

TERMS AND CONDITIONS

1. INTRODUCTION

1.1. These terms and conditions (the “**Terms and Conditions**”) govern the legal relationship between **YPZEELON S.à r.l.**, a limited liability company (« *société à responsabilité limitée* ») established under the laws of the Grand-Duchy of Luxembourg, having its registered address at L-1371 Luxembourg, 135 Val Sainte Croix, registered with the Luxembourg Trade and Companies Register under number **B.227740** (the “**Company**”) and the user (the “**User**”) in relation to the User’s use of a secure cloud platform and software named “kids.cloud” (the “**Services**”).

The Services consist primarily to the possibility to connect to a secure data platform allowing a smooth communication and management of, among others, clubs and nurseries (the “**Facilities**”) and allowing the managers of the Facilities, the parents/legal representatives of registered child/children and the educators/staff of the Facilities to easily have access to information related to the Facilities and the children duly registered.

1.2. Please read these Terms and Conditions, the Privacy Policy <https://kids.cloud/privacy-policy/> as well as any other document applicable, if any, carefully. The User will have to approve these Terms and Conditions by clicking “Accept” prior to using the Services.

Upon registration and acceptance of these Terms and Conditions, the User conclude an agreement with the Company regarding the use of the Services (the “**Agreement**”).

Consequently, the User are fully aware of the fact that his agreement regarding the content of the Terms and Conditions does not require a handwritten signature of the Terms and Conditions.

Please note that the User have the option to save or print the Terms and Conditions, provided that the saving/printing of the Terms and Conditions remains the User’s sole responsibility.

1.3. If the User has any queries with respect to the Services please contact exclusively by email at info@kids.cloud.

1.4. The Company reserves the right to update these Terms and Conditions. When changing these Terms and Conditions, the Company will take into account the User’s legitimate interests.

2. COMPANY DETAILS

The Services available via the online platform can be accessed on the following address <https://kids.cloud> is guaranteed by the company **YPZEELON S.à r.l** registered with the Luxembourg Trade and Companies Register under number **B.227740**, with a registered VAT No.LU30568458 , as holder of a business licence number 10092069/0, email address info@kids.cloud.

3. DEFINITIONS

User: as mentioned above, any person using the secure cloud platform and software named “kids.cloud”

Facility: as mentioned above, among others, clubs and nurseries using the Services. The Facility is allowed to create accounts for the User.

Manager: any physical person legally representing the Facility and binding the Facility. The Manager is allowed to create accounts for the User and has all rights on the Services. The Manager is under the supervision of the Facility.

User with administrative rights: any physical person legally allowed by the Facility or the Manager to (i) create accounts for the Educator and Parent, (ii) change, delete or enter data. The User with administrative rights is under the supervision of the Facility.

Educator: means educators, teachers, trainers or other authorized staff members legally allowed by the Facility, the Manager or the User with administrative rights to enter some data regarding but not limited to the presence of the children, to publish post and pictures. The Educator is under the supervision of the Facility.

Parent: means parents, family members or legal representatives of children having access to the Services. They are able to view the Services's contents published by the Facility, including declare children's absence, accept invitations or write a message to the Facility, the Manager, the User with administrative rights and the Educator.

4. THE SERVICES

4.1. Before being able to access to the Services, the Facility will have to duly fulfill an online sign up registration and access form (the "**Registration Form**") on the website <https://kids.cloud> and create an account for the Facility.

Accounts to the Services may only be as follows:

- Account for the Manager: created by the Facility;
- Account for the User with administrative rights: created by the Facility or the Manager;
- Account for the Educator: created by the Facility, the Manager or User with Administrative rights;
- Account for the Parent: created by the Facility, the Manager or User with Administrative rights.

A valid email address is required for any User.

4.2. The Company reserves the right to refuse access to ther Services based on one of the following grounds :

- the User provided incorrect or wrong information ;
- the Registration Form was not duly fulfilled by the Facility ;
- in case of proof or strong presumption of risk of non-payment and/or fraud committed by the Facility in case of the paid plan.

4.3. In no case the Company shall be held liable regarding the legal capacity of:

- ___the Manager, the authorized representative or the duly appointed representative to duly represent the Facility;
- ___the Parents, family members or legal representatives to duly represent the children.

4.4. The use of the Services is at the User' sole risk. The Services are provided on an "as is" and "as available" basis.

5. OBLIGATIONS OF THE USER

5.1. General provisions

5.1.1. Any person using the Services must use it in good faith and provide the Company, if requested, with complete and accurate information.

5.1.2. Any person acting as representative of a legal entity / another natural person / an unincorporated association has to identify himself/herself and justify his/her function of representative.

5.2. Compatibility of the User's equipments

The User shall verify the compatibility between his own IT system and the Services before any subscription. The Company cannot be held responsible in case of incompatibility of the Services and the IT system, or any other device owned by the User with the Services, even if it occurred during operation if this incompatibility results of a change, made by the User, of the computer hardware.

Any potential fees to be paid for compliance of the IT system and/or electrical system, or any other device or hardware, with the Services shall be exclusively supported by the User.

5.3. Fair and loyal use of the Services

The User agrees to use the Services as "*bon père de famille*", in accordance with the Terms and Conditions, laws and regulations, and respecting public order.

The Company reserves the right to restrict or prevent access to the Services without prior notice.

5.4. Software

5.4.1. The Company or, depending on the situation, a third company linked to the Company, retains all the intellectual property of software and documents relating to the Services. The User receive a simple right of access to the Services.

5.4.2. The User agrees not to copy or to make copies of the Company' software and / or related documents. The User also agrees not to submit the Company' software to a decompilation process analysis or "*reverse engineering*", not to create derivative software and not to use the software in a manner other than that provided for under the contractual relationship between the Company and the User.

5.5. User's signature

The Company and the User hereby agree that in the context of their legal relationship, the fact of introducing on the Services the User's email address and login is considered representing his signature and binding it for the Services (main, ancillary and supplementary) which could be proposed by the Company.

6. OBLIGATIONS OF THE FACILITY

6.1. General provisions

6.1.1. Any person acting as representative of a legal entity / another natural person / an unincorporated association has to identify himself/herself and justify his/her function of representative.

6.1.2. The Facility must provide correct information when subscribing to the Services and shall update its information regularly, as well as the information related to the children enrolled .

The Company is entitled to suspend the User from using the Services in case the contact details provided are incorrect.

- 6.1.3.** The Facility or its representative shall be solely responsible for the accuracy, exhaustiveness and precision of the provided information regarding (i) the User and/or (ii) the children enrolled.
- 6.1.4.** The Facility must appoint a dedicated responsible person for smooth communication with the Company.

6.2. Obligations of the Facility

The Facility commits itself to:

- only post information that do not infringe any third-parties' rights as well as to monitor the content posted by the Manager, the User with administrative rights and/or the Educator;
- be duly authorized to collect and process the personal data, including photographs of the child/children enrolled;
- be in possession of all the relevant authorisations from the Parent in relation (i) the Parent and (ii) the child/children.

In no case the Company shall be held liable for:

- the content posted and the activities that occur under the User's accounts.
- the security of the User's accounts and the passwords.

6.3. Information and photographs provided by the Facility

The Facility is the sole responsible for the accuracy, truthfulness, updating and completeness of the information, in the broadest sense, download on the platform.

When downloading photographs and information on the platform, the Facility warrants to the Company that it is the sole holder of the copyright and other intellectual property rights, in the broadest sense, relating to these photographs.

The Facility shall be solely responsible, when downloading photographs, for ensuring that they do not contain any viruses, worms or malware, that they do not contain any images of an illegal, unethical, pornographic, obscene, insulting or racist nature, and that they do not infringe any third party rights.

The Facility shall be solely responsible, when communicating information and downloading photographs, for any claims, complaints or actions on the part of third parties following publication on the platform of information submitted and photographs downloaded by the Facility.

Facilities which send information and download photographs that infringe the intellectual property rights of a third party guarantee the Company against any action for infringement that may be brought against it and shall bear all of the legal fees and any damages that the Company may be ordered to pay in compensation for such infringement.

All of the information and photographs sent to the Company by the Facility are deemed to be truthful, correct, accurate, honest and in good faith. The Company neither verifies nor guarantees the veracity, accuracy, exactness or completeness of the information and photographs placed online.

The Company reserves the right to delete, at any time and without prior notice or notification to the Facility, any photographs or information that do not comply with the conditions mentioned above.

7. OBLIGATIONS OF THE COMPANY

7.1. The Services

7.1.1. The Company shall make every effort to ensure the User's access to the Services. This obligation is an obligation of means and the Company, if possible, determines the necessary technical means to achieve such access in the best conditions.

Moreover, the quality of the Services also depends on the quality of the User's computer/ telephone equipment. The Company cannot be held responsible for any disruption in the transmission resulting of the circumstances mentioned above.

The Company reminds that the Company wishes to ensure the optimal quality of its Services at all times. Sometimes it requires works of maintenance or reparation, building, refurbishment or extension of its servers or its software as well as the technical infrastructure of its suppliers. Such work may cause disruptions or interruptions of the Services, which shall not in any circumstances give a right to compensation for the User or his beneficiaries or co-contractors.

7.1.2. The User will receive, on its registered email address, an email of invitation containing a link to the Services, link which is used for the creation of the User's password and access to its account. The User is responsible for these items and can freely change them under certain conditions.

7.2. Assistance

When introducing the Registration Form, the Company shall provide the Facility with all the necessary information relating to the Services (capacity, options available, pricing, etc.). A service is available for the Facility, the Manager and the User with administrative rights, via email to the following email address support@kids.cloud in order to answer, to the extent possible, to all questions relating to the Services.

The Company shall not provide any assistance to the Educator and/or the Parent. In case of question, the Educator and/or the Parent should first contact the representative appointed by the Facility who should take appropriate steps to collect and to treat the request and if necessary, forward this request to the Company via email support@kids.cloud within a reasonable delay.

Assistance does not include software trainings or software customisations. These are only possible upon request and at additional cost.

The assistance is only guaranteed in English.

7.3. Amendment of the Services

7.3.1. As a result of requirements related to the operation or organization of the Services, the Company may have to change the content or characteristics of the Services, without having to change its essential characteristics.

Amendments will not be retroactive and are to be implemented after at least 14 days after they are published. However, possible amendments to new service functions or legal amendments may come into effect immediately.

Facilities which do not accept the new Terms and Conditions have the option to terminate the Agreement in accordance with Article 11 of the Terms and Conditions within one (1) month from the notification of the amendments of the Services.

Parents who do not accept the new Terms and Conditions shall first contact the representative appointed by the Facility who should take appropriate steps to collect and to treat the request and if necessary, forward this request to the Company via email support@kids.cloud within a reasonable delay.

7.3.2. Except in cases of force majeure, the Company undertakes to inform the User of any changes having implications for access to the Services. The possible need for replacement or modification of computer equipment allowing access to the Services shall not give a right to any compensation for the User.

7.4. Limiting or exclusive responsibility clauses

7.4.1. The Company cannot be held responsible for any misuse of the Services, in case of malfunction of computer or telecommunications equipment caused by the User and / or its accessories.

7.4.2. The Company cannot in no circumstances be held liable towards the User for whatever reason, for any indirect loss whatsoever including but not limited to any loss of data, commercial loss, loss of turnover or profit, loss of customer base or loss of a chance, in relation to or arising out of the Services, of its use, even if the Company has been notified of the possibility of such loss or damage.

7.4.3. Without prejudice to other contractual clauses excluding or restricting the Company's responsibility, liability cannot be incurred:

- in the event of service suspension ;
- in the event of improper installation of the hardware or telecommunications by the User, or by his accessories, or use of unapproved equipment ;
- in the event of disruption in the provision or operation of means of communication provided by the operators of the networks that are connected to the Services and particularly in the event of failure of the selected operator's network or in the event of electricity network failure;
- in the event of incompatibility of the Services with the technical and/or electrical computer installation, or in the event of incompatibility with any other device or equipment owned by the User;
- in the event of force majeure.

8. TERM OF THE AGREEMENT AND RENEWAL

8.1. The Company will activate access, except in exceptional circumstances, within a reasonable time of period.

8.2. Unless otherwise agreed, the Agreement comes into force from the day the Services are activated. Fees are due from this day on.

8.3. The minimum duration of the Agreement is minimum one (1) year, unless otherwise provided (the “**Initial Term**”). After expiration of the Initial Term, the Agreement will be yearly automatically renewed for a new period of one (1) year (the “**Additional Term**”). During the Additional Term, the Agreement may be terminated at any time subject to the conditions provided in Article 11 of the Terms and Conditions.

9. PRICES, BILING AND PAYMENT

9.1. Levels of plans and plan change

Two levels of plans regarding the Services are available:

- a Free plan; and
- a Paid plan.

The free plan can be used without a limit in time, but only within the given limitations regarding numbers of sites, groups, staff, parents and children. More information available in Comparison table on the website at <https://kids.cloud/pricing>.

Changing plans from:

- higher to lower storage can result in losing all or a part of uploaded files;
- lower to higher storage will not result in any loss regarding uploaded files.

Changing plans from higher to lower is only possible if the number of sites, groups, staff, parents and children is less or equal to the limitations of the lower plan.

If the Facility wants to upgrade to the paid plan, the Facility can do so by requesting the upgrade in the Facility’s portal.

9.2. Fees and payment

9.2.1. Free plan: this plan can be used without a time limit with the constraints given by the plan details.

The creation of an account as well as the use of this plan is free.

9.2.2. Paid plan: this paid plan is only available towards the payment of a determined fee.

Payments can be done either by a credit card through an external payment provider (PayPal or another), or based on an invoice sent by email or downloaded from the Facility’s portal.

The Facility agrees to pay all fees specified in the “**Order**” section of the kids.cloud manager portal.

Fees set in each order hereunder be:

- a) fixed during the Initial Term. If no change is communicated to the Facility one (1) month before the end of the Initial Term, the same financial conditions will be prolonged automatically for the first Additional Term;
 - b) quoted and payable in EUR on a yearly basis. Other then yearly payment frequencies are possible upon demand at payments@kids.cloud
 - c) based upon the number licences purchased for active children registered by the Facility multiplied with 12. It is indicated that the total amount depends on the amount of active
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children enrolled, being understood that more children is enrolled, less is the price per child. All detailed information are available at the following address <https://kids.cloud/pricing/>.

d) non-cancelable and non-refundable;

e) the amount corresponding to the number of licenses purchased has to be paid in advance.

In order to treat everyone equally, no exceptions will be made.

Special promotions or discounts will be announced on the website.

The Facility agrees to provide the Company with a complete and accurate billing and contact information and to notify the Company of any changes of such information.

In case of non-payment or delay in payment, the invoice will automatically and without reminder be raised to the default interest at the relevant legal rate.

9.3. Changes in number of children registered during the payment period

9.3.1. Free plan: Additional User's account may be created and added during any given month and will also be free of charge, provided that the limitations related to free plan (available at the following address <https://kids.cloud/pricing/>) are respected.

9.3.2. Paid plan: Additional User's account may be created and added during any month being understood that the yearly fee will be increased from the month of the registration of the new User' account on a *pro rata temporis* basis. An additional invoice will be issued by the Company in relation to the new User's account created.

During the Initial Term, the duration of the Services for the new User's account will be the same as for the initial User's accounts. During an Additional Term, the duration of the Services for the new User's account will be the same as for the preexisting User's account, i.e. until the end of the current Additional Term.

The number of licenses purchased during the Initial Term cannot be decreased during the Initial Term.

9.4. Taxes

All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and the Facility shall be responsible for payment of all such taxes, levies, or duties.

9.5. Modifications of the prices

In case of paid plan, prices for the Initial Term are fixed. Only the increase of number of licences of active children enrolled may have an impact on the price paid for the Initial Term.

After the Initial Term, prices may be amended as foreseen in Article 12.

10. SUSPENSION OF THE SERVICES

10.1. In case of whole or in part non-payment of an invoice on the date of payment, and if the Facility gives no follow-up to the reminder offering it a regularization period of one (1) week, the Company may suspend, without notice or compensation, the Services offered to the Facility. Suspension costs can be charged to the Facility.

- 10.2.** If the Facility is not fulfilling its other obligations under the Terms and Conditions towards the Company or does not respect the terms of use of the Services, the Company may automatically and immediately suspend the Services without notice or compensation. This will result in the suspension of the Services for all the Users.
- 10.3.** Besides the cases of force majeure, the Company may also immediately suspend, without notice or compensation, the Services due to operating technical necessities. the Company undertakes, however, to the extent of possible, to inform the User by any appropriate means.
- 10.4.** The suspension may concern all the Services or only one of the Services. In all cases of suspension, for any reason whatsoever, the fees due become due immediately.
- 10.5.** Any suspension or discontinuance of the Services, for any reason whatsoever, does not entitle to any compensation for the User.

11. TERMINATION

After the Initial Term, i.e. during the Additional Term, the Company as well as the Facility may terminate the Agreement, without cause, upon a one (1) month prior written notice to the other party.

All the User's content / data will be immediately deleted from the Services at the end of the notice period and shall not be recovered once the notice period will be ended.

The User may request the Company to electronically transfer the requested data, as permitted by the applicable laws.

The User has to check that any data he needs is duly safeguarded by his own.

The User may always request for account deletion at any time by using the following email address: info@kids.cloud.

Such termination of the Services will result in the deactivation or deletion of the User's account or the User's access to the User's account.

11.1. Additional Company's termination rights

- 11.1.1.** If the Facility has not complied with the regulations within ten (10) days of the suspension of the Agreement by the Company, under Article 10.1, the Company is entitled to terminate the Agreement immediately, without notice or compensation, by registered letter.
- 11.1.2.** The Company is also entitled to automatically terminate the Agreement immediately, without notice or compensation, by sending a registered letter to the Facility if it appears that the Facility has provided wrong essential information, false or incomplete (resulting from the Registration Form) while completing his Registration Form, or if the Facility has failed to provide notice of significant changes in that information, or if the Facility uses the Services for purposes contrary to public order or a legal provision or regulation.
- 11.1.3.** The Company is also entitled to automatically terminate immediately and without liability being incurred in the event, and without this list being exhaustive:
- the Facility refuses to comply with his/her obligations,
 - the Facility demonstrates a palpable and malicious intent to harm the Company.
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11.2. Additional Facility's termination rights

- 11.2.1.** In case of unilateral amendment by the Company of the Terms and Conditions or Services provided under the Agreement, the Facility may terminate the Agreement within one (1) month of the notification of amendments by a registered letter, without charge and with immediate effect, if the Facility does not accept the new conditions.
- 11.2.2.** Any such termination does not free the Facility from paying any remaining open invoices and any fees for the right to use the Services up to the effective date of termination.

12. AMENDMENT OF THE TERMS AND CONDITIONS AND OF THE LIST OF PRICES

- 12.1.** The Company reserves its right to update, in whole or in part, these Terms and Conditions. The User will be informed of any amendment of the Terms and Conditions by the way of publication, including on the website <https://kids.cloud>.
- 12.2.** The User must refer regularly to the latest version released, subject to its right to terminate.
- 12.3.** The Company undertakes to inform the User by any means, including through the Internet, of any change of Terms and Conditions and/or of any modification in pricing as soon as possible.
- 12.4.** The Facility who do not accept the new Terms and Conditions after their modification have the option to terminate the Agreement in accordance with Article 11 of the Terms and Conditions within the period of one (1) month from the publication of changes. During this month, the old Terms and Conditions will apply to the Facility. In the absence of termination within one (1) month of publication, the modified content of the Terms and Conditions shall be deemed accepted by the Facility.

Parent who do not accept the new Terms and Conditions shall first contact the representative appointed by the Facility who should take appropriate steps to collect and to treat the request and if necessary, forward this request to the Company via email support@kids.cloud within a reasonable delay.

13. INTELLECTUAL PROPERTY RIGHTS

The platform and its contents, relating in particular but not exclusively to text, graphics, logos, icons, video, audio and software, are protected by intellectual property rights owned by the Company and/or third parties and cannot therefore be copied, reproduced, distributed, posted, downloaded, transmitted or used without the prior written consent of the Company.

Unless otherwise specified, the software needed to use the Services or made available on the platform and used by the Users, as well as, more generally, all of the intellectual property rights over the content, information and materials contained on the platform, are the exclusive property of the Company.

Users cannot benefit from the Services provided by the Company to claim any intellectual property right on the platform and its contents, relating in particular, but not exclusively, to text, graphics, logos, icons, video, audio and software. No provision of the Terms and Conditions may be interpreted in such a way.

14. DATA PROTECTION

14.1. The Company

The Company comply with any and all applicable laws and regulations relating to the processing of personal data, including (i) Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation / “**GDPR**”) and (ii) the Luxembourg law of 1 August 2018 on the organization of the Commission Nationale pour la Protection des Données and on the general system of data protection, as well as (iii) all other national laws or regulations implementing the GDPR that may be applicable, as the case may be.

In particular, the Company carries out all the procedures to be compliant with the GDPR, including without being limited to ensuring that the processing of personal data carried out under its responsibility respect the principles relating to the processing of personal data as defined under the GDPR, such as among others, the principles of lawfulness, fairness, transparency and storage limitation.

The information which is requested from the User is required for processing the Services.

The User’s personal data are kept for as long as required for the performance of the Services provided and subject to the relevant legal period of limitation.

The User can contact us in order to exercise his rights as foreseen by the GDPR.

14.2. The Facility

The Facility commits itself to be compliant with any and all applicable laws and regulations relating to the processing of personal data, including (i) the GDPR and (ii) the Luxembourg law of 1 August 2018 on the organization of the Commission Nationale pour la Protection des Données and on the general system of data protection, as well as (iii) all other national laws or regulations implementing the GDPR that may be applicable, as the case may be.

In particular, the Facility commits itself to:

- be compliant with the applicable laws and GDPR regarding the processing of personal data related to the child/children enrolled;
- have received all the authorizations requested to process the personal data related to the child/children enrolled;
- have duly informed the data subjects regarding the processing of the personal data related to the child/children enrolled;

For more information, please read our Privacy Policy, available at the following link: <https://kids.cloud/privacy-policy>.

15. ASSIGNMENT

15.1. By the Company

The Company is entitled to fully or partially assign a third party to his/her rights and obligations arising from the Agreement, without the consent of the Facility and without him/her being able to claim any compensation from that disposal.

The Facility may terminate the Agreement concerned by the assignment within fifteen (15) days after the notification of that assignment, without having to pay any compensation, by sending a registered letter to the new provider.

15.2. By the Facility

The Facility may assign its rights and obligations arising from the Agreement only with the express, prior and written acceptance of the Company. After acceptance by the Company, the Facility agrees to sign an assignment form. This assignment form and a new access request must also be signed by the new Facility, who accepts the Terms and Conditions.

16. SEVERANCE

To the extent that any provision of these Terms and Conditions is found by any court or competent authority or to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of these Terms and Conditions, it shall not affect the validity, lawfulness or enforceability of the remainder of these Terms and Conditions nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction, except if the Agreement can not exist without this contested provision.

17. JURISDICTION AND GOVERNING LAW

These Terms and Conditions are governed by and construed in accordance with the laws of the Grand-Duchy of Luxembourg. The User hereby consent to the exclusive jurisdiction of the courts of the city of Luxembourg of the Grand-Duchy of Luxembourg regarding any and all disputes relating thereto.

The User acknowledges having been able to know the Terms and Conditions and accepts them without reserve or limitation.

CONTACT DETAILS:

YPZEELON S.à r.l.
135 Val Sainte Croix
L-1371 Luxembourg
info@kids.cloud

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