

DATED DAY OF 29th March 2018

SPENCER ACADEMIES TRUST

AND

SOUTH DERBYSHIRE DISTRICT COUNCIL

AGREEMENT

for

**THE ESTABLISHMENT CONSTITUTION AND POWERS OF THE ETWALL
LEISURE CENTRE JOINT MANAGEMENT COMMITTEE**

THIS AGREEMENT is made the

DAY OF *29th March* 2018

BETWEEN

(1) **SPENCER ACADEMIES TRUST** incorporated and registered in England and Wales with company number 07353824 whose registered office is at George Spencer School Arthur Mee Road Stapleford, Nottingham, Nottinghamshire, NG9 7EW (Hereinafter referred to as "the Academy")

(2) **SOUTH DERBYSHIRE DISTRICT COUNCIL** whose registered office is at Civic Offices, Civic Way, Swadlincote, Derbyshire, DE11 0AH (Hereinafter referred to as "the District Council")

This Agreement supersedes the original agreement with regards to the constitution of the Joint Management Committee.

WHEREAS:

By an Agreement dated 6th December 1971 made between the Governing Body of John Port School (hereinafter referred to as "the School"), the Repton Rural District Council and Derbyshire County Council, arrangements were made for the control and management of a leisure centre (hereinafter referred to as "the Leisure Centre") provided at the School to be vested in a Joint Management Committee, and,

By an Agreement dated 1st May 2013 made between the School, Derbyshire District Council and Derbyshire County Council, the establishment of the constitution and powers of Etwall Leisure Centre were vested within the Joint Management Committee (hereinafter referred to as "Joint Committee").

By an Agreement dated 1st February 2018 the School's interest is now vested in Spencer Academies Trust (hereinafter referred to as "the Academy")

The Academy and the District Council shall each year appoint representatives for noting at the annual meeting of the Joint Committee, the Academy and the District Council have agreed pursuant to Section 102 and sub-section (5) of Section 263 of the Local Government Act 1972 to make new arrangements for the management of the Leisure Centre.

NOW THEREFORE in pursuance of the above recited Agreement, **THIS AGREEMENT WITNESSETH** as follows:

1. The Academy and the District Council shall establish a Joint Management Committee(hereinafter referred to as “the Joint Committee”) to be known as the Etwall Leisure Centre Joint Management Committee and to consist of Six members appointed as follows:

Three members to be appointed by the District Council from amongst its elected members who shall not be elected members of the Academy's Governing body

Three members to be appointed from the Academy who shall not be an elected member of the District Council

2. The Joint Committee shall at its first meeting and at the Annual Meetings each succeeding year thereafter elect a Chairman to hold Office until the next Annual Meeting
3. The Joint Committee shall meet quarterly including an annual meeting on the month of June each year provided that the Chairman may at any time convene a meeting and must do so if requested by no fewer than two members of the Joint Committee.
4. The Chairmanship of the Joint Committee shall alternate on an annual basis between a representative from the Academy and a representative from the District Council.
5. To constitute a meeting of the Joint committee there shall be present not less than three of the members of the Joint Committee including not less than one member appointed by each of Academy and the District Council.
6. Each member of the Joint committee shall continue in office until the date of the annual meeting following their appointment unless otherwise replaced by the organisation they represent.
7. Each of the partner organisations shall have the right to appoint substitute members with voting rights where appropriate and subject to clauses 1 and 8.
8. The Academy and the District Council shall have a discretionary right of veto over any proposals involving additional financial commitment to the agreed budget.

9. The District Council subject to the agreement under clause 12 shall act as Secretary and Treasurer respectively of the Joint Committee.
10. The District Council shall be responsible for the preparation and distribution of calling notices, agendas and reports the details and contents of which shall be agreed in advance of the meeting by the Academy and the District Council subject to the agreement under clause 12, such agendas shall include items of Matters Arising and Any Other Business.
11. The recording and distribution of minutes shall be the responsibility of the District Council as minutes Secretary.
12. The central costs incurred for the administration of the Joint Committee shall be approved annually in advance by the Joint Committee subject to veto by the School.
13. The Chief Executive of the District Council and the Chief Executive Officer of the Academy shall have the right to attend and speak at any meeting of the Joint Committee or to appoint any other person to attend and speak on their behalf.
14. The Joint Committee shall appoint a suitably qualified person (hereinafter referred to as "the Manager") or a suitably qualified Contractor (hereinafter referred to as "the Contractor") together with such other staff as it may consider necessary to ensure the efficient functioning of the Leisure centre and the safety of persons using it with the Academy and the District Council having a right of veto over such decisions subject to clause 18 below.
15. The Academy and the District Council shall each be equally involved at all stages in the recruitment, selection and appointment process for all posts of Duty Officer and above except where this undertaking will be negated should the Leisure Centre Contract be externalised under Clause 14.
16. The Manager or a representative of the Contractor shall attend meetings of the Joint Committee and advise the Joint Committee on matters relating to the management of the Leisure centre.
17. Any Contractual arrangement for the management of the Leisure Centre shall be the responsibility of the Joint Committee subject to a right of veto which can be exercised by the Academy or the District council in respect of the appointment of the Contractor.

18. The Academy shall be entitled to exclusive use (which will include Derbyshire County Council Primary School swimming provision) and occupation of the Leisure Centre during the Academy term time as follows:

Swimming Pool	09:15 to 12:35 and 13:25 to 15:25 (plus 1 morning per week 08:00 to 08:45) and 1 evening 15:30 to 16:30
Sports Hall	08:00 to 17:30
Squash Courts	The Academy shall have exclusive use of the Squash Courts (08:00 to 17:00) in relation to its curriculum need and the District Council shall endeavour to maximise use of the Squash Courts outside this time.
Fitness Suite	09:15 to 15:30
Artificial Grass Pitch ("AGP")	The Academy shall have exclusive use of the AGP (08:00 to 17:00 Monday to Friday only) in relation to its curriculum need and the District Council shall endeavour to maximise use of the AGP outside this time.

The exclusive use by the Academy defined above shall be subject to variation with due notice from the Academy should the Academy decide or be required to vary the start and finish times of the Academy working day.

Any temporary variations to this principle which could assist with maximising community use and income generation may be agreed on an ad hoc basis at an operational level by representatives from the Academy, the District Council and the Contractor.

The Fitness Suite shall be used jointly during the Academy's hours subject to reporting such to the joint Committee.

The AGP and its operational arrangements including the profit share is subject to the provisions of the Contract Variation dated 20 March 2017.

19. The Joint Committee shall impose maximum charges for swimming, sports hall, court use and casual gym use as it is responsible for under the Leisure Centre management arrangements.

20. The Academy may release facilities under clause 18 for which it has exclusive use during the Academy term time and hours for use by the general public in negotiation with the Leisure Centre Management.

21. The Manager or the Contractor subject to the agreement of the Joint Committee which may delegate to the Chairman such power of agreement shall be empowered subject to the provision of clauses 18 and 19 hereof to receive and decide upon any application by any Club, Society or other body for the use of the Leisure Centre.
22. Operational management meetings shall take place between the Parties on not less than a monthly basis between the School, the District Council and the Leisure Centre Management, unless agreed otherwise between the parties..
23. The Treasurer shall ensure that proper accounts recording income and expenditure in respect of the Leisure Centre are kept and quarterly financial reports are submitted to the Joint Committee with the accounts subject to audit inspection by the District Council.
24. The Financial reports shall at any time be made available for inspection by the Academy and the District Council.
25. The Joint Committee shall in each year submit for approval to the Academy and the District Council estimates of the expenditure to be incurred in the succeeding year with the power to veto being available to the Academy and the District Council.
26. The Joint Committee shall have the power to effect in the name of the Joint Committee such insurance against third party risks as it may consider necessary.
27. Where expenditure included in the approved budget is incurred in respect of any matter connected with the leisure centre including works of maintenance or repair carried out in pursuance of clause 30 hereof and such expenditure can properly be attributed to the exclusive use of the pool by the Academy or the District council then such expenditure shall be borne by the organisation to which it is attributable but in any other case revenue expenditure shall be apportioned between the Academy bearing thirty eight per cent thereof and the District council bearing sixty two per cent or in such other proportions as may be agreed between the Academy and the District Council.
28. Subject to clause 8 Capital and Revenue expenditure budgets will be set annually by the Joint Committee.
29. Any surplus or deficit on the facility shall be met by the Academy and the District Council in the proportion of thirty eight percent and sixty two percent respectively.

30. All Capital expenditure and the Financing of Capital projects is subject to prior approval of the Joint Committee.
31. The Academy has the responsibility for grounds maintenance adjacent to the Leisure Centre and the costs of which shall be borne by the Joint Committee.
32. The Leisure Centre Manager shall have the power to authorise expenditure up to an amount agreed by the Joint Management Committee. Expenditure in excess of this amount shall be agreed by the Joint Committee and shall require prior approval of the Joint Committee.
33. In the event the Management of the Leisure Centre be outsourced externally, clause 32 shall be varied to take into account the New Management.
34. Five thousand pounds will be set aside from the Centre's Revenue budget towards future decommissioning costs and will be held by the District Council.
35. The Academy grants right of foot and vehicular access over the Academy Land to the District Council, members of the public and contractors whilst carrying out bona fide business in connection with the use or maintenance of the Leisure Centre.
36. The Academy shall retain in perpetuity title to the land and buildings associated with the Leisure Centre including the AGP and the Squash Courts.
37. This Agreement may be altered or determined only by the consent of all parties to the Agreement.
38. Each Party to this Agreement and Partner Organisation shall be responsible for their own independent legal advice such as but not limited to, financial, legal and recruitment.
39. The Academy and the District Council may terminate their involvement in the Agreement by giving not less than twelve months written notice to the partners and subject to agreeing a financial compensation to the remaining partner.

IN WITNESS whereof the Academy and the District Council have caused their Common Seal to be hereunto affixed the day and year first before written.

Executed as a deed by affixing
the Common Seal of SOUTH
DERBYSHIRE DISTRICT COUNCIL
in the presence of:



11 9 3 8

.....
Chairman of the Council

.....
Chief Executive

Executed as a deed by
SPENCER ACADEMIES TRUST
acting by.....
a director and,
[a director OR its secretary]

.....
Director

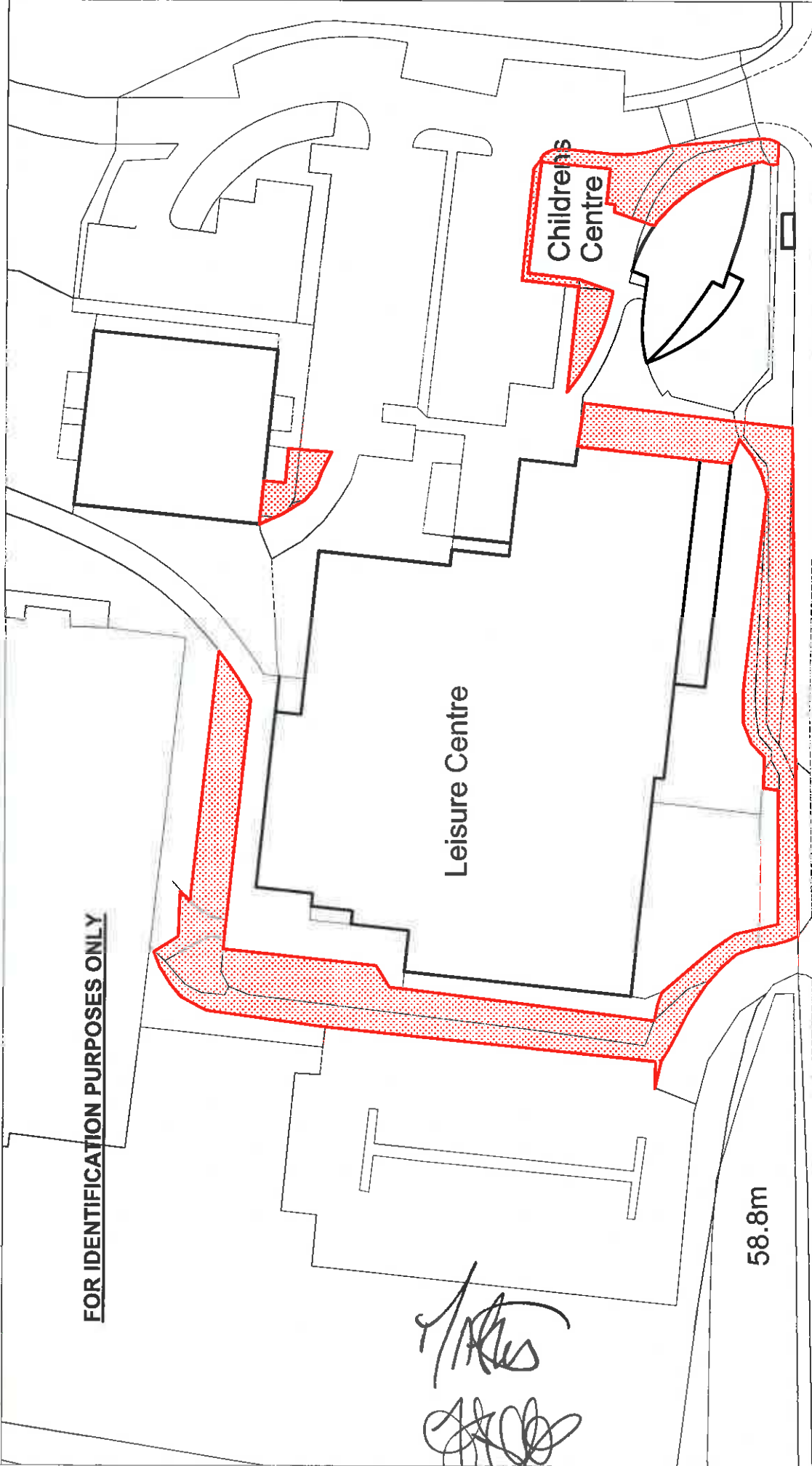
.....
Director OR Secretary

ANNEXE 1- Map



Land at Etwall Leisure Centre

FOR IDENTIFICATION PURPOSES ONLY



Shelter

HILTON ROAD

58.8m

57.3m



