**AGREEMENT**

between

**Lettings Provider**

and

**HARRIS PROJECT MANAGEMENT LIMITED**

**on behalf of**

**HARRIS PRIMARY ACADEMY FALCONWOOD**

**CONTRACT REF: HF2024-059**

**THIS AGREEMENT** **VARIATION is dated 1 July 2024**

**PARTIES**

1. **Lettings Provider ­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_**

**Address**

1. **HARRIS ACADEMIES PROJECT MANAGEMENT LIMITED** on behalf of

**HARRIS ACADEMY FALCONWOOD,**

The Green, Welling DA16 2PE, UK

**BACKGROUND**

1. The School wishes to allow Lettings Provider to use and occupy the School Facilities on the terms set out in this agreement.
2. Lettings Provider has agreed to pay the School for such use on the terms set out in this agreement.

**AGREED TERMS**

**1.** **INTERPRETATION**

1.1 The definitions and rules of interpretation in this clause apply in this agreement.

**Agreed Sharing Purposes:** means the sharing of Personal Data between the parties for the purpose of the parties performing their obligations under this agreement.

**Adult at risk or Vulnerable Adult:** An adult for whom an organisation has safeguarding responsibilities. The Care Act 2014 Statutory Guidance (2014) describes these as applying to an adult who:

* *has needs for care and support (whether the local authority is meeting any of those needs) and;*
* *is experiencing, or at risk of, abuse or neglect; and*
* *because of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect*

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when UK clearing banks in the city of London are open for business.

**Child Protection Officer:** the child protection officer appointed by the School and notified to Lettings Provider.

**Commencement Date:**  1 July 2024 (subject to any lockdown restrictions).

**Community Activities:** the activities which Lettings Provider allows Facility Users to use the School Facilities for, as set out in Schedule 7 to follow before the site visits.

**Conditions of Facility Hire:** the contract entered by Facility Users with Lettings Provider when booking the School Facilities.

**Data controller/controller**, **data processor/processor**, **data subject, personal data**, **personal data breach** and **processing** shall have the same meanings as in the Data Protection Legislation and **processed** and **processing** shall be construed in accordance with the definition of **processing**.

**Data Protection Legislation**: Data Protection Legislation: all applicable privacy and data protection laws including the General Data Protection Regulation ((EU) 2016/679) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (SI 2019/419) (“UK GDPR”), the Data Protection Act 2018 and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data.

**Demands:** All claims, including claims without limitation for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy or maternity, or sexual orientation discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims (whether in tort, contract, statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body), and of implementing any requirements which may arise from such investigation, and any legal costs and expenses.

**Employees:** staff employed by Lettings Provider.

**Extension:** this contract provides for no extensions as this is an implementation contract.

**Facility User:** the companies, groups, organisations or individuals who Lettings Provider allows to use the School Facilities on the terms set out in the Conditions of Facility Hire.

**Facility User Equipment:** the equipment including but not limited to furniture, sport, fitness and exercise equipment, laptops, computers, PC components and other computer equipment owned and brought for the use at the School Facilities by the Facility User in connection with the Community Activities.

**Facility User Organiser:** the nominated representative of the Facility User, who, where the Facility User is a corporate body, has the capacity and authority to bind the corporate body.

**Guaranteed Income:** this is the amount of money that the Lettings Provider will ensure is provided to the School irrespective of the lettings activity assuming there are no reasons or circumstances which would prevent the Lettings Provider generating revenue.

**Initial Period:** the period of 18 months commencing on the Commencement Date.

**Lettings Provider Designated Safeguarding Officer for children/adults:** the safeguarding officer appointed by Lettings Provider and notified to the School.

**Lettings Provider Staff:** all staff, employees and representatives of Lettings Provider who are present at the School Facilities during the Community Activities.

**Licence Fee:** the fee paid by Lettings Provider monthly in arrears to the School for its use of the School Facilities, calculated as a percentage (%) of the total Revenue during the agreement to be split between Lettings Provider and the School as set out in Schedule 2.  The Lettings Provider and The School may agree as a variation a different revenue share arrangement for specific uses and this must be agreed in writing with the approval of Harris Federation Procurement each time a variation is agreed.

**Minimum Guaranteed Bookings:** means in any twelve-month calendar period, bookings which equate to a gross rental income to you of the figure set out in the Contract details.

Please be aware of **12 Minimum Warranted 90% Bookings Amount** when committing to this sum.

**Projected Income:** this is the amount of money that the Lettings Provider will ensure is provided to the School irrespective of the lettings activity assuming there are no reasons or circumstances which would prevent the Lettings Provider generating revenue.

**Safeguarding Policy:** the safeguarding policy to be provided by Lettings Provider to and confirmed by the Facility User Organiser, a copy of which is at Schedule 3 of this agreement.

**School:** means the specific Academy for that tender in all instances and occasions. The terms Academy and School are interchangeable.

**School Equipment:** the equipment including but not limited to furniture, sport, fitness and exercise equipment, laptops, computers, PC components and other computer equipment made available to Lettings Provider by the School, as agreed between Lettings Provider and the School from time to time.

**School Facilities:** the premises, sports grounds or other facilities of the School to be made available by the School to Lettings Provider on the terms of this agreement.

**School Personal Data**: means any personal data provided by the School to Lettings Provider for processing in connection with this agreement.

**Shared Personal Data**: means any personal data being shared between the parties under this agreement.

**SLF**: means School License Fee

**Term:** the Initial Period

**Total Revenue:** the total income/revenue generated by Lettings Provider in relation to its use and occupation of the School Facilities.  For the avoidance of doubt, this does not include cleaning fees charged to the Facility User, equipment hire or provision of additional staff to provide specialist services.

**User Prices:** as defined in clause 11.1 and detailed in Schedule 5 – Rate Card. **Written Notice**: Written notice can be communication via company email address, or a headed letter signed by a company director.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3 A person includes a natural person, corporate or unincorporated body (whether having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

1.4 The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement and any reference to this agreement includes the schedules. References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule.

1.5 Words in the singular shall include the plural and vice versa.

1.6 A reference to one gender shall include a reference to the other genders.

1.7 A reference to a statute, statutory provision or any subordinate legislation made under a statute is to such statute, provision or subordinate legislation as amended or re-enacted from time to time whether before or after the date of this agreement and, in the case of a statute, includes any subordinate legislation made under that statute whether before or after the date of this agreement.

1.8 The Lettings Provider acknowledges that any authorisation to enter The School shall not operate or be deemed to operate as a demise of the premises or any part of it nor shall the Lettings Provider have or be entitled to any proprietary estate, right, title or interest in The School and any part of it and the Lettings Providers’ representatives only enter The School as a person authorised by The School and the Lettings Provider shall have no lease of or other property interest in The School or premises.

**VALUES**

1.9 The Federation and the Lettings Provider recognise that the success of the relationship envisaged under this contract depends on the highest standards of integrity, commitment, accountability, mutual respect and cooperation.

1.9.1 The Lettings Provider warrants that all documentation such as enhanced DBS accreditation for their staff has been witnessed in hard copy with the relevant staff member present.

1.10 Both parties to the contract hereby undertake to ensure that their respective employees maintain this standard in their dealings with each other.

**2** **TERM OF AGREEMENT AND TERMINATION**

2.1 This agreement shall commence on the Commencement Date and shall continue for the Initial Period and can be terminated by either party giving to the other not less than three months’ notice in writing any time in the first 12 months only.

2.2 The contract may then be terminated at any stage of the contract term by either party giving six month’s written notice.

2.3 The contract may be terminated by the School or Harris Federation at any stage if there is repeated or serious failure in service performance or breach of any of the key performance indicators (Schedule 6) by the Lettings Provider.  If termination for these reasons apply, then the School or Harris Federation will provide the Lettings Provider with three month’s written notice.

2.4 Irrespective of the reasons for termination the Lettings Provider will ensure that (where applicable) TUPE information has been provided within one week of a request along with full and comprehensive details of current lettings and future lettings commitments including the contact details of the hirers.  The Lettings Provider will not endeavour to persuade the current hirers to move to other locations causing loss of income to the Academy.

2.5 At the date of termination, the Total Revenue accrued to date will be calculated and divided proportionately by reference to the applicable Licence Fee calculation.

2.6 This agreement can be extended by mutual agreement for an additional period of two times two years, to a maximum of seven years from contract start date.

**3**  **USE OF SCHOOL FACILITIES & PREMISES**

3.1 The School will make the School Facilities available to Lettings Provider for its occupation and use during the Term in accordance with the terms of this agreement.

3.2 The School warrants that it has capacity to enter into this agreement and grant Lettings Provider the use of the School Facilities, and to allow Lettings Provider to enter the Conditions of Facility Hire.

3.3 Lettings Provider shall be responsible for:

3.3.1 ensuring that a minimum of two Lettings Provider staff are present at the School Facilities throughout the Community Activities taking place;

3.3.2 all bookings and payment collection for all Community Activity;

3.3.3 all marketing and promotion of Community Activities at the School Facilities; and

3.3.4 ensuring that customers are appropriately vetted and that only customers   whose activities are consistent with the ethos and values of the School and the Federation are permitted to use the site.  Appropriate vetting also ensures that photo evidence and proof of site-specific awareness attendance will be provided twenty four hours minimum in advance.

3.3.5 The schoolretains the right to forbid the use of the premises at the school’ssole discretion by any individual or group, at any time. This instruction is to be given in writing or by email.

3.3.6 All Facilities, Hours, Uses and Equipment not approved in this contract are subject to prior approval in writing by The School before any use takes place

3.4 Lettings Provider shall use all reasonable endeavours to ensure:

1. School premises are not used for any unlawful purpose nor for the consumption of alcohol, smoking or taking or dealing of drugs;
2. School equipment is not removed from site;
3. Any equipment brought onto site is in good working order, used in a safe manner and, where relevant, has been PAT tested in line with current guidance;
4. Premises are locked after use and the site secured;
5. Use of the premises, facilities and equipment is adequately supervised and that no unauthorised persons are permitted to enter the School Premises;
6. That the Lettings Provider adheres to the Health & Safety at Work Act 1974 and other law relating to health & safety as well as all security and fire precaution measures;
7. That all hirers adhere to their obligations relating to health and safety as well as all security and fire precaution measures;
8. The School’s point of contact or the Premises Manager is notified of any health & safety and security issues immediately;
9. The School is notified of any damage to premises, facilities or equipment along with a report on how the damage was done and what action is being taken to redress;
10. That all hirers are responsible for obtaining all licences and for completing any returns that may be required by the Performing Rights Society, Phonographic Performance Limited, The Copyright Licensing Agency Ltd and all other bodies in connection with their use of the premises;
11. That all hirers have adequate and appropriate levels of public liability insurance where necessary;
12. That the School premises are not used for any auction sale, trade, business or manufacture of goods; without the explicit permission from Harris Federation
13. That nothing is done on the School Premises in contravention of law relating to gaming, betting and lotteries;
14. That the School’s main kitchen facilities and equipment and food and drink contained within will not be used unless prior written approval has been given in advance;
15. Those hirers preparing, serving or selling food on School premises observe all relevant food and hygiene laws and regulations;
16. That the Designated Safeguarding Lead (DSL) from the School has briefed the Lettings Provider on relevant local areas where a cause for concern can be raised and there is a mechanism for reporting these concerns.
17. That where children are expected on site that the Provider and Hirer both have robust child protection and safeguarding policies and procedures in place that adhere to the most recent Keeping Children Safe in Education guidance as defined in 8.2 below.
18. That no animals other than guide or hearing dogs are permitted on School premises.
19. Use of the School’s premises meets with the ethos of the School so as not to cause reputational risk.

3.5 Lettings provider will be aware that Contract Management will allow the Site Manager for the School to rate Contract Service delivery with a Red Grade specifically when issues occur.

3.5.1 When a Red grade is decided upon by the School then the Dispute process 2 below will apply.

3.6 The only allowed timings for Lettings in this contract are as follows:

Monday to Friday 6.30pm is the start time. Vivify staff may arrive after 6.00pm to set up.

On Saturdays and Sundays 9am to 9pm on Saturdays and 9am to 6pm on Sundays.

**4** **HEALTH AND SAFETY RESPONSIBILITIES**

**Health and Safety Responsibilities of the Lettings Provider (LP) and Facilities User (FU)**

4.1. The Academy will provide the Lettings Provider with copies of its Health and Safety policy, Fire Management Policy, current Health and Safety Audit, Fire Risk Assessment and Fire Evacuation procedures.

4.2 The Academy will be responsible for ensuring that the Academy’s facilities are ready for use and occupation by the Lettings Provider, for the Lettings Provider to make the facilities available to the Hirer, including but not limited to, ensuring the academy’s’ facilities are of adequate temperature and cleanliness, well-lit and free from obstructions.

4.3 A visual documented safety check of the areas to be occupied by the Hirers will be inspected by the Lettings Provider ahead of each use. Regular checks of all academy areas are completed by the academy as a matter of routine.

4.4 The Lettings Provider will ensure that a minimum of 2 staff are always on site, to ensure their safety and welfare, and that of the Hirers; to facilitate an emergency evacuation and to support in the event of an incident. Academy staff will provide those staff with training in the operation of the fire alarm panel and intruder alarm systems.

4.5 The Lettings Provider is not permitted to leave site whilst it is under their control and must be contactable by telephone throughout their shift.

4.6 The Lettings Provider is responsible for completing a fire risk assessment and recording all fire safety arrangements and findings from the assessments.  The Lettings Provider should share a copy of their fire risk assessment with the academy.

4.7 Additionally, the Lettings Provider will be required to provide copies of their fire evacuation procedures to the Academy, having considered the areas occupied by the Hirers and areas off limits that may require alternative evacuation routes. All of which must be considered as part of the fire risk assessment.  Such arrangements should be site and activity specific and consider the safe evacuation of persons across the site who may not have access to all areas.

4.8 The Lettings Providers evacuation instructions shall include, as a minimum, the arrangements for alerting the Fire Rescue Service, evacuating the site, sweeping the building/s, management at the assembly point and re-entering the site.

4.9 The Lettings Provider shall adhere to the Academy’s Fire Management policy.

4.10 The Lettings Providers will be responsible for ensuring the safe evacuation of any such persons who are not able to evacuate unassisted. The Hirer is responsible for notifying the Letting Providers if any persons require assistance and together, they will be responsible for the safe evacuation of that person by the required means. In some cases, this may involve the use of evacuation equipment/ chairs. The Lettings Provider staff must be trained in their use.

4.11 The lettings provider is required to ensure that as part of their fire risk assessment, occupancy numbers are established. This might include only parts of an academy site and so do not afford the occupants access to alternative exits as these areas could be locked to prohibit unauthorised access to other areas of the site.

4.12 Letting Providers and Hirers are not permitted to hold or prop open fire doors at any time, unless fitted with an appropriate automatic hold-open device which release with the fire alarm. The Letting Providers are responsible for ensuring compliance and should remove anything that prohibits the closing of fire doors on activation of the fire alarm.

4.13 The Lettings Provider shall ensure that all accidents, incidents or near misses which occur on site during community activities will be communicated to the academy the next working day in writing, at the latest.

4.14 The Lettings Provider will be required to provide evidence that all on-site staff, has received the following training by an accredited training provider, or academy (if academy equipment):

* Fire Safety training
* Fire Warden training
* Evacuation Chair / equipment (where applicable)
* Safe operation of the fire alarm panel and intruder alarm system

4.15 The Federation confirms the Academy is compliant with the Federations statutory duties as the occupiers of the site and permits the Lettings Provider to view and retain copies of the Academy relevant premises related documents listed here.

* Academy Site Plan
* Fire Risk Assessment
* Fire Evacuation Plan
* Health and Safety Policy

The documents listed will be provided via Harris Federations shared SharePoint area.

4.16 All Lettings Provider staff must be familiar with and abide by all the academy’s health and safety policies and documents provided.

4.17 The Lettings Provider is responsible for ensuring the security of the site is maintained during the shift.  All unwanted nuisance visitors should be reported to the police immediately. The academy should be notified the next working day in writing, at the latest, of any events, including incidents of antisocial behaviour or where unwanted visitors have successfully, or not, gained access to the site.

4.18 The Lettings Provider is not permitted to authorise any persons on site who are not there as either a Hirer or a visitor/ client of a Hirer.

4.19 The Lettings Provider is not permitted to affix anything to any part of the academy premises, which may rupture or penetrate any surface. The Lettings Provider is responsible for ensuring that all Hirers are aware of this. Providers or Users who breach this requirement will be asked immediately to remove the said item from display and to notify the academy contact the next working day, at the latest, with details of the exact location of any broken/ penetrated surface. Any repairs or making good costs to repair academy property will be charged back to the Lettings Provider.

4.20 The Lettings Provider, if using the Academy’s equipment is required to use it for its intended purposes only. The Letting Provider is only permitted to use school equipment if agreed with the academy. An inventory of the equipment should be hold by both the academy and the Lettings Provider.

4.21 The Lettings Provider is responsible for ensuring the Hirers do not misuse any Academy equipment, including electrical equipment connected to the Academy’s main electrical supply.

4.22 The Letting Provider is responsible for ensuring that the risk of slips, trips and falls are appropriately managed and that trailing cables are placed in cable tidy solutions.

4.23 The Letting Provider is responsible for ensuring the site is secured on leaving (unless arrangements are made to the contrary, e.g., when cleaners are on site) and alarm protocols are in place as agreed with the academy.

4.24 The Lettings Provider is responsible for ensuring all equipment used is turned off, lights are out, heaters and fans have been disconnected from the mains power and doors are closed, especially fire doors.

4.25 The Lettings Provider will ensure that the third-party risk assessment includes details of any electrical equipment they will bring to the academy and clarifies how they will ensure it is safe and suitable for use, e.g., PAT testing records and no daisy-chained extension leads.

4.26 The Lettings Provider on site staff, will, at the end of each shift, ensure that the academy premises and equipment are returned to its original state, and that all defects, broken equipment, or concerns, are reported to the academy contact by the agreed means the next working day, at the latest.

4.27 The Lettings Provider is aware, and will communicate to the hirers, that no alcohol or smoking, including e-cigarettes are permitted on site. No open fires, fireworks or bonfires are permitted on site at any time. The academy has the right to refuse the use of any equipment its feels is unsafe or presents a risk to occupants and the building.

4.28 Hirers wishing to cook on site as part of their activities will be required to provide to the Lettings Provider and the academy, no later than one week in advance, a risk assessment for the cooking activity. The academy retains the right to refuse cooking on site if they consider the risk management insufficient.

4.29 The Lettings Provider will ensure adequate first aid arrangements are in place and trained personnel are available in case of injuries or medical emergencies in conjunction with the hiring third-party provisions. A well-stocked first aid kit will be available at the academy, and staff should know how to respond to various medical situations. The Lettings Provider, academy and the hirer need to agree upon this provision.

4.30 The academy will ensure that the premises have clean and well-maintained restroom facilities, proper waste disposal methods, and a general standard of cleanliness. The hygiene and cleaning responsibilities of the third-party hirer will be defined with the Lettings Provider in the lettings agreement to set clear expectations on what remains the academy’s responsibility and what the hirer is responsible for completing.

4.31 If any hazardous substances are stored or used by a third-party hirer, the Lettings Provider are required to check with the academy to ensure there is sufficient appropriate storage, labelling, and safety measures available. COSHH risk assessments must be completed by the Hirer and checked by the LP and Academy to ensure the risk is being sufficiently managed.  The academy has the right to refuse the use and storage of hazardous substance which they consider to not be unsuitable in the school environment.

4.32 The Lettings Provider will request a copy of appropriate insurance for the Hirer where applicable.

4.33 The Letting Providers on-site staff, will, at the end of each shift, ensure that the academy premises and equipment are returned to its original state, all defects, broken equipment, or concerns, are reported to the academy contact by the agreed means the next working day, at the very latest.

4.34 Lettings Provider is responsible for ensuring all equipment used or moved by the Hirer is returned to its original place and layout, and the area is left tidy. All rubbish must be cleared and placed in the appropriate rubbish receptacle.

**5**  **INDEMNITY AND LIMITATION OF LIABILITY**

5.1 Lettings Provider shall indemnify the School against all direct losses suffered or incurred by the School relating to the Community Activities to the extent that such direct losses are a direct result of the negligent act or omission of Lettings Provider or Lettings Provider Staff.

5.2 Nothing in these Conditions shall limit or exclude Lettings Provider’s liability for death or personal injury caused by its negligence, the negligence of its employees, agents or subcontractors, fraud or fraudulent misrepresentation, or other matters for which liability may not be excluded by law.

5.3 Subject to clause 5.2, Lettings Provider’s total liability to the School in respect of all other losses arising under or in connection with this agreement, whether in contract, tort, or otherwise, shall in no circumstances exceed £1,000,000.00 in the aggregate over the term and in any extension period agreed by the parties.

5.4 The Federation shall indemnify the Lettings Provider against all direct losses suffered or incurred by the Lettings Provider to the extent that such direct losses are a direct result of the negligent act or omission of the Federation or Federation Staff.

5.5 Nothing in these Conditions shall limit or exclude the Federation’s liability for death or personal injury caused by its negligence, the negligence of its employees, agents or subcontractors, fraud or fraudulent misrepresentation, or other matters for which liability may not be excluded by law.

5.6 The Federation shall indemnify the Lettings Provider for any claim made against the Provider by a third party for death, personal injury or damage to property arising out of or in connection with defects in the Facilities.

5.7 The Federation acknowledge our insurer’s right of subrogation back to the Federation if personal injury or property damage occurs due to a defect in the Approved Facilities

**6** **EQUIPMENT**

6.1 The School is responsible for ensuring that all School Equipment is regularly and appropriately maintained and safe to use during Lettings Provider’s period of use and occupation of the School Facilities.

6.2 Lettings Provider shall not be liable for any liabilities, costs, expenses, damages and losses suffered or incurred by the School because of poorly maintained, dangerous School Equipment.

6.3 However, it is incumbent on the Lettings Provider to ensure School Equipment or Facility User Equipment is visually inspected prior to use and is assessed as being suitable and safe for use (and this is documented).

**7**  **INSURANCE**

7.1 Lettings Provider will require Facility Users to produce to it evidence of their own public liability insurance where applicable, as part of the booking process and before they are given access to use the School Facilities.

7.2 Lettings Provider and the School will maintain public liability insurance in the sum of at least £10,000,000.00 for any one occurrence or series of occurrences arising from the same event and employee liability insurance cover in the sum of at least £5,000,000.00 for any one occurrence or series of occurrences arising from the same event, with a reputable insurer throughout the Term of this agreement.

7.3 The School shall be responsible for ensuring the School Facilities and for notifying its insurers of Lettings Provider’s use and occupation of the School Facilities for Community Activities.

7.4 Lettings Provider will maintain employer’s liability insurance of at least £5,000,000.00.

7.5 The Federation acknowledges any damage caused by vehicles is not covered by the other insurance provisions in this contract. Incidents of this sort are covered under the Road Traffic Act and remedy must be sought from the insurer of the relevant vehicle. In these circumstances We and You agree to assist each other in identifying the relevant individual responsible.

7.6 The Lettings Provider will make clear to all Hirers that neither the School or the Lettings Provider will be responsible for damages or theft that occurs when using the School’s facilities including parking.

**8**  **SAFEGUARDING PROCEDURES**

8.1 As education and community-based organisations, both Lettings Provider and the School are committed to safeguarding and protecting the welfare of children and young people under the age of 18, and adults who may be deemed vulnerable or ‘at risk’.

8.2 Lettings Provider and the School both adopt the definition of “*safeguarding*” as outlined in relevant legislation and guidance as outlined in the ‘Keeping Children Safe in Education: <https://assets.publishing.service.gov.uk/media/66cef97ca7256f1cd83a89a3/Keeping_children_safe_in_education_2024.pdf>  and future iterations.

8.3 Lettings Provider maintains a Safeguarding Policy and related procedures and codes of safe conduct which it requires all Facility User Organisers to sign up to and agree to abide by before they are given access to the School Facilities.

8.4 Lettings Provider provides the Safeguarding Policy to Facility Users carrying out the Community Activities and requires them to always comply with the Safeguarding Policy and its related procedures and codes of conduct as provided to the Facility Users.

8.5 If Lettings Provider Staff have any concerns over incidents relating to the safeguarding of young people or adults at risk during the Community Activities being held at the School, they will be instructed to report them to their manager and to Lettings Provider’s Designated Safeguarding Officer.

8.6 Lettings Provider will liaise with the Child Protection Officer at the School to keep the School fully informed, on an anonymised basis, of any incidents or issues relating to its use and occupation of the School Facilities. Unless the specific circumstances of the case demand that the School is informed immediately, such information will be given to the School on a quarterly basis.

8.7 The Lettings Provider and Hirer must both have robust child protection and safeguarding policies and procedures in place that adhere to the latest KCSIE regulations updated September 2023 as defined in 8.2 above.

**9**  **STAFFING ARRANGEMENTS AND CODE OF CONDUCT**

9.1 Lettings Provider shall employ, train and manage Lettings Provider Staff and be responsible for payment of salary and national insurance and tax deductions, and for the avoidance of doubt, the School shall not be involved in the selection of any of the Lettings Provider Staff. However, School approval for each Lettings Provider member of staff to be deployed on site needs to be given by email on receipt of a completed safeguarding checklist, such approval to not be unreasonably withheld or delayed.

9.2 Lettings Provider shall ensure that all eligible Lettings Provider Staff hold a valid Enhanced DBS with List 99 checks throughout their employment by or engagement with Lettings Provider and that a policy of safer recruitment is enforced in respect of all appointments. Only those deemed by Lettings Provider to be suitable from a safeguarding perspective and in accordance with Harris Federation requirements will be employed in any role that brings them into contact with children or adults at risk.

9.3 Lettings Provider Staff shall be responsible for the Community Activities and locking and leaving in a secure manner the School Facilities at the end of the Community Activities.

9.4 Lettings Provider Staff shall have completed a site-specific Designated Safety Lead (DSL) briefing for each location in addition to DBS checks to ensure that local issues are considered and incorporated into their safeguarding delivery as part of this agreement.

9.5 Lettings Provider will require Lettings Provider staff to work within its overall code of conduct and code of safe conduct.

9.6 The Lettings Provider will notify the School of any times where Lettings Providers staff need to attend the School outside of normal Lettings classes.

**10**  **TUPE** – TUPE may be applicable to Academies that have existing Lettings providers.

10.1 The parties acknowledge that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“the Regulations”) will apply to Lettings Provider’s occupation and use of the School Facilities as set out in this agreement and that the employment of the Employees shall transfer to Lettings Provider save in relation to any Employee who objects to the transfer for the purposes of the Regulations.

10.2 The School undertakes to Lettings Provider:

10.2.1 that it has complied with and shall, up to and including the Commencement Date, comply with all of its obligations and those of any of its predecessors (whether or not legally binding or in respect of which it would be expected to comply by any regulatory or other body which it is subject) due to or in connection with the Employees or anybody representing them (or any of the said obligations the School would have had under or in connection with such contracts but for the Regulations);

10.2.2 that it has paid and shall pay all sums due in relation to the Employees up to and including the Commencement Date (whether arising under common law, statute, equity or otherwise) including all remuneration, payment of national minimum wage, expenses, national insurance and pension contributions, liability to taxation and other sums payable in respect of any period up to and including the Commencement Date;

10.2.3 that there are no sums owing to or from any Employee other than reimbursement of expenses for the current month, wages for the current salary period and holiday pay for the current holiday year; and

10.2.4 to fully indemnify and keep indemnified Lettings Provider against all Demands (including legal and other professional fees and expenses reasonably and necessarily incurred) which Lettings Provider may suffer, sustain, incur, pay or be put to by reason of:

1. any failure by the School to comply with its obligations under this clause 9 save where caused by the action omission neglect or default of Lettings Provider;
2. any Demand (including legal and other professional fees and expenses reasonably and necessarily incurred) by or on behalf of any of the Employees or their representatives arising from or in connection with their employment or its termination on or prior to the Commencement Date;
3. any Demand (including legal and other professional fees and expenses reasonably and necessarily incurred) by any trade union, employee representative or body of employees or their representatives in respect of any of the Employees arising from or connected with any failure, on or prior to the Commencement Date, to comply with its legal obligations save where caused by the action omission neglect or default of Lettings Provider;
4. transfer to Lettings Provider of the employment or engagement by the School of any person other than the Employees; or
5. any act or omission prior to the Commencement Date which, by virtue of the Regulations, is deemed to be an act or omission of Lettings Provider save where caused by the action omission neglect or default of Lettings Provider.

10.2.5 The Federation warrants that:

**(THIS SECTION ONLY APPLIES TO ACADEMY STAFF WHO ARE TUPEING)**

* 1. the details of any Transferring Employees (for example, names, personal details, start dates, notice periods, salary and benefit details, details of all standard terms of employment, but subject to any data protection issues) provided to the Lettings Provider at the date of this Agreement are complete and accurate;
	2. none of the Transferring Employees have given or received notice of termination of employment nor are any of the Transferring Employees the subject of any material disciplinary action nor is any Transferring Employees engaged in any grievance procedure;
	3. The Federation is not engaged in relation to any Transferring Employees in any dispute, claim or legal proceedings, arising under contract or common law or arising out of or relating to any statute including the provisions of the Regulations and any claim or allegation of unlawful discrimination;
	4. The Federation has complied with its obligations to inform and consult with trade unions, staff associations and other worker representatives or bodies;
	5. The Federation is not in material breach of the contract of employment of any of the Transferring Employees nor is any Transferring Employee in material breach of his contract of employment; and
	6. all Transferring Employees have been checked against the Children’s Barred List and checked through the Disclosure and Barring Service (formerly the Criminal Records Bureau) and all other checks required by law.

10.3 Without prejudice to the other provisions of this clause 9, the School shall, at its own expense, give the Lettings Provider such assistance as Lettings Provider may reasonably require to contest using such professional advisers as it shall select and on behalf of the School any Demand by any person employed or engaged at or by the School at or prior to the Commencement Date or by their representatives resulting from or in connection with Lettings Provider’s use and occupation of the School Facilities as set out in this agreement, subject always to Lettings Provider and the School´s  respective obligations under the Data Protection Legislation and subject to the School securing and indemnifying Lettings Provider against any costs arising from the conduct by the School of proceedings relating to any such Demand. The School shall not settle, concede, compromise or otherwise conclude any Demand or connected proceedings without the prior approval of Lettings Provider.

10.4 Lettings Provider shall indemnify and keep indemnified the School against:

10.4.1 any Demand (including legal and other professional fees and expenses reasonably and necessarily incurred) by or on behalf of any of the Employees or their representatives arising from or in connection with their employment or its termination after the Commencement Date or arising from any action, omission, neglect or default of Lettings Provider before or on the Commencement Date save where caused by the action, omission, neglect or default of the School;

10.4.2 any Demand (including legal and other professional fees and expenses reasonably and necessarily incurred) by any trade union, employee representative or body of employees or their representatives in respect of any of the Employees arising from or connected with any failure, after the Commencement Date, to comply with its legal obligations save where caused by the action, omission, neglect or default of the School.

10.5 The Lettings Provider will not either directly or by its agent, whether for itself or for the benefit of any other person, induce or endeavour to induce any of its Letting's staff based at the Academy to leave his employment.

**11**  **CHARGING AND PAYMENT PROCEDURES**

11.1 The Licence Fee shall be based upon the prices Lettings Provider charges Facility Users for the use of the School Facilities for the provision of Community Activities.

11.2 The Lettings Provider will make available to the Federation and/or your auditors the precise prices charged for all lettings that have taken place at the School, down to the detail of each individual booking.

11.3 The Provider will permit the Federation and/or your auditors to carry out any reasonable investigations to confirm that the prices declared by the Lettings Provider to the Federation are the actual amounts customers have been invoiced and paid.

11.4 All income generated from the use of the School Facilities for the provision of Community Activities will be paid to Lettings Provider.

11.5 The School will cover for fair wear and tear, service and maintenance of School equipment and facilities.

**Harris Federation will require their energy consumption to be considered** **when the provider pays the agreed revenue percentage – to be clear, this energy consumption percentage will need to be added to the Academies revenue share.  The cost percentage for Harris Federation is 10%.**

Providers will have confirmed their costs within the Pricing schedule at the tendering stage.

11.6 On a monthly basis Lettings Provider will produce and send to Harris Federation’s Head Office and Finance Department Finance@harrisfederation.org.uk a clear financial breakdown detailing all revenue relating to its use and occupation of the School Facilities and the programme of Community Activities in the previous month, any deductions made under clause 14.10, and showing any Licence Fee due to the School (“**Financial Breakdown**”). The School has five Business Days from receipt of the Financial Breakdown to notify Lettings Provider in writing that it disagrees with the Financial Breakdown or shall be deemed to have accepted it by the end of the fifth Business Day.

Step by step process:

1. Lettings providers must send the group monthly info to mohit.doshi@harrisfederation.org.uk and Finance@harrisfederation.org.uk
2. Finance to circulate to FBPs to share with schools to agree / challenge the info (Academies have a week / 5 business days to challenge)
3. One group invoice will be raised to the lettings provider after a week
4. Providers have to pay within agreed timelines
5. Cash received is allocated to schools

11.7 The Lettings Provider must make full payment to Head Office regardless of whether they have received payment from their Hirer.

11.8 The Licence Fee payable to the School is inclusive of VAT.

11.9 The School agrees to treat the details of the Licence Fee as confidential information and as such agrees not to share or discuss them with third parties, particularly other schools, colleges or other educational establishments and their members of staff.

**12** **MINIMUM WARRANTED 90% BOOKINGS** **AMOUNT**

The Lettings Provider warrants to ensure that the school receives as a minimum 90% (ninety percent) of the proposed funds declared in their tender application within 10 months of the contract start date.  This amount will be discussed, and funds will be transferred by the 11-month following the contract start date.

12.1 If there are extenuating circumstances agreed by both sides the above amount can be amended.

**13**  **COMPLAINT RESOLUTION**

13.1 If the School receives any complaints relating to the Community Activities at the School, it shall promptly pass such complaint to Lettings Provider and advise the complainant that Lettings Provider will review the complaint.

13.2 Lettings Provider will deal with any complaints it or the School receive relating to the Community Activities at the School but if, in the discretion of Lettings Provider, any complaint is deemed serious, sensitive, or involves the School these will be reported directly to the appropriate School Nominated Contact (as defined in clause 12.1) within a reasonable time of Lettings Provider receiving the complaint. The parties shall work together in good faith to resolve any complaint.

**14**  **COMMUNICATION**

14.1

**School Nominated Contact:**

**Name:  Bill Le Conte**

**Number:** 07889 306086

**Email:** B.LeConte@harrisfalconwood.org.uk

**Lettings Provider Nominated Contact:**

**Name: Tom Street**

**Number:**

**Email:**

**The contact for contractual meetings and escalation will be the Category Manager:**

Name: John Mason

Number: 07710 183967  or 020 8253 7777 extension 7786

Email: John.Mason@harrisfederation.org.uk

14.2 The School Nominated Contact shall be responsible for responding to any correspondence, enquiries or requests received from Lettings Provider (“**Lettings Provider Enquiry**”) within 5 Business Days of receipt of an Lettings Provider Enquiry, and for procuring that they appoint another person to respond to any such Lettings Provider Enquiries in their absence due to annual leave or otherwise.

14.3 Should party’s nominated contact change at any time during the Term of this agreement, it shall notify the other within 5 Business Days of the change and a variation will be appended to the contract accordingly.

14.4 Lettings Provider shall ensure that the School is regularly informed of all Community Activities and planners will be provided to the appropriate members of staff at the School by email on a weekly basis.

14.5 The Lettings Provider Nominated Contact shall attend all meetings as and when reasonably requested by the School at a mutually agreed time and date.

14.6 Both parties should ensure that each will have emergency contact details of the other.

14.7 On or before the Commencement Date and before the commencement of each academic year during the Term, the School will provide Lettings Provider with a calendar of events taking place at the School Facilities which may affect the availability of the School Facilities to Lettings Provider, including for the avoidance of doubt details of any essential maintenance, cleaning or refurbishment (“**Maintenance Works**”) affecting the School Facilities during the following year. The School shall update such calendar prior to the commencement of each academic term. The calendar of events may be subject to change – the School will provide as much notice as is possible.

14.8 The School will be required to give at least 10 working days’ notice to the Lettings Provider regarding any evening or weekend usage of the School Facilities required by the School where such usage would affect Lettings Provider’s use and occupation of the School Facilities, including but not limited to parents’ evenings, open evenings, school productions and examinations.

14.9 The School shall give reasonable notice to Lettings Provider in respect of any Maintenance Works to be carried out at the School Facilities. Such notice shall include an estimate of the duration of the Maintenance Works and the School shall procure that such Maintenance Works continue for the minimum period possible.

14.10 In the event of a whole or partial school shut down, a major health or safety risk, an imminent OFSTED inspection, or disruptive events beyond the School’s control, The Schoolmay declare an emergency and cancel use of the facilities without notice.

14.11 The School must use reasonable endeavours to ensure that the School Facilities remain open in the event of adverse weather conditions, however if the School is forced to close the School Facilities because of adverse weather conditions, it shall notify Lettings Provider as soon as reasonably practicable.

14.12 In the event that the School does not comply with its obligations under clause 14.7 to 14.10 above or fails to make School Facilities available to Lettings Provider as previously agreed with or reasonably anticipated by Lettings Provider, Lettings Provider may, at its discretion, deduct any losses incurred as a result of such breach from the Licence Fee when the next payment is due to the School.

14.13 All requirements of the School to use and occupy the School Facilities for School events and activities will take priority over any use and occupation of the School Facilities by Lettings Provider for Community Activities throughout the Term.

**15**  **MARKETING AND PROMOTION**

15.1 Lettings Provider agrees that all marketing and promotional materials and events produced by Lettings Provider in relation to its use of the School Facilities shall be provided to the School to be approved before being distributed and advertised (such approval not to be unreasonably withheld or delayed).

15.2 The School agrees to support Lettings Provider in the marketing and promotion of all Community Activities including but not limited to:

15.2.1 information/a prominent link to information in respect of all Community Activities being held at the School Facilities on the School website;

15.2.2 displaying a banner on the School grounds, which shall be taken down and replaced by Lettings Provider as necessary to comply with any planning restriction implemented by the relevant district council;

15.2.3 informational leaflets/letters informing the pupils and parents of the pupils attending the School about Lettings Provider and the Community Activities will be sent at least once in each school term; and

15.2.4 posters informing the staff and pupils of the School of the Community Activities being held on the School Facilities.

15.3 Lettings Provider shall bear the cost of all marketing and promotional activities it undertakes in relation to the Community Activities.

15.4 The School shall direct any enquiries or potential bookings that it receives in relation to the Community Activities to Lettings Provider within 48 hours of receipt.

**16**  **OTHER RESPONSIBILITIES**

16.1 Lettings Provider will ensure that all School Facilities and Equipment at the School that are used during/for all Community Activities will be left clean, tidy, and secure.

16.2 Any Equipment/ School Facilities which are damaged as a direct result of Lettings Provider’s use or occupation of the School Facilities (including for Community Activities) (where such damage is more than reasonable wear and tear) will be repaired or replaced and the cost of such repair or replacement will be borne by Lettings Provider (subject to clause 5).

16.3 For the avoidance of doubt, with reference to clause 16.2, where damages have occurred due to the Lettings Provider’s use or occupation of School Facilities, the Lettings provider will indemnify the Academy without delay’s due to their own internal processes. The Lettings provider agrees that communications and invoicing to Hirers to recuperate their losses for damages will be strictly between the Lettings Provider and their Hirers. The Lettings Provider will pay the Academy regardless of whether they have been paid. Academies will not agree to invoice the hirers as this contractual relationship is solely with the Lettings provider and none of the Lettings Providers internal processes will cause delay to indemnify the Academies for damages

16.4 Where damage is identified, either the Lettings Provider or the School should record the following:

* + Date and, if possible, exact time of damage discovery
	+ Exact description of damage reported on the day, with photos
	+ If identified by the School, what gives the school reason to believe this is not wear and tear?
	+ Any CCTV or other evidence if available should be provided

16.5 Lettings Provider will provide an emergency contact number for their organisation to all Lettings Provider Staff involved in Community Activities at the School. These details will also be given to the School upon written request.

16.6 The School shall be responsible for obtaining and maintaining any necessary copyright and other licences (“**Licences**”), including but not limited to any licences required for the playing of music, film and televisions and for the provision of theatrical and other artistic performances.

16.7 In the event that additional licences are required for the provision of particular Community Activities (“**Additional Licences**”), the School shall take all reasonable steps and cooperate with Lettings Provider and shall execute all such documents as are within its power to execute and take all necessary steps so as to ensure that such Additional Licenses are obtained and maintained to carry out the relevant Community Activities and for the avoidance of doubt, Lettings Provider shall not be responsible for obtaining or maintaining any such Additional Licences.

16.8 The School shall indemnify Lettings Provider against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses suffered or incurred by Lettings Provider arising out of or in connection with the School’s failure to comply with its obligations under clause 16.

16.9 The School shall provide Lettings Provider with the materials and facilities listed in schedule 4 (the “**Lettings Provider Provisions**”).

16.10 Lettings Provider shall provide all of its own cleaning equipment and materials and use these to ensure facilities and equipment are left clean and tidy after use and that the School Facilities and School Equipment is returned to the state and layout required by the School.  If the Academy is required to carry out any cleaning due to the Lettings Provider not undertaking the required cleaning, the Academy reserves the right to charge the Lettings Provider for the work that the Academy has undertaken (chargeable rate to be £30 per hour) and to be in line with industry charges).  The Lettings Provider reserves the right to challenge the rate charged if it is deemed to be excessive when compared to market prices.

16.11 As far as possible, the School will ensure that the premises will be clean, clear of unsupervised children, and in a suitable condition for school use 15 minutes before the start of the approved hours. If the facilities are not sufficiently clean or clear, the Lettings   Provider will bring them to the necessary standard and charge the costs at the hourly staffing rates **£30 per hour + VAT** TBC by Lettings provider and to be in line with industry charges) against the Licence     Fee the Lettings Provider owes the School.  Harris Federation reserves the right to challenge the rate charged if it is deemed to be excessive when compared to market prices and when compared to other Lettings providers prices.

16.12 In the event of the Lettings Provider having to carry out cleaning as stated in 16.11, the Lettings Provider must evidence this requirement in the form of ‘before and after pictures’ and provide this as supporting evidence for payment to be made by the Academy.

16.13 The Lettings Provider will ensure that the premises including all windows and doors are locked and secure upon vacating the premises and that the alarm has been set to secure properly the premises.  If the Lettings Provider fails to follow these procedures and the alarm is triggered causing a call-out charge, the Lettings provider will be made responsible for these costs.  The Academy will provide to the Lettings provider a ‘call out fee invoice’ (rate of £150 (one hundred and fifty Pounds) per call out payable to the Academy and to be in line with industry charges

**17**  **WAIVER**

17.1 No failure to exercise or delay in exercising any right or remedy provided under this agreement or by law constitutes a waiver of such right or remedy nor shall it prevent or restrict any future exercise or enforcement of such right or remedy.

17.2 No single or partial exercise of any right or remedy under this agreement shall prevent or restrict the further exercise of any such right or remedy or other rights or remedies.

**18**  **DATA PROTECTION**

*THIS SECTION IS SUBJECT TO REVIEW & AMENDMENTS BY HARRIS FEDERATIONS COMPLIANCE TEAM THROUGHOUT THE DURATION OF THE CONTRACT.  ANY CHANGES WILL BE NOTIFIED.*

18.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 16 is in addition to, and does not relieve, remove, or replace, a party’s obligations under the Data Protection Legislation.

**Data Processing by Lettings Provider**

18.2 Without prejudice to the generality of this clause 18.2, the School will ensure that it has all necessary and appropriate consents and notices in place to enable lawful transfer of any School Personal Data to Lettings Provider for the purposes of this agreement.

18.3 Without prejudice to the generality of this clause 18.3, Lettings Provider shall, in relation to any School Personal Data processed in connection with the performance by Lettings Provider of its obligations under this agreement, insofar as it is acting as a processor:

18.3.1 process School Personal Data only on the written instructions of the School, unless Lettings Provider is required by the laws of any member state of the European Union or by the laws of the European Union applicable to Lettings Provider to process such personal data, in which case Lettings Provider shall inform the School of the legal requirement before processing;

18.3.2 only process School Personal Data to the extent, and in such manner, as is necessary for the purposes of performing this agreement;

18.3.3 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of School Personal Data and against accidental loss or destruction of, or damage to, School Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

18.3.4 ensure that all personnel of Lettings Provider who have access to and/or who process School Personal Data are obliged to keep School Personal Data confidential;

18.3.5 not transfer any School Personal Data outside of the European Economic Area (“EEA”) unless the prior written consent of the School has been obtained;

18.3.6 assist the School in ensuring compliance with the School’s obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators, such assistance to consider the nature of the processing and the information available to Lettings Provider;

18.3.7 assist the School by appropriate technical and organisational measures, insofar as this is possible, in the fulfilment of the School’s obligation to respond to any request from a data subject who is exercising his or her rights under the Data Protection Legislation;

18.3.8 notify the School without undue delay on becoming aware of a personal data breach in relation to any School Personal Data;

18.3.9 at the written direction of the School, delete or return to the School all School Personal Data on termination of this agreement, unless required by law to retain the School Personal Data; and

18.3.10 maintain complete and accurate records and information to demonstrate its compliance with this clause 18.3

18.4 Lettings Provider shall not engage any third-party processor of School Personal Data under this agreement without the prior written consent of the School. Any engagement by Lettings Provider of any additional third-party processor of School Personal Data shall be subject to Lettings Provider imposing on such a third-party processor by way of a contract the same data protection obligations as set out in clause 18.3.

**SHARED PERSONAL DATA**

18.5 The parties acknowledge that either party (the “**Data Discloser”**) may disclose to the other party (the “**Data Recipient”**) Shared Personal Data collected by the Data Discloser for the Agreed Sharing Purposes.

18.6 Each party shall comply with all the obligations imposed on a Controller under the Data Protection Legislation in relation to the Shared Personal Data and its disclosure to the Data Recipient.

18.7 Without prejudice to the foregoing, each party shall ensure, in relation to the Shared Personal Data, that:

18.7.1 it shall only process the Shared Personal Data in accordance with the Data Protection Legislation;

18.7.2 it has all necessary notices and consents in place to enable the lawful transfer of the Shared Personal Data to the Data Recipient for the Agreed Sharing Purposes;

18.7.3 all employees and contractors authorised by that party for the purpose of handling Shared Personal Data have entered into appropriate confidentiality obligations and have received appropriate training on the Data Protection Legislation relating to the Shared Personal Data;

18.7.4 it gives full information to any data subject in relation to whom Shared Personal Data may be Processed under this agreement of the nature of such processing, including giving notice that, on the termination of this agreement, the Shared Personal Data relating to that data subject may be retained by or, as the case may be, transferred to one or more of the parties or their successors or assignees;

18.7.5 it shall not, without the consent of the other party, disclose or allow access to the Shared Personal Data to any third party;

18.7.6 to the extent that any Shared Personal Data originating from the United Kingdom (“UK”) or EEA is transferred to a country or territory outside the UK or EEA that has not received a binding adequacy decision by the European Commission or a competent national data protection authority, such transfer will be subject to appropriate safeguards that provide an adequate level of protection in accordance with the UK GDPR; and

18.7.7 it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the Shared Personal Data and against accidental loss or destruction of, or damage to, the Shared Personal Data (subject to any higher standards set out in the Agreement).

18.7.8 the parties agree, in relation to any requests or correspondence which relate to, or impact upon the Shared Personal Data, to co-operate with one another in responding to:

1. any requests made by data subjects exercising their rights under the Data Protection Legislation; and
2. any correspondence from a relevant regulatory body.

18.7.9 Each party shall notify the other promptly upon becoming aware of any actual or suspected personal data breach in relation to Shared Personal Data and together with such notice shall provide a written description of the personal data breach particulars.

18.7.10 Each party shall ensure that its Data Protection Notice and Privacy Statement issued in accordance with the Data Protection Legislation adequately covers the use of Shared Personal Data as set out in this clause 16 and is given to all Data Subjects at the time such Shared Personal Data is obtained.

**19**  **NOTICE**

19.1 A notice given under this agreement:

19.1.1 shall be in writing in the English language;

19.1.2 shall be signed by or on behalf of the party giving it;

19.1.3 shall be sent for the attention of the person, and to the address or email address, given in this clause (or such other address, email address or person as the relevant party may notify to the other parties in accordance with the provisions of this clause 19); and shall be:

19.1.4 delivered personally; or

19.1.5 sent by email; or

19.1.6 sent by commercial courier; or

19.1.7 sent by pre-paid first-class post or recorded delivery

19.1.8 a notice is deemed to have been received: if delivered personally, at the time of delivery; or

19.1.9 in the case of email, upon transmission or, in the case of emails sent outside normal business hours of 9am to 5pm, at 9am on the Business Day after the date of transmission; or

19.1.10 if sent by commercial courier, at the time of signature of the courier's delivery receipt or

19.1.11 in the case of pre-paid first-class post or recorded delivery, 9.00 am on the second Business Day after posting; or

19.1.12 in the case of airmail, 9.00 am on the fifth Business Day after posting.

**20**  **ENTIRE AGREEMENT**

This agreement constitutes the whole agreement and understanding of the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this agreement. Each party acknowledges that, in entering into this agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement, provided always that nothing in this clause shall limit or exclude any liability for fraud.

**21**  **RIGHTS OF THIRD PARTIES**

No term of this agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this agreement, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

**22 COUNTERPARTS**

This agreement may be signed in any number of counterparts, each of which when executed and delivered constitutes an original of this agreement, but all the counterparts shall together constitute the same agreement**.**

**23**  **DISPUTES**

23.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it ("Dispute") then the parties shall follow the procedure set out in this clause 23.

23.2 Either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the School Nominated Contact and the Lettings Provider Nominated Contact shall attempt in good faith to resolve the Dispute.

23.3 If the School Nominated Contact and the Lettings Provider Nominated Contact are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to a senior contact nominated by each party, who shall attempt in good faith to resolve it.

23.4 If the parties to whom the Dispute is referred in accordance with 23.3 are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing ("ADR notice") to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice.

23.5 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute.

**24**  **VARIATION**

Except as set out in this agreement, any variation, including the introduction of any additional terms and conditions, to this agreement, shall only be binding when agreed in writing and signed by Lettings Provider.

**25**  **NO PARTNERSHIP**

Nothing in this agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

**26**  **ASSIGNMENT**

25.1 Lettings Provider shall not, without the prior written consent of the School, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this agreement.

25.2 The School shall not, without the prior written consent of Lettings Provider, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this agreement.

**27**  **TERMINATION**

27.1 Termination will be in accordance with Section 2 of this contract unless any condition is 27.2 arises.

27.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

27.2.1 the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 21 days after the due date for such payment;

27.2.2 the other party commits a material breach of any term of this agreement  which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 21 days after being notified in writing to do so;

27.2.3 the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement; or

27.2.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts.

**28 FORCE MAJEURE**

28.1 For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of Lettings Provider and/ or the School including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Lettings Provider, the School or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood, storm, pandemic or similar.

28.2 The parties shall not be liable to each other because of any delay or failure to perform their obligations under this Contract as a result of a Force Majeure Event.

28.3 If the Force Majeure Event prevents Lettings Provider from facilitating the hire of the School Facilities for more than 8 weeks, Lettings Provider shall, without limiting its other rights or remedies, have the right to terminate this agreement immediately by giving written notice to the School.

**29**  **GOVERNING LAW AND JURISDICTION**

29.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.

29.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.

This agreement has been entered into on the date stated at the beginning of it.

**Signed on behalf of the Academy:**

**Signature:**

**Name:**

**Position:**

**Date:**

**Signed on behalf of the Federation:**

**Signature:**

**Name:**

**Position:**

**Date:**

**Signed on behalf of Lettings Provider**

**Signature:**

**Name:** Martin Hainsworth

**Position: Operations Director**

**Date:** 02.07.24

**Schedule 1**

Available Spaces

The only allowed timings for Lettings in this contract are as follows:

Monday to Friday 6.30pm is the start time. Vivify staff may arrive after 6.00pm to set up.

On Saturdays and Sundays 9am to 9pm on Saturdays and 9am to 6pm on Sundays.

**Schedule 2**

Licence Fee is \_\_% to the Academy – as defined in schedule 5

**Schedule 3**

Safeguarding Policy

**Schedule 4**

Provider Provisions

**The School shall provide Lettings Provider with the following:**

1. All necessary keys, door codes and alarm codes to allow entry and secure locking of the School Facilities by Lettings Provider, and adequate instruction in respect of the same;
2. Space for a lockable cupboard of at least 1m3 in size next to a minimum of two electric socket points;
3. Lighting systems and sound systems;
4. Access to Wifi;
5. A desk space for use during lettings;
6. Access to a snow shovel and grit for clearing ice and snow;
7. A list of emergency contacts for Lettings Provider to contact in the event of any of the following occurring at any time:
8. Fire alarm sounds; (emergency numbers for ADT and Triple Star on respective Alarm Panels);
9. Smoke detector(s) sound;
10. Security alarm failure; (emergency number for ADT on alarm panel);
11. School Equipment failure;
12. Insufficient heating or lighting;
13. Damage to the School Facilities including but not limited to flooding or due to adverse weather conditions;
14. Theft, disturbance or other criminal activity at the School Facilities;
15. Plumbing problems/issues e.g. leaks/pipe bursts.

**Schedule 5**

Projected Income

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **For each hire:****Hirer Details…...... Email….................****Mobile No…..........** | **Available spaces as per the Requirements document in the tender pack** | **Hourly rate** | **Monthly Projected Revenue from Tender** | **Monthly Actual Revenue** | **Variance** |
|   | Playground |   |   |   | £0 |
|   | Classrooms- Ground floor x 20/ 1st floor x 9 |   |   |   | £0 |
|   | Dance Studio |   |   |   | £0 |
|   | Dining Hall |   |   |   | £0 |
|   | Drama Hall |   |   |   | £0 |
|   | Activity Studio |   |   |   | £0 |
|   | Sports Hall |   |   |   | £0 |
|   | MUGA |   |   |   | £0 |
|   | Assembly Hall |   |   |   | £0 |
|   | Astro Pitch 1st, 2nd and 3rd areas x 3 total |   |   |   | £0 |
|   | TOTAL |   | £0 |   |  |

**Schedule 6**

Key Performance Indicators

1. Management Information – To be accurate, correct and provided in a timely manner and as agreed with Harris Federation.

The Lettings Provider shall ensure that the following is provided to the School and, if required, Harris Federation:

* Projections for monthly and annual gross profit and how this compares with targets.
* Actual monthly and annual revenue and the academy’s share and how this has been calculated.
* Details of personnel engaged and whether there are any recruitment or retention issues and, if so, how these are being overcome.
* Information/analysis on bookings including usage/occupancy by facility, summarised and detailed, as required by the School.
* Details of any incidents, safeguarding concerns, complaints or issues including how they were dealt with.
1. Management and oversight of the contract – To be proactive, responsive, robust and timely:
* Manager’s and regional/area manager’s attendance at termly review meetings at the School (as a minimum).
* Regional/area manager(s) and senior management attendance at annual review meetings at Harris Federation’s Head Office (as a minimum).
* Provide results and analysis of termly customer and staff satisfaction surveys.
* Provide update on marketing strategy, plans and attempts to increase revenue.
* A contractual requirement for a minimum of two Community Connectors to be on site at all Academies during lettings unless alternative arrangements have been agreed with the School (any other arrangements must be put in writing between the Lettings Provider and the Academy and provided to the Federations Category/Contract Manager for Lettings).
* Ensure all visitors are contained to their designated/booked areas and gates/doors are locked if left unattended.
1. Compliance with health & safety, School Policies and Procedures:
* Letting Provider and Hirer to both have robust child protection and safeguarding policies and procedures in place that adhere to the latest KCSIE Legislation as listed in 8.2 above.
* Lettings Provider to inform the School when Lettings staff need to attend the School premises outside of Lettings classes taking place.  The procedure as set out by the School should be always complied with
* Details of any incidents where non-compliance is evident and how these were dealt with.
* Evidence that Lettings Provider’s staff are appropriate trained and experienced.
* The School is left in a clean and tidy state with any rubbish collected/contained and facilities, areas & equipment returned and laid out as required by the School. Hoovering and mopping up areas where necessary.  All banners/celebration materials (if applicable) are taken down and placed in bins then removed from site or placed in the academy refuse area.
* Promptly arrive on time to allow hirers into the premises for the designated dates and times.  The minimum requirement will be no less than 15 minutes before lettings commence.
* Ensure the academy premises is securely locked, all relevant windows and doors closed / locked and premises alarm is set adhering to the correct procedures at the academy.  To be clear, the Lettings provider must ensure that adequate checks are done to ensure that the site is locked and alarmed.  If any areas are found to be unlocked preventing the alarming of the site, then the Community Connectors must lock these areas allowing for the alarm to be set correctly.  This is regardless of whether or not the Lettings provider uses the area as part of the lettings service.
* Immediately report any issues with hirers to the academy or Head of Procurement.
* Enhanced DBS checks and Security vetting or providers’ employees to be carried out in accordance with Harris Federation requirements.
* The Lettings provider must adhere to the conditions stated in the Community Use Agreement where there is one in place for the Academy that they are servicing.  Please refer to Clause 2.3 of these Terms and Conditions.  Any breach of the usage requirements in the Community Use Agreement, may result in termination if the Lettings that cause the breach are not remedied within timescales provided by the Academy.

4.  Payments and financial reporting:

* Lettings Providers to send to the central point of contact at Harris Federation, a cumulative monthly breakdown of bookings made during the month, including which customers used the facilities, what type of activity the booking was, what time the booking took place, how much they owe, what proportion of this money is owed to the Federation as per the contracted arrangements and the amount of VAT to be charged (if applicable).
* On a monthly basis, Lettings Providers to pay Harris Federation the amounts due regardless of whether the provider has been paid by the hirer, and not withhold any payments for this or any other reason.

1. The Lettings Provider and its Hirer’s must comply with any of the ‘relevant’ guidance and instruction contained within the Harris Federation’s Hire of Academy Premises Policy which can be found using the link in Appendix 1 of the ITT.
2. Other Costs & Charges

Failure to adhere to the above will result in the provider being charged for any costs that the academy faces due to the providers negligence, this includes but is not limited to:

* call out charges for alarm triggers
* cleaning charges for time taken to make good any areas left untidy/dirty (equal to the actual salary cost incurred by the Academy in making good) or the charge that the academy pays to an external cleaning provider for making areas good
* full reimbursement of any costs incurred by the Academy to fix any damages that occur by hirers.  Payment to be made without delay and in full on receipt of invoice to the Lettings Provider from the Academy and supporting costing/quote for the remedial work.  Lettings Provider will seek recompense from the Hirer responsible for damages thereafter.

7.   The Lettings Provider must comply with 11.9, term of the Deposit at all times.

**Consistent KPI failures and contract breaches will result in an early termination with 3 months’ notice.**

***The KPI’s and Contract Terms are subject to change if Harris Federation deem that changes/additions will secure improvements in the services.  New KPI’s will be approved via a contract variation.***

**Schedule 7**

Community Lettings

If no Lettings are below, then this option is to be confirmed by the academy at the next meeting of all parties.