The Young England Kindergartens

Terms and Conditions (EXAMPLE)

1 Terminology

1.1 **Admission**: occurs when the Parents accept the offer of a place for the Child at the Nursery.

1.2 **Child**: is the child named on the acceptance form.

1.3 **Entry**: is the date when the Child attends the Nursery for the first time under these *Terms and Conditions*.

1.4 **Early Years Entitlement Hours**: means, where the Child is eligible and as applicable, the 15 or 30 hours of free childcare hours offered by the Nursery and accepted by the Parents in accordance with the Government's Early Years Entitlement scheme(s).

1.5 **Nursery or We or Us**: means Young England Kindergarten (Barnes) Limited trading as Young England Kindergarten as now or in the future constituted (and any successor). The Nursery is constituted as a private limited company.

1.6 **Nursery Manager**: means the Nursery Principal or Head Teacher as appointed by the Nursery. The Nursery Manager is responsible for the day to day running of the Nursery and that expression includes those to whom any duties of the Nursery Manager have been delegated.

1.7 **Nursery Premises**: means the premises from which the Nursery operates.

1.8 **Parents or You**: means any person who has signed the acceptance form, including a legal guardian who has signed the acceptance form where applicable. The Parents are legally responsible, jointly and severally, for complying with their obligations under these *Terms and Conditions*.

1.9 **Parental Responsibility**: those who have Parental Responsibility (i.e. legal responsibility for the Child) are entitled to receive relevant information concerning the Child, whether or not they are a party to this contract, unless a court order has been made to the contrary or there are other reasons which justify withholding information to safeguard the best interests and welfare of the Child.

1.10 **Privately Funded Hours**: means, as applicable, the privately funded childcare hours offered by the Nursery and accepted by the Parents for the Sessions in circumstances where the Child is not eligible for the Early Years Entitlement Hours or the hours requested by the Parents that are additional to the Early Years Entitlement Hours.

1.11 **Sessions**: means the agreed sessions for which the Child will attend the Nursery as outlined in the offer letter and accepted by the Parents.

1.12 **Term**: means the period between and including the first and last days of the relevant Nursery term.

2 The Nursery

2.1 **Our aims:** The Nursery is a constantly developing community of children, staff and parents. We aim to provide a happy and secure environment in which each child can develop at their

own pace. The Parents are expected to give their support and encouragement to the aims of the Nursery, to uphold and promote its good name and to ensure that the Child maintains appropriate standards of punctuality, behaviour, discipline and hygiene.

2.2 **Contract:** These *Terms and Conditions*, together with the letter of offer, the acceptance form and the Fees Structure form a legally binding contract between the Parents and the Nursery for the provision of educational and childcare services.

2.3 **Services**: The Nursery will do all that is reasonable to provide early years educational and childcare services of a range, standard and quality which is suitable for each child and to at least the standard required by law in the particular circumstances. The Nursery will exercise reasonable care and skill in providing early years educational and childcare services and will organise and deliver these services in a way which, in the professional judgement of the Nursery Manager, is the most appropriate for the Nursery community as a whole.

2.4 **Change:** The Nursery reserves the right to make changes at the Nursery, including changes to the early years educational and childcare provision or to the organisation of its activities, changes in the staff or in the premises, facilities and their use, or changes to the length of the Nursery day. In addition, there may be a need in the future for the Nursery to undertake a corporate reorganisation exercise and / or a merger or change of ownership may be necessary. For these reasons, the benefit and burden of this contract may be freely assigned to another party at the discretion of the Nursery. Notice of any significant change and reasons for the change will be given as soon as practicable.

3 Entry to the Nursery

3.1 **Application for a place:** The Child will be considered for Entry to the Nursery when the application form has been completed and returned to the Nursery and the non-refundable registration fee has been paid.

3.2 **Admission**: Admission to the Nursery will be subject to the availability of a place and the availability of the requested sessions. A deposit (**Acceptance Deposit**) as shown in the Fees Structure will also be payable when the Parents return this form. The Acceptance Deposit will be retained until the Child leaves and will be deducted from the final term's fees without interest following the Child's departure less disbursements and subject to payment of all other sums due to the Nursery. Please also see clause 7.3.

3.3 **The Child's health:** The Parents must, as soon as possible and prior to Entry, inform the Nursery if the Child has any known medical or health conditions, allergies or intolerances, special dietary requirements or preferences or if they have been in contact with anyone with an infectious or contagious disease. The Child must not be brought to the Nursery if they are unwell, in line with the Sickness and Illness policy.

4 Fees

4.1 **Early Years Entitlement Hours:** If the Child attends the Nursery for the Early Years Entitlement Hours only, the Nursery will provide educational and childcare services during the agreed Sessions free of charge. Any hours offered to and agreed by the Parents which are additional to the Early Years Entitlement Hours will be charged as Privately Funded hours. Privately Funded Hours form part of the Nursery's Services & Consumables Package and are shown as an 'Extras and Essentials' charge on termly invoices and itemised as a termly charge. Please ask for a copy of the Nursery's Funding Policy. In addition, the Parents agree that they will be liable to pay all additional charges in respect of optional items they have requested.

4.2 **Fees**: In these *Terms and Conditions* Fees may include alone or in combination any of following: the application fee, the Acceptance Deposit, the fees for the Privately Funded Hours for the Sessions the Child will attend, other optional charges for items requested by the Parents such as meals, snacks, consumables or additional activities, or bank charges arising from a default in Fees payment or late payment charges if incurred. The Parents will be consulted regarding any additional costs required for day trips or external activities.

4.3 **Payment of Fees:** The Parents jointly and severally agree to pay the Fees applicable to each Term directly to the Nursery. Fees for each Term are due and payable as cleared funds before the commencement of the Term to which they relate. If an item on the fees invoice is under query, the balance of that fees invoice must be paid. The Nursery reserves the right to refuse a payment if it is not satisfied as to the identity of the payer or the source of the funds or where it has reason to believe that it may be unlawful to accept the payment.

4.4 **Payment of Fees by a third party**: Fees payable by a third party (for example, an employer, grandparent, step-parent without Parental Responsibility or third party credit provider) will be subject to a separate agreement between the Nursery, the Parents and the third party. An agreement with a third party to pay the Fees or any other sum due to the Nursery does not release the Parents from liability if the third party defaults and does not affect the operation of any other of these *Terms and Conditions* unless an express release has been given in writing, signed by the School Business Manager. The Nursery reserves the right to refuse a payment from a third party.

4.5 **Indemnity:** The Parents shall indemnify the Nursery against all losses, expenses (including legal expenses) and interest suffered or incurred by the Nursery if the Nursery is required to pay all or part of any sum paid to it on behalf of the Parents to a third party.

4.6 **Refund or waiver:** Save where there is a legal liability, including liability under a court order or under the provisions of this contract, to make a refund or reduction, Fees will not be refunded, reduced or waived if:

4.6.1 the Child is absent through illness; or

4.6.2 the Nursery is temporarily closed due to adverse weather conditions or other safety related or good reasons; or

4.6.3 for any reason other than exceptionally and at the sole discretion of the School Business Manager in a case of genuine hardship.

4.7 **Late payment:** The right is reserved for the Nursery to charge an administration charge of £10 per day on Fees which are unpaid. The Parents shall also be liable to pay all costs, fees, disbursements and charges including legal fees and costs reasonably incurred by the Nursery in the recovery of any unpaid Fees regardless of the value of the Nursery's claim and Part 45 of the Civil Procedure Rules 1998 shall not apply.

4.8 **Part-payment:** Any sum tendered by or on behalf of the Parents that is less than the sum due and owing may be accepted by the Nursery on account only. Late payment charges may be applied to any unpaid balance, as set out above.

4.9 **Exclusion for non-payment:** The Nursery may exclude the Child from the Nursery or, if applicable, from attending the Privately Funded Hours or the optional additional activities by providing written notice if at any time Fees are overdue for payment, including where the Nursery refuses to accept a payment under clause 4.3. The Child will be deemed withdrawn without notice 28 days after exclusion if payment is not received.

4.10 **Fees increases:** Fees are reviewed annually and are subject to increase from time to time. If the Parents receive less than a Term's notice of a Fees increase they may give the Nursery written notice to Withdraw the Child within 21 days and will not be required to pay a Term's Fees in lieu of Notice. The Acceptance Deposit will be refunded without interest, less any sums owing to the Nursery.

4.11 **Identity of Fees payer and source of funds:** From time to time the Nursery may need to obtain satisfactory evidence of the identity of a person who is paying Fees, such as sight of a passport, or the source of any funds used to pay Fees and the Parents agree to provide such information as reasonably requested by the Nursery in this respect.

5 Pastoral care

5.1 **Welfare of the Child:** We will do all that is reasonable to safeguard and promote the Child's welfare and to provide pastoral care to at least the standard required by law. We will respect the Child's rights and freedoms which must, however, be balanced with the lawful needs and rules of our Nursery community and the rights and freedoms of others.

5.2 **Additional sessions:** The Nursery reserves the right to determine when the Child is ready to attend additional afternoon sessions in the Caterpillar Session and/or the Butterfly Session. Such decisions will be made in consultation with the Parents.

5.3 **Progress:** The Nursery shall monitor the Child's progress and shall report to the Parents by means of progress tracking software (ArcPathway) and parent's evenings.

5.4 **Learning difficulties:** The Nursery shall do all that is reasonable to detect and deal appropriately with a learning difficulty which is considered to be a "special educational need".

5.5 **Information about learning difficulties:** The Parents shall notify the Nursery Manager when completing the Nursery's Confidential Information Form and subsequently in writing if at any time they are aware or suspect that the Child has a learning difficulty. The Parents shall also provide the Nursery with copies of all written reports and other relevant information and agree to cooperate fully with any investigation of the Child's educational needs. The Nursery reserves the right to charge for the provision of additional teaching and / or other support arrangements where it is lawful to do so.

5.6 **Physical contact:** The Parents consent to such physical contact with the Child:

5.6.1 as may accord with good practice; or

5.6.2 as may be appropriate and proper for teaching and instruction; or

5.6.3 for providing comfort to the Child in distress; or

5.6.4 to maintain safety and good order; or

5.6.5 in connection with the Child's health and welfare.

5.7 **Complaints:** Any question, concern or complaint about the pastoral care or safety of the Child must be made to the Nursery Manager. The Parents will remain courteous and respectful at all times in their dealings with the Nursery regardless of any complaint. A copy of the Nursery's complaints procedure can be obtained from the Nursery's website or supplied on request.

5.8 **Disclosures:** The Parents must, at any time and as soon as possible, disclose to the Nursery in confidence:

5.8.1 any known medical condition, health problem or allergy affecting the Child;

5.8.2 any history of a learning difficulty on the part of the Child;

5.8.3 any disability, special educational need or any behavioural, emotional and / or social difficulty on the part of the Child;

5.8.4 any family circumstances, court proceedings or court order which might affect the Child's welfare or happiness;

5.8.5 any concerns about the Child's safety;

5.8.6 any significant change in the circumstances of the Parents, including any changes to the Parents' financial circumstances or if either of the Parents is a Designated Person under any UK enactment or convicted of a criminal offence anywhere in the world.

5.9 **Special precautions:** The Nursery Manager must be notified in writing immediately of any family circumstances, court proceedings, court orders or situations of risk in relation to the Child for which any special precautions may be needed. The Nursery Manager may exclude one or both of the Parents from Nursery Premises if, acting in a proper manner, they consider such exclusion to be in the best interests of the Child or any other member of the Nursery community.

5.10 **Belongings:** The Child should not bring money, valuables, sweets or toys with them to the Nursery, as the Nursery does not accept responsibility for loss or damage to such items. A comforter will be allowed. The Parents are asked to supply the Nursery with named sun cream in the spring and summer for use on their Child only and may be required to sign a consent form to permit the Nursery to use sun cream on their child.

5.11 **Uniform:** The Child must wear named Nursery uniform for all sessions.

5.12 **Collection:** The Child must either be collected by one of the Parents or an alternative collector who is listed in the application form. The Parents must supply information in accordance with the Nursery's security procedures for collection as required by the Nursery from time to time. This may include, but is not limited to, supplying photographs of the collector and a password.

5.13 **Dietary requirements:** The Parents should, at any time and as soon as possible, notify the Nursery in writing of any special dietary requirements, preferences, food allergies or intolerances. A doctor's note should be provided if the Child has a medically diagnosed food allergy. All reasonable care will be taken to ensure that the Child does not come into contact with certain foods.

5.14 **Transport:** The Parents consent to the Child travelling by any form of public transport and / or in a motor vehicle driven by a responsible adult who is duly licensed and insured to drive a vehicle of that type.

5.15 **Outings**: The Parents understand that regular outings to Vine Road Recreation Ground are arranged and facilitated by the Nursery. Unless the Parents specifically notify the Nursery Manager in writing that they do not wish the Child to take part in outings to Vine Road Recreation Ground, by signing the acceptance form and agreeing to be bound by these *Terms and Conditions*, the Parents consent to the Child taking part. The Parent will receive written notice in advance of any other outings arranged by the Nursery.

5.16 **Communications from Parents:** Communications or instructions from one of the Parents or any person with Parental Responsibility shall be deemed by the Nursery to be received from both Parents unless there is clear evidence of a contrary view. This requirement does not apply to the giving of Notice for the Cancellation of the place or the Withdrawal of the Child from the Nursery. Those persons who are required to consent to or to give Notice of Cancellation or Withdrawal are set out in Section 7.

5.17 **Photographs or images (including video recordings):** The Nursery may obtain and use photographs or images (including video recordings) of the Child for educational purposes as part of the curriculum or extra-curricular activities, including pupil records, Nursery plays, Nursery displays, and learning journal profiles. Please see the Nursery's privacy notice for more information about how the Nursery uses photographs and videos of children who attend the Nursery.

5.18 **Request for confidentiality:** The Parents may ask the Nursery to keep information about the Child confidential. For example, You may ask Us to not use photographs of the Child in promotional material or ask Us to keep the fact that the Child is on the Nursery roll confidential. If the Parents would like information about the Child to be kept confidential, they must immediately contact the Nursery Manager in writing, requesting an acknowledgment of their letter. Parents will not record meetings or discussions with any staff member or representative(s) of the Nursery without consent.

5.19 **Nursery's liability:** Unless negligent or in breach of another legal duty which causes injury, loss or damage, the Nursery does not accept responsibility for accidental injury or other loss caused to the Child or Parents or for loss or damage to property.

6 Health and medical matters

6.1 **Infectious and contagious diseases:** The Child will not be accepted into the Nursery with an infectious or contagious disease and must not return to the Nursery until medically fit and symptom free for a minimum of 48 hours. The Nursery reserves the right to send the Child home if they become unwell whilst under the Nursery's care and the Parents agree to collect the Child as soon as possible in such circumstances. The Parents must provide the Nursery with a daytime contact number.

6.2 **Medicine:** With the exception of 'Calpol', the Nursery cannot administer any medicine to the Child unless prescribed by a doctor. 'Calpol' will only be administered if the Child has a temperature and if the Nursery holds a consent form signed by the Parents to enable it to do so. The Nursery will maintain a medical register detailing any medicines administered to children. In the case of a prescription medicine, the Parents will be required to fill in a consent form on a daily basis for the administration of medicine and to confirm dosage.

6.3 **Medical information:** Throughout the Child's time as a member of the Nursery, the Nursery Manager shall have the right to disclose confidential information about the Child if considered to be in the Child's own interests or necessary for the protection of other members of the Nursery community. Such information will be given and received on a confidential, need-to-know basis.

6.4 **First aid provision:** The Parents consent to the Child receiving first aid treatment as and when necessary from an appropriately qualified person.

6.5 **Emergency medical treatment:** The Parents authorise the Nursery Manager to consent on their behalf to the Child receiving emergency medical treatment where certified by an appropriately qualified person as necessary for the Child's welfare, and if the Parents or an agreed emergency contact cannot be contacted in time.

7 Cancellation and withdrawal

7.1 **Notice**: means one Term's written notice given by:

7.1.1 both Parents; or

7.1.2 one of the Parents with the prior written consent of the other Parent; and

7.1.3 in either case the prior written consent of any other person with Parental Responsibility where appropriate,

addressed to and received by the Nursery Manager before the first day of the Term. No other notice will suffice. The Parents should contact the Nursery Manager if no acknowledgement of the Notice is received from the Nursery within seven days of the date of the Notice.

7.2 **Cancel or Cancellation**: means the cancellation of a place at the Nursery which has been accepted by the Parents and which occurs before the Child enters the Nursery or where the Child does not enter the Nursery. Please see clause 1.3 for details of when Entry to Nursery occurs.

7.3 **Cancellation rights**: If the offer of a place and its acceptance are both made entirely at distance by means of, for example, post or electronic communication without either of the Parents meeting face to face with a member of the Nursery staff between offer and acceptance, the Parents have the right to cancel this contract at any time within 14 days of the day after We received Your completed and signed acceptance form. In such circumstances the Acceptance Deposit will be refunded together with any Fees paid pro-rated if the Nursery has provided any educational services under this contract. Information about the right to cancel and how to cancel is set out in the Nursery's cancellation notice and form published on the Nursery website.

7.4 **Cancelling acceptance**: Except for where clause 7.3 applies, if the Parents give less than one Term's Notice of Cancellation, one Term's Fees at the rate payable for the Term of proposed Entry, less the Acceptance Deposit, will be payable as a debt. If the Parents give more than one Term's Notice of Cancellation, the Nursery will limit the Parents' liability to the Acceptance Deposit. Cases of genuine hardship will be given special consideration on written request.

7.5 **Cancelling a place offered in the Term before Entry:** Except for where clause 7.3 applies, if the offer of a place is made within the Term prior to the Child's proposed Term of Entry, the Parents may Cancel and terminate this contract by notifying the Nursery in writing at any time before the proposed Term of Entry but they shall pay one Term's Fees at the rate payable for the Term of proposed Entry, less the Acceptance Deposit, payable as a debt.

7.6 **Withdraw or Withdrawal**: means the withdrawal of the Child from the Nursery by the Parents with or without the Notice required under these *Terms and Conditions* at any time after the Child has entered the Nursery. Please see clause 1.3 for details of when Entry to Nursery occurs. Notice must be given before the Child is withdrawn or one Term's Fees in lieu of Notice will be due and payable as a debt at the rate applicable on the date of invoice.

Provisional notice is not accepted. Cases of genuine hardship will be given special consideration on written request.

7.7 **Changes to Sessions:** The Parents must obtain the express permission of the Nursery Manager, in writing, if they wish to change or reduce the number of Sessions the Child attends. Once such permission has been granted, the Parents must pay the difference between the Fees due for the Sessions initially agreed and those requested. Any changes to the Sessions are subject to availability.

7.8 **Removal**: The Parents may be required to remove the Child, temporarily or permanently from the Nursery, if, after consultation with the Parents, the Nursery Manager is of the opinion that, by reason of the Child's conduct, behaviour or progress, the continued presence of the Child is incompatible with the interests of the Nursery or if a Parent has treated the Nursery or members of its staff or any member of the Nursery community unreasonably. The Nursery is not obliged to provide notice under these circumstances. There will be no refund of Fees but the Acceptance Deposit will be returned and Fees in lieu of Notice would not be charged.

7.9 **Termination by the Nursery:** The Nursery may terminate this contract:

7.9.1 on one Term's notice in writing sent by ordinary post or email where it has good cause and following consultation with the Parents. The Acceptance Deposit will be refunded without interest, less any outstanding balance of Fees;

7.9.2 on reasonable notice if, in the professional opinion of the Nursery Manager, the Nursery is unable to adequately support the needs of the Child and/or to provide some or all of the educational and childcare services;

7.9.3 immediately where either of the Parents has made a false declaration or given a false or misleading disclosure to the Nursery or has failed to disclose to the Nursery anything which they are required to disclose; or

7.9.4 immediately if at any time either of the Parents is declared bankrupt or is a Designated Person under any UK enactment or convicted of a criminal offence anywhere in the world.

8 General conditions

8.1 **Variations:** these *Terms and Conditions* and the Fees Structure are subject to change from time to time to reflect changes in the law or custom and practice at the Nursery.

8.2 **Data protection**: The Nursery has a privacy notice which explains how the Nursery will use the Parents' and the Child's personal data. This privacy notice is provided with the letter of offer and is also published on the Nursery's website. The Parents must read the privacy notice in full before signing the acceptance form.

8.3 **Insurances**: The Nursery undertakes to maintain those insurances which are prescribed by law. All other insurances are the responsibility of the Parents.

8.4 **Management**: It is our intention that these *Terms and Conditions* will always be operated so as to achieve a balance of fairness between the rights and needs of parents and children,

and those of the Nursery community as a whole. We aim also to promote good order and discipline throughout our Nursery community and to ensure compliance with the law.

8.5 **Consumer rights**: Care has been taken to use plain language and to give clear explanations in these *Terms and Conditions*. If any words alone or in combination infringe consumer rights laws or any other provision of law, they shall be treated as severable and shall be replaced with words which give as near the original meaning as may be fair. Nothing in these *Terms and Conditions* affects the Parents' statutory rights.

8.6 **Consultation:** It is not practicable to consult with the Parents over every change that may take place. Whenever practicable, the Nursery will use reasonable endeavours to ensure that the Parents will be consulted and provided with reasons for the change.

8.7 **Information for parents**: We provide parents of prospective pupils with information about the Nursery and the educational services we provide in good faith. This information may be contained in the Nursery's prospectus / website / promotional literature or in statements made by staff or pupils during a visit or an open day. If the Parents take account of the information provided to them when deciding whether to enter into this contract, they should seek specific confirmation from the Nursery Manager that the information is accurate before returning a completed acceptance form to the Nursery.

8.8 **Third party rights**: Only the Nursery and the Parents are parties to this contract. Neither the Child nor any third party is a party to this contract and shall not have any rights to enforce any term of it.

8.9 **Interpretation**: These *Terms and Conditions* supersede any previously in force and will be construed as a whole. Headings, unless required to make sense of the immediate context, are for ease of reading only and are not otherwise part of these *Terms and Conditions*.

8.10 **Severability:** If any provision or part-provision of this contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this contract.

8.11 **Jurisdiction**: This contract was made at the Nursery and it, together with each matter relating to the provision of nursery services by the Nursery, is governed exclusively by the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the Courts of England and Wales.

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