



Reg No. 2012/216670/07

### Enrolment Contract Fixed Term for an Indefinite Period

Between

Biekie Skool (Japsnoet Akademie)

(the "Aftercare")

and

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(ID No. \_\_\_\_\_)

and

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(ID No. \_\_\_\_\_)

(collectively, the "Parents/Guardians ")

Child's Name and Surname: \_\_\_\_\_

Supplied by



SA Childcare Association

*Stronger Together!*

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## Parent/Guardian Declaration and Contract of Enrolment

The persons whose details appear in the Enrolment Form, declare that they are the Parents of the Child, whose details appear in the Enrolment Form. The rights and obligations contained in this Contract are binding to every person who signs this Contract and must be carried out in order for the Child to be successfully admitted, enrolled, and retained at the Aftercare.

### Important Notice

By signing or initialling this Contract, the Parent agrees to (a) the terms and conditions contained in this document, and (b) ensuring that the Parent is familiar with any terms and conditions contained in the Policies, which shall form part of this Contract. If there is any provision in this Contract that the Parent does not fully understand, the Parent is obliged to ask for an explanation before signing.

The rights the Parent has in this Contract are in addition to, and do not affect, the statutory rights and remedies the Parent has under the Consumer Protection Act.

### 1. Interpretation

In this Contract, unless the context indicates a contrary intention, the following words and meanings bear the meanings assigned to them:

- 1.1. "Admission" means permission to attend the Aftercare;
- 1.2. "Annual Closure" means the annual period of time during which the Aftercare is closed for \_\_\_\_\_ consecutive weeks;
- 1.3. "Bridging Holiday" means the day/s occurring before or after a public holiday which falls adjacent to a weekend and/or public holidays;
- 1.4. "Child" means the child whose details appear in the attached Enrolment Form, as well as the Child whose details are added to the Enrolment Form;
- 1.5. "Compulsory Schooling" means the education of children for whom attendance at school is mandatory in terms of South African law;

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- 1.6. "Contract" means this Enrolment Contract including all its annexures as well as any Policies;
- 1.7. "Consumer Protection Act" means the Consumer Protection Act, No. 68 of 2008;
- 1.8. "Enrolment" means the act of signing the Child up for attendance at the Aftercare. The enrolment process is completed after the Child is granted admission to the Aftercare;
- 1.9. "Enrolment Fee" means the amount of money payable by the Parent to the Aftercare to cover the administrative costs involved in Enrolment, which may include an initial contribution to the development costs of the Aftercare;
- 1.10. "Extra Charges" means those costs for Extra Goods and Services;
- 1.11. "Extra Goods/Services" means those additional goods or services that may be provided for the benefit of the Child, as determined by the Aftercare from time to time, in addition to the standard early learning and care services provided by the Aftercare;
- 1.12. "Extra Mural Provider" means a person who conducts extra mural activities at the premises of the Aftercare, by agreement between the Extra Mural Provider and the Parent;
- 1.13. "Fee" means any amounts owing to the Aftercare for a Child's admission, enrolment, care, early learning and related activities at the Aftercare. Such Fees may include, but are not limited to the:
  - 1.13.1. Enrolment Fee;
  - 1.13.2. Registration Fee;
  - 1.13.3. School Fees; and
  - 1.13.4. Extra Charges
- 1.14. "Aftercare" means the Facility and staff known as Biekie Skool;
- 1.15. "Holiday Care" means the care provided to the Child between Terms;
- 1.16. "Management" means the people who are responsible for the day-to-day management of the Aftercare, including anyone to whom such duties have been delegated;
- 1.17. "Material Breach" means a breach that is material to the agreements between the Aftercare, the Parent and the Child as set out in this Contract or Policies, and excludes unproven allegations;
- 1.18. "NCA" means the National Credit Act, No. 34 of 2005;

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- 1.19. "Parent" means a parent or guardian of a Child, who has signed this Contract and whose details appear in the attached Enrolment Form;
- 1.20. "Parties" means the Parents and the Aftercare;
- 1.21. "Policies" means the rules and principles of the Aftercare, which are used to regulate the day-to-day running of the Aftercare;
- 1.22. "POPI Act" means the Protection of Personal Information Act, No. 4 of 2013;
- 1.23. "Registration Fee" means the amount of money payable by the Parent as an agreed, non-refundable contribution to the Aftercare's maintenance and capital costs;
- 1.24. "School Fees" means the amount of money payable by the Parent to the Aftercare in connection with a Child's early learning and/or care, excluding any Enrolment Fee, Deposit, Registration Fee or Extra Charges;
- 1.25. "School Holidays" means the period of closure between Terms, which may or may not coincide with those of the relevant Provincial Department of Basic Education;
- 1.26. "Magistrates Court Act" means the Magistrates Courts Act, No. 32 of 1944;
- 1.27. "Term" means the period of the year during which the Aftercare provides structured early learning programmes and/or care; which may or may not coincide with the school terms of the relevant Provincial Department of Basic Education;
- 1.28. "Third Party" means the person or entity, other than the Parent, nominated by the Parent to be responsible for the payment of any Fees; and
- 1.29. in this Contract:
  - 1.29.1. clause headings are for reference purposes only and will not influence their interpretation;
  - 1.29.2. references to the masculine gender will include the feminine and neutral genders and the other way round;
  - 1.29.3. references to natural persons will include bodies corporate and other legal personae and the other way round;
  - 1.29.4. references to the singular will include the plural and the other way round;
  - 1.29.5. where a number of days is prescribed, it will consist only of business days (i.e., days other than Saturdays, Sundays, and Public Holidays) and will be reckoned exclusively of the first and inclusively of the last day;

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1.29.6. where the day upon or by which any act is required to be performed is not a business day, the Parties will be deemed to have intended such act to be performed on or by the first business day thereafter.

**2. Acknowledgment and Commitment to the Values, Goals and Methods of the Aftercare**

- 2.1. The Parents acknowledge and accept that the Aftercare is acting as an expert in childhood development, and that the Aftercare has developed its own values, goals and methods. By enrolling the Child at the Aftercare, the Parents commit themselves and the Child to respect the values, goals and methods of the Aftercare, as articulated in the Aftercare’s admission documents, marketing materials and policies.
- 2.2. If at any time the Parents consider the values, objectives and methods of the Aftercare to be incompatible with those of the Parents or the Child, the Parents undertake to withdraw the Child from the Aftercare subject to the terms and conditions of this Contract and the best interests of the Child.
- 2.3. The Parents undertake that they permit the Child to participate in all Aftercare activities that may include religious and/or cultural practices established by the Aftercare;

**3. Introduction**

- 3.1. The Aftercare provides a programme and resources for learning and care and continuous enrolment at the Aftercare, whether or not the Child is attending the Aftercare, for the duration of this Contract, in return for Fees.
- 3.2. This Contract regulates the Admission of the Child to the Aftercare and the relationship between the Aftercare, the Child, the Parents and/or a Third Party once the Child has been enrolled at the Aftercare.

**4. General Obligations of the Aftercare**

4.1. The Admission and Enrolment of the Child to the Aftercare is at the sole discretion of the Aftercare which may grant temporary or provisional Admission and/or Enrolment to

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the Aftercare subject to further terms and conditions which the Aftercare may impose in writing, which will be regarded as forming part of this Contract.

4.2. While the Child remains enrolled at the Aftercare, the Aftercare undertakes to exercise reasonable skill and care in respect of their early learning, development and welfare. This obligation will apply during Aftercare hours and at other times when the Child is participating in activities organised by the Aftercare at the Aftercare's premises.

4.2.1. This obligation does not apply when the Child is participating in activities at the Aftercare's premises during which time the Child is under the supervision of or ought reasonably to be under the supervision of the Parent.

4.2.2. This obligation does not apply during the times when the Child is on the Aftercare's premises participating in activities offered by Extra Mural Providers during which time the Child will be under the supervision of or ought reasonably to be under the supervision of the Extra Mural Provider. Extra Mural Providers will contract directly with the Parents and are not agents, representatives or employees of the supplied by Aftercare. The Aftercare will not be responsible to supervise the activities of Extra Mural Providers and will not be responsible for their behaviour.

4.3. The Aftercare will take reasonable care to avoid loss, damage, injury or death to the Child. The Aftercare will not be responsible for any loss, damage, harm, injury or death arising from the Child taking part in any Aftercare activities.

4.4. The Aftercare shall monitor the Child's progress at the Aftercare and produce regular progress reports. The Aftercare will advise the Parents if the Aftercare has any concern about the Child's progress, but the Aftercare does not undertake nor does it have any obligation to diagnose any learning disability or other condition.

4.5. The Parties acknowledge the limitations of the Aftercare's physical environment, staff qualifications and training and resources which limit its ability to provide high quality care and early learning opportunities to children with special educational needs (whether due to neurological barriers, hearing impairments, visual barriers, physical barriers, behavioural, psychological or emotional barriers or any other special need). To the extent that, in the reasonable opinion of the Aftercare, and after following due process, the Aftercare cannot, or can no longer, provide adequately for the Child's special needs,

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the Aftercare may elect to decline Admission or cancel this Contract in terms of clause 12.3.

**5. Disclaimers and Indemnity**

- 5.1. The Aftercare does not take any responsibility for any loss of or damage to any property brought on to the Aftercare premises by the Child or Parents, unless the employees of the Aftercare are in physical possession of that property and damage occurs to that property because the employees of the Aftercare did not exercise the degree of care that can reasonably be expected of a person in possession of property belonging to another person.
- 5.2. The Parent indemnifies and holds harmless the Aftercare, Management and the Aftercare’s employees as well as their authorised agents and/or representatives against claims, losses and reasonable costs and expenses in connection with damage or loss to property, and injury to persons, including injury resulting in death, arising as a consequence of the Child’s enrolment at the Aftercare, save that the Aftercare shall be liable under clause 5.2 in respect of loss occasioned by gross negligence and/or wilful misconduct attributable to the Aftercare, Management and the Aftercare’s employees as well as their authorised agents and/or representatives.
- 5.3. Unless the Parents expressly notify the Aftercare in writing to the contrary, they consent to the Child’s participation, under proper supervision, in physical activities, which may entail some risk of physical injury. This consent does not extend to activities provided by Extra-Mural Providers with whom Parents must contract separately.
- 5.4. The Parents confirm that the Child is healthy and that there that there are no health-related reasons or problems which preclude the Child’s participation in Aftercare activities.
- 5.5. The Parents hereby consent for the Child to receive emergency medical treatment which may be deemed advisable in the event of serious injury, accident, and/or illness while participating in Aftercare activities. Responsibility for any medical expenses is for the Parents’ account.

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- 5.6. Subject to the Aftercare taking reasonable care to avoid harm and save for any gross negligence on the part of the Aftercare, its employees or agents, the Aftercare is not responsible for loss or damage resulting from such activities and the Parents indemnify the Aftercare against any such claims.
- 5.7. The Parents confirm that the above waivers and indemnities are made on behalf of myself, my executors, administrators, heirs and next of kin, as the case may be.

**6. Parent's General Obligations**

- 6.1. The Parents will inform the Aftercare in writing, prior to Admission and Enrolment, of any special educational or physical needs of the Child known to them of the kind, without limitation, referred to in clause 4.5.
- 6.2. In order to meet the Aftercare's obligations, the Aftercare needs the Parents' cooperation. The Parents are required to encourage the Child in his or her early learning and development, give appropriate support at home, keep the Aftercare informed of matters which affect the Child, maintain a courteous and constructive relationship with Aftercare staff; and attend meetings and otherwise communicate with the Aftercare regarding matters in the Child's interests.
- 6.3. Management may, after following due process, require the Parents to remove the Child if the Parents' behaviour is, in the reasonable opinion of Management, so unreasonable as likely to affect the progress of the Child or other children at the Aftercare or the well-being of the Aftercare staff or to bring the Aftercare into disrepute.
  - 6.3.1. The Aftercare will be entitled to automatically cancel the Contract and claim damages, without further notice, if the Parent has been notified in detail in writing of the behaviour described in clause 6.3 and if a similar incident of such behaviour occurs again.
- 6.4. Management may, if it is justifiable to do so, require the Parents to remove the Child from the Aftercare, if he/she considers that the Child's behaviour is seriously disruptive and in the reasonable opinion of Management, the Child's removal is in the Aftercare's best interests or those of the Child, other children or the wider Aftercare

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community. In this case, the Parents will be asked to remove the Child at a specified date that may be shorter than a full three-month period. Should Management exercise this right, all or a part of the Deposit will be forfeited where the Aftercare is unable to fill the vacancy created by the Child.

- 6.5. When Management considers terminating a Child’s Enrolment under clauses 6.3 or 6.4, he/she should follow a fair process (which may include a hearing) to solicit representations on the Child’s best interests.
- 6.6. The Parents are restrained from employing any employee of the Aftercare, in any capacity, whether part-time or not, while the Child is enrolled at the Aftercare and for a period of six months after termination of this Contract. This restraint also applies to the employment of employees of the Aftercare for a period of six months after the employee’s employment at the Aftercare terminates, whether or not the Child is enrolled at the Aftercare for that period.

**7. Policies of the Aftercare**

- 7.1. The Parents acknowledge that they are aware of the Policies and agree to abide by the provisions of the Policies. The Aftercare undertakes to make copies of the Policies available on request and free of charge, on the Aftercare’s website or the Aftercare’s App or via email or in hard copy. The Parents acknowledge that it is the Parents’ responsibility to make themselves familiar with the Policies.

**8. Acceptance and Deposit**

- 8.1. An offer of a place for a Child at the Aftercare is accepted by the Parents by signing this Contract and (if applicable) paying the Deposit and the Enrolment Fee and/or the Registration Fee.
- 8.2. If, after concluding this Contract, the Child does not take up a place at the Aftercare, the Parents will not be refunded the Deposit. The Deposit and/or the Enrolment Fee will be kept by the Aftercare as a reasonable cancellation fee for the Child’s withdrawal, unless the Aftercare, acting reasonably, is able to fill the vacancy created by the Child’s withdrawal on or before the first day of the first full month for which the .....

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Child was to have been enrolled, in which case the Parent will be refunded the Deposit and/or Enrolment Fee, less the School's costs in administering the Child's Enrolment (or a reasonable estimate of these costs).

## 9. Payment of Fees

- 9.1. The Parents, jointly and severally, are responsible to pay the Fees. The Parents acknowledge that the Fees are payable in advance. Any Fee not paid on or before the due date will bear interest at the maximum rate of interest for incidental credit prescribed from time to time in terms of the NCA. Interest not paid to the Aftercare on or before the date in which payment is due will bear further interest at the same rate. In addition to interest the Aftercare will be entitled to recover from the Parents default administration costs and collection costs, as contemplated in the NCA, including legal costs on the attorney and client scale and collection commission to the extent permitted by the NCA.
- 9.2. The Parents and/or Third Party acknowledge that Fees are calculated on an annual basis and are payable for the duration of the Contract, whether or not the Child attends the Aftercare or not, and whether or not the Aftercare is operating or not, either partially or wholly, whether such closure is due to Annual Closure, School Holidays, Bridging Holidays or governmental closure of a category of Primary School and Early Childhood Development Centres, into which categories the Aftercare falls, for reasons which include but are not limited to quarantine, communicable diseases, states of emergency or natural disasters, until such time that the Contract terminates in terms of clause 12.
- 9.3. The Parents confirm that a statement of account signed by Management, showing the amount owing by the Parents or the Third Party to the Aftercare shall be rebuttable proof that the said amount is due and payable. If the amount of the Aftercare's claim is thereafter disputed by the Parents or the Third Party, the Parents or the Third Party shall bear the onus of proving that such amount is not due.
- 9.4. In the event of the Third Party taking responsibility for the payment of the Fees, the Parents hereby bind themselves jointly and severally in the Parents' personal

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capacity as surety and co-principal debtor with the Third Party for payment to the Aftercare of any amounts which are owing to the Aftercare by the Third Party.

- 9.5. The Parents also acknowledge that if any instalment of a Fee which is payable is not paid on the due date, the whole balance of the Fee outstanding will immediately become due and payable. No indulgence or grant of time by the Aftercare will constitute a waiver of its rights under this Contract or otherwise.
- 9.6. The Aftercare Fees will be set out in a Fees schedule and communicated to the Parents on Enrolment and in advance of any increase in Aftercare Fees.
- 9.7. It is recorded that the Contract does not fall under the Consumer Protection Act.

## 10. Default

Should either party commit a material breach of this Agreement and fail to remedy it within 7 (seven) days of written notice by the other party, the aggrieved party shall be entitled either:-

- 10.1. to cancel this Agreement and claim damages; or
- 10.2. to claim specific performance of the defaulting party's obligations together with damages, if any.
- 10.3. Notwithstanding clause 10, should the Parents commit a material breach by late payment of Fees, the Aftercare will be entitled to cancel the Contract after two notifications of late payment, without further notice to the Parents to remedy the breach and will be entitled thereafter to pursue the remedies set out in clauses 10.1 and 10.2.

## 11. Protection of Personal Information

By entering into this Contract, and unless the Parents at any time instruct the Aftercare in writing to the contrary, the Parents' consent is given for the Aftercare to:

- 11.1. collect, store and process names, contact details and information relating to the Child, and to such information being made available to other parents/guardians, staff or

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responsible persons authorised by the Aftercare to the extent required to manage relationships between the Aftercare and parents;

- 11.2. supply information about the Child to any educational institution or Aftercare to which the Parents have applied for Admission. The Aftercare will take care to ensure that all information that is supplied is accurate and fair. However, the Aftercare cannot be liable for any loss allegedly suffered by the Parents or the Child resulting from opinions reasonably given, or correct statements of fact, in any reference or report given by the Aftercare.

## **12. Termination and Notice Requirements**

- 12.1. This Contract will terminate when the Child completes the Aftercare’s early learning programme unless it is otherwise terminated in terms of this Contract. This Contract therefore has an indefinite term.
- 12.2. The Parents have the right to cancel this Contract at any time, for any reason, provided that they give the Aftercare a full one calendar months’ notice, in writing, of the intention to withdraw the Child. Alternatively, a full one month’s fees is payable to the Aftercare in lieu of notice, and as a reasonable cancellation fee. Such amount is due and payable on the first day of the one-month period which would have been the final one-month period if the appropriate notice had been given. Should the Parents have elected to pay annual School Fees or if any Extra Charges have been paid in advance, those Fees will be credited less any amount payable in lieu of the appropriate notice.
- 12.3. The Aftercare also has the right to cancel this Contract at any time, for any reason, provided that it follows due process and gives the Parents a full one month’s notice, in writing, of its decision to terminate this Contract. At the end of the one month in question, the Parents will be required to withdraw the Child from the Aftercare, and the Aftercare will refund to the Parents the amount of any fees pre-paid for a period after the end of the one month period less any Fees owing to the Aftercare by the Parent/s or Third Party.

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**13. Social Media and Media Use that Affects the Aftercare**

- 13.1. The Parents undertake that they shall not, and will ensure that the Child shall not engage in any media, online communication activities or any other communications in the public domain that:
  - 13.1.1. could have an adverse impact on the Aftercare’s reputation or public image; or
  - 13.1.2. are in breach of the Aftercare’s Policies and values;
  - 13.1.3. discloses the personal details of the Aftercare’s employees, other Parents and/or children;
  - 13.1.4. discloses any confidential information relating to the Aftercare;
  - 13.1.5. publicises any grievances pertaining to the Aftercare, or any of its employees, other Parents or children, on social or other media, without first having raised such grievance, and without first having endeavoured to resolve it, in good faith.
- 13.2. Failure to adhere to this clause 13 shall constitute a Material Breach of the Agreement.

**14. Consent to Use of the Child’s Images in Marketing Materials**

- 14.1. The Aftercare may, from time to time, be required to make use of images with or without the name of the Child, or depicting the Child.
- 14.2. The Parents are required to complete the Photograph Consent Form to give or deny the Aftercare consent to make use of the images contemplated in clause.

**15. General**

- 15.1. The Parents choose the residential address set out in the Enrolment Form as their chosen legal address for the service of all notices and legal processes and the postal and email addresses for all other communications by the Aftercare to the Parents.
- 15.2. The Parents confirm that all the particulars that the Parents provide to the Aftercare are, to the best of their knowledge, full, true and accurate.
- 15.3. The Parents undertake to advise the Aftercare in writing of any changes to the details included in this Contract.

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## 16. Jurisdiction

This contract is governed by and shall be construed in accordance with the laws of South Africa. The parties agree that the Aftercare, at its sole discretion, shall be entitled to institute any legal proceedings for the recovery of money owed by the Parents as a liquidated debt to the Aftercare in any Magistrate's Court having jurisdiction in terms of sections 45 and 28 of the Magistrates' Courts Act.

## 17. Variations

The Aftercare reserves the right to change or add to these terms and conditions from time to time for legal, safety or other substantive reasons or in order to assist the proper delivery of early learning programmes and care at the Aftercare. The Aftercare will give the Parents reasonable notice of any such modifications.

## 18. Partial Invalidity

18.1. Each term and condition contained in this agreement is separate from the other terms and conditions in the sense that if anyone is determined to be illegal and unenforceable, it will simply be disregarded and of no force and effect, but the agreement will otherwise remain valid.

18.2. It is a condition of attendance at the Aftercare that the Parents sign in the space provided. Management may at its discretion consider this Contract to be null and void if the Parents alter this document in any way.

## 19. Good Faith

19.1. The parties agree and undertake in favour of each other that they shall at in good faith and endeavour to do everything that must be done to give effect to this Contract.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 202\_\_\_\_.

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Parent

Parent

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 202\_\_\_\_.

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