

- 1a. **kidsunlimited virtual** vouchers are issued to HSBC and then redeemed by Employees against the cost of childcare or nursery services provided by Childcarers. Terms concerning the operation of the scheme, each party's rights & obligations and the general terms and conditions which apply to the **kidsunlimited virtual** vouchers scheme (none of which affect the Employee's statutory rights) are as follows:
- 1b. HSBC designated nurseries are nurseries which have signed the HSBC multi-site agreement and are designated within Finance Act as Workplace Nursery Partners.

Interpretation

2. In this Agreement the following words and phrases shall, unless the context otherwise requires, have the following meanings:
 - (a) "Childcarer" means the person or organisation which is employed or engaged by the Employee to care for the child(ren) of the Employee and who or which is legally entitled to care for the child(ren);
 - (b) "HSBC" means the organisation which purchases **virtual** vouchers and distributes these to Employees;
 - (c) "Intellectual Property Rights" means any patent, trade or service mark (including the Trade Mark), copyright, moral right, design right, registered design, know how or any other intellectual property right or similar right of whatever nature subsisting in any part of the world;
 - (d) "**kidsunlimited**" means Kids of Wilmslow Limited (company number 2102771)
 - (e) "Employee" means any member of HSBC Group as defined in the scheme rules wishing to redeem **virtual** vouchers against a Childcarer's childcare or nursery service costs; or contracts with an HSBC designated nursery.
 - (f) "Trade Mark" means the '**virtual** vouchers' trade mark; or **kidsunlimited**.
 - (g) "**virtual** vouchers" means the transferable undertaking given by **kidsunlimited** (at an agreed monetary value) to pay a Childcarer an amount equivalent to the value of the **virtual** vouchers in return for the provision of childcare services by it to an Employee; the undertaking is given in return for a promise of payment of the agreed monetary value by HSBC together with the agreed commission.
 - (h) "HSBC designated nursery fees" means the agreed monetary value that the employee has contracted with the childcarer to pay for the nursery place.
 - (i) "The Scheme Rules" means the HSBC Childcare Scheme Rules as published from time to time.
3. In this Agreement:
 - (a) the headings in these Terms are for convenience only and shall not affect their interpretation;
 - (b) the words "include" or "including" shall be construed without limitation to the words following;
 - (c) except where the context requires otherwise, the singular includes the plural and vice versa; a reference to one gender includes all genders; words denoting persons include firms and corporations and vice versa; and
 - (d) reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.

Operation of the HSBC Childcare Scheme Employee's Obligations

4. The Employee shall:
 - (a) agree with HSBC and the Childcarer the monthly value of **virtual** vouchers or HSBC designated nursery fee to be paid for by HSBC on the Employee's behalf and then inform **kidsunlimited** of these details (either in writing or by telephone - 08456 066935);
 - (b) promptly advise **kidsunlimited** (either in writing or by telephone - 08456 066935) of any changes in the value of the **virtual** vouchers or HSBC designated nursery fee to be provided by HSBC, their contact details or their Childcarer's details;
 - (c) provide **kidsunlimited** and HSBC with written notice to exit the scheme in accordance with the Scheme Rules.
5. The Employee is responsible for choosing the Childcarer and agreeing terms with them. **kidsunlimited** and HSBC do not accept liability for the standard of childcare services provided by Childcarers. The Employee should satisfy themselves as to the ability and standards of the Childcarer they choose.
6. Any payment due for the provision of childcare services to the Employee which exceeds the value of **virtual** vouchers or HSBC designated nursery fee and not paid out of net pay (as confirmed by **kidsunlimited**) shall be payable by the Employee directly to the Childcarer and **kidsunlimited** and HSBC shall not be held liable.
7. The Employee shall ensure that at all relevant times they meet HSBC criteria for the HSBC Childcare Scheme and
8. The Employee shall supply all information reasonably required by **kidsunlimited** to operate the HSBC Childcare Scheme and abide by the Scheme Rules.
9. The Employee shall safeguard and keep secret the security PIN allocated by **kidsunlimited** to the Employee and inform **kidsunlimited** immediately if it is disclosed to another person (or if it is thought this may have occurred).

Childcarer's Obligations

10. The Childcarer shall provide such information as is requested by **kidsunlimited** from time to time in relation to the administration and operation of the HSBC Childcare Scheme and use its best endeavours to ensure that any information supplied is complete, true and accurate;
11. If an HSBC designated nursery, The Childcarer in accepting fee payment through The Scheme shall:
 - (a) accept payment for its childcare services by way of The Scheme but not otherwise accept it as payment for other goods or services;
 - (b) ensure that the fees paid by **kidsunlimited** is allocated in its entirety to the cost of the childcare provided to the Employee (which may be less than the cost of the childcare);
 - (c) keep complete records of all transactions involving the fee payments.
 - (d) have and maintain a UK bank account which can receive BACS payments and provide details of the bank account to **kidsunlimited**. Any changes must be notified to **kidsunlimited** on not less than 14 days' notice; and
 - (e) raise any administrative queries in writing or by telephoning 08456 066935.
12. The Childcarer in accepting **virtualvouchers** shall:
 - (a) accept payment for its childcare services by way of **virtualvouchers** but not otherwise deal in **virtualvouchers** or accept them as payment for other goods or services;
 - (b) ensure that the value of **virtualvouchers** paid by **kidsunlimited** is allocated in its entirety to the cost of the childcare provided to the Employee (which may be less than the cost of the childcare);
 - (c) keep complete records of all transactions involving **virtualvouchers**.
 - (d) have and maintain a UK bank account which can receive BACS payments and provide details of the bank account to **kidsunlimited**. Any changes must be notified to **kidsunlimited** on not less than 14 days' notice; and
 - (e) raise any administrative queries in writing or by telephoning 08456 066935.

Intellectual Property Rights - **virtualvouchers**

13. **kidsunlimited** owns Intellectual Property Rights in and arising out of the **virtualvouchers** scheme. It is a condition of this Agreement that the Childcarer shall make no claim over those rights and that all use of the '**virtualvouchers**' trade mark by the Childcarer shall be for the sole benefit of **kidsunlimited** and any goodwill accruing to the Childcarer arising from its use of the mark (but no greater or other goodwill) shall accrue to and be held in trust for **kidsunlimited**, which goodwill the Childcarer agree to assign to **kidsunlimited** at its request at any time.
14. **kidsunlimited** hereby grants to the Childcarer for the duration of this Agreement:
 - (a) a non-exclusive royalty-free licence to use the Trade Mark solely for the purpose of promoting and operating the **virtualvouchers** scheme providing that the Childcarer shall use the Trade Mark in the form stipulated by **kidsunlimited**; and
 - (b) the right to refer to itself as a "member of the **virtualvouchers** scheme".

General

Changes to the **virtualvouchers** Scheme and Terms

15. Administrative changes to the **virtualvouchers** scheme may be made by **kidsunlimited** from time to time. The Childcarer shall bear their own costs of implementing any administrative changes.

Confidentiality & Data Protection

16. Each party shall take all necessary steps to ensure that data or information which comes into its possession by virtue of and whilst a member of the HSBC Childcare Scheme is treated as confidential information and in particular shall comply with the Data Protection Act 1998 and, if appropriate, shall notify itself under that Act and process such data and information only in so far as is necessary to administer the scheme and not use it to compete or to promote its own or a third party business.

Liability

17. **kidsunlimited** shall not be liable for any misuse of the Employee's security PIN which results from the Employee's improper disclosure of that PIN.
18. **kidsunlimited** and HSBC will use their reasonable endeavours to maintain the legitimate financial advantages of the HSBC Childcare Scheme but shall not be held liable for any loss caused by factors beyond their control, such as loss resulting from changes in legislation, actions of other Childcarers, or a failure by other parties to provide accurate and timely information or promptly to amend salary payment details.
19. Save that nothing in this Agreement shall limit or exclude the liability of either party for death or personal injury caused by its negligence or for fraudulent misrepresentation, all warranties, conditions and other terms implied by statute or common law as being given by **kidsunlimited** are, to the fullest extent permitted by law, excluded and **kidsunlimited's** total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this HSBC Childcare Scheme shall in respect of each event or series of connected events be limited to the value of **virtualvouchers** or fees for places at an HSBC designated nursery purchased by HSBC in the preceding 12 months.

Termination

20. The parties acknowledge that the duration of this Agreement is independent of any Agreement the Employee may have with the Childcarer.
21. The Childcarer shall immediately give notice in writing to the other parties if the Childcarer's registration (if registration is required by law) with the appropriate authorities as a provider of childcare expires or is terminated or if they are convicted of any criminal offence (other than a road traffic offence) and in those circumstances any party may terminate this Agreement forthwith.
22. Any party may terminate this Agreement if any other party commits a material and or persistent breach of the terms of this Agreement and/or any other party becomes bankrupt, unable to pay his or its debts as they fall due, calls a meeting of his or its creditors with a view to entering into or enters into any composition or arrangement with his or its creditors or, where the other is a company, if any resolution or petition to wind up the company (other than for the purposes of an amalgamation or reconstruction without insolvency approved in writing by the other) or for the appointment of an administrator shall be passed or if an administrator, an administrative receiver or a receiver of the company's undertaking, property or assets or any part thereof shall be appointed.

Law & Jurisdiction

23. This Agreement shall be governed by and construed in accordance with English Law and each party hereby submits to the non-exclusive jurisdiction of the English Court.