

DATED

2018

WEST OXFORDSHIRE DISTRICT COUNCIL

- and -

EYNHAM PARTNERSHIP ACADEMY

AGREEMENT

relating to the use of sports facilities
at Bartholomew School Eynsham Oxfordshire

THIS AGREEMENT is made the day of

2018

BETWEEN:

- (1) **EYNSHAM PARTNERSHIP ACADEMY** of Witney Road Eynsham Oxfordshire OX8 1PQ (hereinafter together with any statutory successor referred to as “the Partnership Academy”) of the second part
- (2) **WEST OXFORDSHIRE DISTRICT COUNCIL** of Wood Green Witney Oxfordshire OX28 1NB (hereinafter together with any statutory successor referred to as “the District Council) of the third part and

1. **Definitions**

In this Agreement :-

- 1.1. “Bank Holidays” means those days declared or proclaimed under the Banking And Financial Dealings Act 1971 to be bank holidays
- 1.2. “Casual Use” means use by any individual(s) or group booking of any part of the Sports Centre for use on a “pay as you play” basis
- 1.3. “Community Priority Time” means the following periods during which the District Council shall pursuant to clause 9.2 of this Agreement have priority use of those Joint Use Facilities identified below :-
 - 1.3.1. the sports hall changing rooms and toilets/showers on the ground floor of the Sports Centre between 5:00 pm and 10:00 pm on Week Days during Term Time between 9:00 am and 5:00 pm on Weekends and Bank Holidays and between 9:00 am and 10:00 pm on Week Days during school holidays
 - 1.3.2. the fitness suite and the toilets/showers on the first floor of the Sports Centre between 9:00 am and 12:00 pm on Week Days during Term Time between 3:00 pm and 10:00 pm on Week Days throughout the year between 9:00 am and 10:00 pm on Week Days during school holidays and between 9:00 am and 5:00 pm on Weekends and Bank Holidays
- 1.4. “Community Use” means the use of the Joint Use Facilities by members of the local community whether as individuals or in groups

“Inset Days” means School Days which are set aside for staff training

- 1.5. “the Insured Risks” means fire lightning explosion aircraft earthquake storm flood escape of water subsidence
- 1.6. “the Joint Use Facilities” means the facilities within the Sports Centre and which are listed in Schedule 1
- 1.7. “the Outdoor Facilities” means the access road footway and car park at the School shown for identification only coloured yellow on the Plan and the cycle racks at the School shown for identification only coloured red on the Plan
- 1.8. “Partner Schools” means schools within the Bartholomew School partnership of schools
- 1.9. “the Plan” means the plan annexed to this Agreement
- 1.10. “the Planning Permission” means the planning permission dated 4 April 2006 having District Council reference 06/0051/P/CD3 and County Council reference W.02/06
- 1.11. “the School” means Bartholomew School Witney Road Eynsham Oxfordshire OX8 1PQ shown for identification only edged blue on the Plan
- 1.12. “School Day” means the hours of 8:00 am to 5:00 pm (inclusive) on each Week Day during Term Time
- 1.13. “School Priority Time” means the following periods during which the Partnership Academy shall pursuant to clause 9.1 of this Agreement have priority use of those Joint Use Facilities identified below :-
 - 1.13.1. the sports hall changing rooms and toilets/showers on the ground floor of the Sports Centre on School Days
 - 1.13.2. the fitness suite and the toilets/showers on the first floor of the Sports Centre between 12:00 pm and 3:00 pm on Week Days during Term Time
- 1.14. “School Use” means the use of the Joint Use Facilities by the School and Partner Schools
- 1.15. “the Sports Centre” means the sports centre at the School containing the Joint Use Facilities shown for identification only coloured green on the Plan
- 1.16. “the Term” means the period beginning on the date hereof and ending on 1st August 2027

- 1.17. "Term Time" means all Week Days when the School is in session including for the avoidance of doubt Inset Days
- 1.18. "Week Day" means Monday to Friday (inclusive) excluding only Bank Holidays
- 1.19. "Weekend" means Saturday and Sunday
- 1.20. "Young People" means children and young people up to the age of 19 years

2. **Interpretation**

In this Agreement :-

- 2.1. words importing one gender are to be construed as importing any other gender and words importing the singular are to be construed as importing the plural and vice versa
- 2.2. when any party comprises more than one person the obligations and liabilities of that party under this Agreement are to be joint and several obligations and liabilities of those persons
- 2.3. the clause and schedule headings do not form part of this Agreement and must not be taken into account in its construction or interpretation
- 2.4. any reference to a clause or schedule without further designation is to be construed as a reference to the clause or schedule of this Agreement so numbered
- 2.5. a reference to a specific statute includes any statutory extension or modification amendment or re-enactment of such statute and any regulations orders subsidiary legislation or other matters made or passed under such statute

3. **Recitals**

- 3.1. The Partnership Academy has the control of the occupation and use of the premises of the School pursuant to the School Standards and Framework Act 1998
- 3.2. The District Council has powers under the Local Government (Miscellaneous Provisions) Act 1976 in relation to the provision of such recreational facilities as they think fit
- 3.3. The parties have agreed certain terms and provisions relating to the use management and maintenance of the Joint Use Facilities and financial

contributions towards the cost of maintaining the Joint Use Facilities and now enter into this Agreement to give effect to their agreement

4. **Commencement and Duration**

This Agreement shall commence on the date hereof and shall remain in force and effect throughout the Term

5. **Aims**

The parties agree to support the development of the Sports Centre in order to increase and improve the quality of sporting and recreational opportunities for pupils at the School and to provide additional opportunities for members of the local community and sports organizations to participate in sport recreation and fitness activity

6. **Objectives**

In accordance with the aims set out in clause 5 of this Agreement the parties agree the following objectives :-

- 6.1. to maximise the use of the Sports Centre by pupils at the School and by the local community
- 6.2. to promote and operate a structured programme of sports recreation and fitness opportunities for people wishing to improve their health fitness levels and sporting skills
- 6.3. to establish and promote a structured programme of community sports initiatives aimed at attracting new participants in particular Young People, Older People and People with Disabilities.

7. **Review of Aims and Objectives**

The parties agree that it will be necessary to review the aims and objectives from time to time taking into account the changing needs of the school and community.

8. **Exclusive Use of the Joint Use Facilities**

- 8.1. The Partnership Academy shall have the exclusive use of the facilities specified during School Priority Time for the purpose of School Use
- 8.2. The District Council shall have the exclusive use of the facilities specified during Community Priority Time for the purpose of Community Use

9. **Occasional Use of the Joint Use Facilities**

- 9.1. The Partnership Academy may have the use of the fitness suite and the toilets/showers on the first floor of the Sports Centre for the purpose of

School Use during any hours of exclusive use to which the District Council is entitled pursuant to clause 9.2 of this Agreement if the District Council does not require the use of the fitness suite and toilets/showers during any of those hours PROVIDED THAT the Partnership Academy must first obtain the agreement of the District Council

9.2. The District Council may have the use of the sports hall changing rooms and toilets/showers on the ground floor of the Sports Centre for the purpose of Community Use during any hours of exclusive use to which the Partnership Academy is entitled pursuant to clause 9.1 of this Agreement if the Partnership Academy does not require the use of the sports hall changing rooms and toilets/showers during any of those hours PROVIDED THAT the District Council must first obtain the agreement of the Partnership Academy

10. **Use of Entrance/Reception**

The Partnership Academy and the District Council shall each be entitled to use the entrance/reception area on the ground floor of the Sports Centre in connection with their respective use of the Joint Use Facilities pursuant to clauses 9 and 10 of this Agreement

11. **Use of the Outdoor Facilities**

The Outdoor Facilities shall be available for use by the Partnership Academy in connection with School Use of the Joint Use Facilities and by the District Council in connection with Community Use of the Joint Use Facilities

12. **Management of the Sports Centre**

12.1. The District Council shall establish a practical policy framework for the day to day management and operation of the Sports Centre for Community Use and must resource the Sports Centre in a manner that ensures the achievement of the aims set out in clause 5 of this Agreement and the objectives set out in clause 6 of this Agreement

12.2. The District Council shall consult with the Strategic Management Group in establishing the practical policy framework referred to in clause 12.1 of this Agreement

12.3. The practical policy framework referred to in clause 12.1 of this Agreement shall include :-

- 12.3.1. arrangements for taking bookings from members of the local community
 - 12.3.2. a policy of affordable pricing based on similar local authority run facilities in West Oxfordshire
 - 12.3.3. the promotion and forward planning of development activities
 - 12.3.4. equal opportunities of access
 - 12.3.5. an easy and accessible booking arrangement for Casual Use
 - 12.3.6. the regular review of the practical policy framework to meet changing needs and demands.
- 12.4. The District Council must include in the conditions of hire relating to any of the facilities within the Sports Centre an absolute prohibition of the display or exhibition at or in the Sports Centre or any part or parts of the Sports Centre of any publicity material which promotes or tends to promote the use or consumption of tobacco or alcohol
- 12.5. Without prejudice to the provisions of clause 27 of this Agreement the District Council must observe and comply with the terms of the conditions numbered 9 (external lighting) and 10 (hours of use) contained in the Planning Permission
- 12.6. During those periods when the Sports Centre is available for Community Use the District Council must ensure :-
- 12.6.1. the proper conduct and behaviour of all persons attending the Sports Centre
 - 12.6.2. that all persons attending the Sports Centre abide by a code of conduct for the safety of pupils at the School
 - 12.6.3. that the Sports Centre is kept tidy and free from litter
 - 12.6.4. that the interior of the Sports Centre is left in a reasonable and usable condition for School Use
- 12.7. During those periods when the Sports Centre is available for School Use the Partnership Academy must ensure :-
- 12.7.1. the proper conduct of all pupils attending the Sports Centre
 - 12.7.2. that the Sports Centre is kept tidy and free from litter
 - 12.7.3. that the interior of the Sports Centre is left in a reasonable and usable condition for Community Use

13. **Retention of Income**

13.1. The Partnership Academy may retain all income generated by bookings for the hire of the Joint Use Facilities in connection with School Use

13.2. The District Council may retain all income generated by bookings for the hire of the Joint Use Facilities in connection with Community Use

14. **Repairs Maintenance and Cleaning**

14.1. The Partnership Academy shall be responsible for undertaking all structural repairs and maintenance to the Sports Centre which for the avoidance of doubt shall include all external works service pipes drains and the Outdoor Facilities and shall establish a planned maintenance programme to include regular servicing and testing in connection with these

14.2. The District Council shall be responsible for :-

14.2.1. the repair maintenance and replacement of the cardio vascular and resistance machines and the water dispenser in the fitness suite on the first floor of the Sports Centre

14.2.2. cleaning the interior and exterior of the Sports Centre including for the avoidance of doubt the collection of litter in accordance with a cleaning specification agreed with the Strategic Management Group

14.2.3. internal non-structural repairs and maintenance to the Sports Centre which for the avoidance of doubt shall include service pipes plant and mechanical installations and redecorations

14.3. The District Council shall establish a planned maintenance programme to include servicing and testing in connection with its responsibilities under clause 15.1 of this Agreement which it is acknowledged by all of the parties shall be based on the assumption that the Joint Use Facilities shall be used solely for indoor activities and that any additional or further cleaning or maintenance which may be required or become necessary due to any other use shall be arranged and paid for by the party whose use results in the requirement or necessity for such additional or further cleaning or maintenance

15. **Payment for Repair of Damage**

15.1. The parties agree that the cost of any damage caused to the Sports Centre shall be paid for by the party exercising the use of the facility at such time the damage is caused whether such damage occurs during the relevant party's period of exclusive use pursuant to clause 8 of this Agreement or a period of occasional use pursuant to clause 9 of this Agreement

16. **Payment of Utilities Costs**

16.1. The Partnership Academy shall pay to the suppliers the cost of all gas water and electricity consumed at the Sports Centre together with Value Added Tax and any other levy or duty charged thereon

16.2. The District Council shall reimburse the Partnership Academy an amount representing 60% of those sums paid by the Partnership Academy to each supplier pursuant to clause 17.1 of this Agreement such amount to be calculated by reference to sub-meter readings showing the relevant consumption of gas water or electricity as the case may be together with a proportionate amount of Value Added Tax or any other levy or duty charged thereon

17. **Contributions towards Running Costs**

17.1. The School Partnership Academy shall pay to the District Council the annual sum of £8,000 ("the Partnership Academy Contribution") index-linked in accordance with the following two clauses as a contribution towards the running costs of the Sports Centre

17.2. On 1 March 2019 and subsequently on 1 March in each year of the remaining period of the Term (each such date for the purposes of clause 18.3 of this Agreement being an "Indexation Date") the Partnership Academy Contribution shall be increased by reference to the Retail Prices Index in accordance with the next following clause

17.3. For the purposes of this clause the Base Figure shall mean the all items index figure of the Retail Prices Index published by the Office for National Statistics one month immediately prior to the date of this Agreement and the Increase shall mean the amount by which the said all items index figure published two months immediately prior to each ensuing Indexation Date exceeds the Base Figure and the amount by which the Partnership

Academy Contribution shall be calculated to increase shall bear the same proportion as the Increase bears to the Base Figure

18. **Fitted and Loose Furniture and Equipment**

18.1. The parties shall agree a schedule of fitted and loose furniture and equipment to be provided at the Sports Centre and which will be available for both School Use and Community Use. Such schedule shall be reviewed by the parties from time to time as may be necessary during the Term.

18.2. Responsibility for the cost of purchasing and supplying items of fitted and loose furniture and equipment shall be agreed.

18.3. The ownership of each item of fitted and loose furniture and equipment and the responsibility to ensure the repair and maintenance of each such item shall remain with the party purchasing and supplying the same.

19. **Payment Dates**

Pursuant to clause 8 of this Agreement all payments due between the parties pursuant to the provisions of this Agreement shall be paid annually in arrears on 31 March and 30 September each year.

20. **Security**

20.1. The Partnership Academy shall be responsible for the security of the Sports Centre in accordance with its statutory obligations relating to the School.

20.2. The District Council must apply and enforce the security policy established by the Strategic Management Group pursuant to clause 23.3.5 of this Agreement and shall be responsible for the security of the Sports Centre during those periods when the Sports Centre is available for Community Use.

21. **Insurance**

21.1. The Partnership Academy shall maintain a policy of buildings insurance against the Insured Risks to the full reinstatement value of the Sports Centre.

21.2. The Partnership Academy shall maintain a policy of third party and public liability insurance to a value of not less than £25,000,000.00 (Twenty Five Million Pounds) in respect of any individual claim arising out of or in

connection with the School Use of the Sports Centre the exercise of its rights and the discharge of its obligations under this Agreement

21.3. The District Council shall maintain a policy of third party and public liability insurance to a value of not less than £25,000,000.00 (Twenty Five Million Pounds) in respect of any individual claim arising out of or in connection with the Community Use of the Sports Centre the exercise of its rights and the discharge of its obligations under this Agreement

22. **Indemnity**

22.1. The District Council shall indemnify and keep indemnified the Partnership Academy against all costs claims demands charges liabilities actions and proceedings whatsoever and howsoever arising out of or in connection with the Community Use of the Joint Use Facilities excepting only anything which is shown to be due to the negligence of the Partnership Academy as the case may be

22.2. The Partnership Academy shall indemnify and keep indemnified the District Council against all costs claims demands charges liabilities actions and proceedings whatsoever and howsoever arising out of or in connection with the School Use of the Joint Use Facilities excepting only anything which is shown to be due to the negligence of the District Council

23. **Strategic Management Group**

23.1. No later than three months from the date of this Agreement the parties shall establish a Strategic Management Group consisting of one representative appointed by each of the parties together with the Headteacher and the Site Manager of the School

23.2. The Strategic Management Group shall meet quarterly during the calendar year.

23.3. The Strategic Management Group shall :-

23.3.1. review the financial arrangements relating to the Sports Centre.

23.3.2. consult with the District Council in connection with the establishing of a practical policy framework for the day to day

- management and operation of the Sports Centre for Community Use pursuant to clause 13 of this Agreement
- 23.3.3. agree with the District Council a specification for the cleaning of the interior and exterior of the Sports Centre pursuant to clause 14.2.2 of this Agreement
- 23.3.4. monitor the planned maintenance programmes established by the Partnership Academy pursuant to clause 14.1 of this Agreement and by the District Council pursuant to clause 14.3 of this Agreement
- 23.3.5. establish and review as may be necessary a security policy and procedures in connection with the Community Use of the Sports Centre
- 23.3.6. allocate to the Partnership Academy and to the District Council the exclusive use of one staff office each on the ground floor of the Sports Centre
- 23.3.7. determine and review as may be necessary from time to time the shared use of the storage facilities on the ground floor of the Sports Centre
- 23.3.8. no later than six months from the date of this Agreement the Strategic Management Group shall establish its own further terms of reference as it thinks fit

24. **Marketing and Promotion**

24.1. The District Council will be responsible for and shall meet the cost of all publicity marketing and promotion of the Community Use of the Sports Centre

24.2. The Partnership Academy shall as far as is reasonable co-operate with the District Council in the carrying out of publicity marketing and promotion of the Community Use of the Sports Centre

25. **Alterations to Car Park**

The Partnership Academy reserves the right to alter the lay-out or configuration of the car park at its own cost and subject to obtaining all statutory consents provided that sufficient car parking spaces shall continue to be available in connection with the Community Use of the Joint Use Facilities

26. **Compliance with Legislation**

The parties shall observe and comply with the provisions of health and safety town and country planning and all other legislation relevant to the management and operation of the Sports Centre and shall co-operate with one another to ensure that all such obligations and requirements are met

27. **Interest**

For the avoidance of doubt it is hereby declared that no lease or disposal of the Sports Centre or the Outdoor Facilities is made or intended to be made by this Agreement

28. **Licence to Enter**

The Partnership Academy confirms so far as it is able to do so upon the District Council and all persons expressly or impliedly authorized by the District Council the right (in common with the Partnership Academy and all others similarly entitled) to enter upon the School for the purpose of exercising its rights and fulfilling its obligations contained in this Agreement

29. **Dealings with Agreement**

The District Council may assign the rights and the obligations conferred upon it by this Agreement to a Leisure Management Contractor appointed or engaged by the District Council to undertake the efficient and cost-effective management of Community Use but otherwise this Agreement is personal to the parties to it and shall not be capable of assignment novation or any other dealing without the written consent of all of the parties hereto

30. **Variations**

This Agreement may only be varied in writing by a document executed by all of the parties hereto

31. **Arbitration**

The parties to this Agreement agree that any disagreements or conflicts which may arise out of or in connection with the use of the Joint Use Facilities should whenever possible be resolved at a local level and that in addressing such matters the following tiers of responsibility shall be followed :-

31.1. at first instance any disagreements or conflicts shall be addressed and whenever possible resolved by a representative of the Partnership Academy and the manager of the Joint Use Facilities

31.2. if the representative of the Partnership Academy and the manager of the Joint Use Facilities are unable to resolve the disagreement or conflict then the matter shall be referred to the Strategic Management Group

31.3. if the Strategic Management Group is unable to resolve the disagreement or conflict then the matter shall be referred to the appropriate Elected Members of the Partnership Academy and the District Council

32. **Notices**

Any notice to be given in connection with this Agreement shall be in writing and must be sent by first class recorded delivery to the party due to receive the notice at its address set out in this Agreement

33. **Contracts (Rights of Third Parties) Act 1999**

For the purposes of the Contracts (Rights of Third Parties) Act 1999 it is agreed that nothing in this Agreement shall confer on any third party any right to enforce or any benefit of any term of this Agreement

34. **Nature of this Agreement**

34.1. This Agreement shall be deemed to be a Transfer of Control Agreement pursuant to Schedule 13 of the School Standards and Framework Act 1998

34.2. This Agreement is a deed and has been executed by the parties to it as a deed

IN WITNESS whereof the parties hereto have executed this Agreement as a **DEED** the day and year first written above

SCHEDULE 1

Ground floor

Entrance/reception area

Sports hall

Changing rooms

Toilets/showers

Storage facilities

First floor

Fitness suite

Toilets/showers

SCHEDULE 2

SIGNED AS A DEED)

on behalf of **THE EYNSHAM**
PARTNERSHIP ACADEMY)

duly authorized in that behalf)

in the presence of :-)

Witness :-

Signature

Name

Address

.....

.....

.....

Occupation

EXECUTED AS A DEED BY)

AFFIXING THE COMMON SEAL of)

West Oxfordshire District Council)

in the presence of:-)

Head of Administrative Services

Chairman