulfil all payment obligations under the Agreement during the suspension until the moment the Agreement ends in accordance with the General Terms and Conditions (by notice or otherwise).

3.3 If the Provider terminates the Agreement based on Article 3.1.1, the Parent is obliged to pay the Provider a cancellation fee equal to the payment obligations for one month of Childcare (in addition to the Parent's regular payment obligations until the date on which the Agreement ends) (flexible Childcare excepted).

3.4 If the Parent cancels the Agreement before the starting date, the following cancellation charges are payable to the Provider. The Provider has the right to increase this amount annually in accordance with the consumer price index (CPI) for all households:

3.4.1 cancellation more than three months before the starting date – no cancellation fee;

3.4.2 cancellation between one and three months before the starting date – €50 cancellation fee;

3.4.3 cancellation less than one month before the starting date – an amount equal to the agreed Childcare costs with due regard for the months' notice period.

#### **4. PAYMENT**

4.1 The Provider applies a fixed price per half-day for Childcare. This means that even if the Childcare place made available is not used in full or in part, the Parent still owes the Provider the full amount.

4.2 The Parent must make all payments in advance in euros, unless explicitly agreed otherwise.

4.3 The Parent must give the Provider a direct debit mandate, in writing, for automatic payment of the amounts owed, unless explicitly agreed otherwise in writing. When requesting the direct debit mandate, the Provider indicates the time when the amounts owed will be debited from the bank or giro account specified by the Parent.

4.4 If the parties agree that no direct debit will take place, the Parent will receive an invoice from the Provider for each agreed period. This invoice must be paid within the agreed payment term.

4.5 The Parent is not entitled to offset or deduct any claim he or she has or believes to have in respect of the Provider (or any other amount) against any payment obligation the Parent has in respect of the Provider.

## **5. RESTRICTIVE MEASURES AND CLOSURE**

- 5.1 The Provider may impose reasonable (precautionary) measures and regulations for the protection of health and safety (including for the prevention of spreading viruses or diseases such as COVID-19), which must be adhered to by Parents and children. A measure or regulation is in any case considered reasonable if it is recommended or made compulsory by the government or a semi-public authority (including the Dutch National Institute for Public Health and the Environment, RIVM), including in advisory reports, protocols and applicable laws and regulations. These measures may include, but are not limited to, the introduction of restrictions on the maximum number of people who may be present at the same time in all or part of the premises/the Childcare location of the Provider, changes to the agreed Childcare days and/or shortening of the Childcare times/half-days (including working with time blocks). These precautionary measures and regulations are communicated to the Parent in writing (for example, by email) and do not, where reasonable, entitle the Parent to dissolve, terminate or adjust the Agreement (wholly, partially or temporarily), to suspend payment obligations or to a refund of any amount.
- 5.2 If the Provider closes down its Childcare centre/location temporarily to comply with applicable laws or regulations, rules or recommendations of the government or a semi-public authority (including the Dutch National Institute for Public Health and the Environment, RIVM) that concern the protection of safety or public health (for example to prevent the spreading of diseases or viruses such as COVID-19), the Provider has the right to continue collecting the agreed payment obligations from the Parent during the closure for a maximum of three months. The Provider will provide reasonable compensation to the Parents (in cash, kind or otherwise) for the continued payment obligation during closure to the extent required under applicable mandatory laws and regulations or if the Provider considers it reasonable to do so.

## **6. LIABILITY**

- 6.1 The Provider is not liable for accidents, physical or mental injury, illness or health problems (including contracting viruses) or any damage caused by the above as a result of entering the premises/the Childcare location or using the services or facilities of the Provider, unless these are caused by the Provider not taking the precautions required under applicable mandatory laws and regulations.
- 6.2 The total liability of the Provider in connection with the Agreement and with Childcare is limited to the amount actually paid out by the Provider's liability insurance for the circumstances that led to the relevant liability. However, if for any reason the liability insurance does not pay out (including the absence of relevant liability insurance), the Provider's liability is limited in total to the amount the Parent actually paid to the Provider for the Childcare of the relevant child during the previous six months.
- 6.3 The Provider is not liable for any damage to or loss of items (including toys and clothing) belonging to the child or Parent.
- 6.4 The Provider is not liable for indirect or consequential damage (including loss of income or profit or missed opportunities or savings).
- 6.5 The exclusions and limitations of liability set out above in Articles 6.1 to 6.4 inclusive do not apply in the case of wilful misconduct or deliberate recklessness on the part of the Provider.

- 6.6 The Parent is obliged to take out third-party insurance for the child with adequate cover and maintain such insurance for the Term of this Agreement.
- 6.7 The Parent is obliged to indemnify and hold harmless the Provider against all claims for damages made by third parties against the Provider in respect of damage caused by the Parent's child who is in Childcare.

## **7. SAFETY**

- 7.1 When using the Provider's Childcare and other services, the Parent and the child are obliged to act in accordance with applicable laws or regulations, rules or recommendations of the government or a semi-public authority (including the Dutch National Institute for Public Health and the Environment, RIVM) that concern the protection of safety or public health (including with regard to COVID-19).
- 7.2 If required by the government or a semi-public authority or if considered reasonably necessary by the Provider (for example, to protect the health of employees and children), the Provider may make vaccination/inoculation of the child (in accordance with the National Immunisation Programme or otherwise) a condition for access to the Childcare location to the extent permitted under applicable laws and regulations.

## **8. OTHER PROVISIONS**

- 8.1 Communication between the Provider and the Parents takes place through the communication channels prescribed by the Provider, which may differ depending on the subject.
- 8.2 The Provider's privacy regulations can be viewed on its website. By signing the registration form or the Agreement, the Parent agrees to the contents of the privacy regulations.
- 8.3 The Agreement is entered into with one of the Parents of the child (the "**Contract Parent**"). Subject to proof to the contrary, the Provider assumes that both Parents (if any) have parental authority over the child and that the Contract Parent represents both Parents in entering into, amending, terminating and executing the Agreement, including all communications about it. The Contract Parent ensures that all important aspects and decisions regarding the Agreement and Childcare have been discussed with the other Parent beforehand. The Provider is entitled to provide all information about the child to both Parents, unless it is proven that one of the Parents does not have parental authority over the child and the Parent with custody has explicitly requested in writing not to share all information about the child with the Parent who does not have custody. If it transpires that a Parent does not have parental authority over the child, that Parent still has the right, under applicable laws and regulations, to receive "important facts and information concerning the child or its care and upbringing". The Provider remains entitled to provide such information about the child to the Parent who does not have custody. Both Parents are severally bound/liable for the payment obligations under the Agreement.