

Date:

STAR ACADEMIES

SECRETARY OF STATE FOR EDUCATION

THE COUNCIL OF THE CITY OF MANCHESTER

MANCHESTER ACTIVE LIMITED

Draft Agreement in relation to
arrangements for community use of the
Batting Enclosure at The Olive School

Contents

No	Heading	Page
	Clauses	
1.	Recitals	2
2.	Definitions and Interpretation	3
3.	Aims	5
4.	Arrangements for Community Use	5
5.	Targets for Community Use	5
6.	Marketing and Promotion	5
7.	Management	5
8.	Financial Matters	7
9.	Monitoring and Review	7
10.	Duration of Agreement	7
11.	Authority	7
12.	No Variations	8
13.	No Agency	8
14.	Severability	8
15.	Waiver	8
16.	Non-Assignability	8
17.	Governing Law and Jurisdiction	8
	Schedule 1 – the Plan	9
	Schedule 2 - Batting Enclosure and Arrangements for Community Use	10
	Schedule 3 – Management Committee	12

- (1) **STAR ACADEMIES** registered with company number: 07353849 whose registered office address is situated at Star Academies, Shadsworth Road, Blackburn, Lancashire, England, BB1 2HT (“the **Trust**”)
- (2) **THE SECRETARY OF STATE FOR EDUCATION** c/o Department for Education, 5th Floor, Sanctuary Buildings, Great Smith Street, London SW1P 3BT (“**SofS**”)
- (3) **THE COUNCIL OF THE CITY OF MANCHESTER** of PO Box 532, Town Hall, Albert Square, Manchester, M60 2LA (“the **Council**”)
- (4) **MANCHESTER ACTIVE LIMITED** a company limited by guarantee registered with company number 03747112 whose registered office is situated at PO Box 532, Town Hall, Albert Square, Manchester, M60 2LA (“**MCRactive**”)

- 1.1 The Council owns the Site (as defined below), is the local education authority for the area and the local planning authority.
- 1.2 The Trust wishes to construct and operate the School (as defined below).
- 1.3 The Council has entered into an Agreement for Lease (**AfL**) with the SofS and the Trust. Subject to certain condition precedents being met, the Council will grant a 125-year peppercorn lease of the Site to the SofS (**Lease**). One of the condition precedents is that the Trust obtains planning permission for a new build 420 place primary school upon terms acceptable to the Trust and SofS.
- 1.4 The Trust will apply for planning permission subject to obtaining the SofS's prior consent to the planning application. Where the Trust is in breach of its obligations in relation to submission of the planning application and/or obtaining satisfactory planning permission, the SofS may at its discretion elect to pursue a satisfactory planning permission instead of the Trust. The long-stop date for the satisfaction of this planning condition precedent will be 24 months from the date the planning application is submitted.
- 1.5 The Lease will be assignable on the terms set out in the AfL. The Lease will be granted before the main construction works begin and the intention is that Trust will procure the construction works on the Site. The works will include the

construction of a Batting Enclosure including two cricket wicket and nets as part of the development. Following completion of these works, the Trust will occupy and operate the School from the Site in accordance with the terms of the Lease and take an assignment of the Lease from the SofS.

- 1.6 The Council has responsibility for the provision of sports facilities in the Manchester area for use by and for the benefit of the community and has identified that there is a lack of cricket provision within the community. Consequently, it is also a condition precedent that the Tenant (as defined below) of the Lease shall enter into a Community Access Agreement to provide managed access for community groups to use the Batting Enclosure outside normal school hours during weekdays and weekends at times to be agreed between the parties.
- 1.7 The parties wish to enter into this Agreement in order to set out the terms on which the Batting Enclosure at the School shall be made available outside Core Educational Hours for use by local community groups.
- 1.8 The Parties wish to ensure that the costs of operating the Batting Enclosure will be fully covered by income from such use.

2. Definitions and Interpretation

In this Agreement the following words or phrases have the corresponding meanings ascribed to them unless the context otherwise requires:

Batting Enclosure	means the Batting Enclosure identified in Schedule 2 to this Agreement forming part of the Site
Community Use	means use of the Batting Enclosure by organised community sports clubs and organisations and for Casual Use.
Core Educational Hours	means 7.30am to 6pm on School Days.
Casual Use	means availability for any individual(s) or groups to book the Batting Enclosure up to <i>[insert number]</i> days in advance for use on a pay-as-you-play basis, where space is available.

[Development	means <i>[insert description of the development]</i> for which Planning Permission has been granted.]
Management Committee	means the management committee as defined in clause 7.1 of this Agreement.
Parties	means the parties to this Agreement.
Plan	means the plan of the Site as annexed at Schedule 1 of this Agreement.
[Planning Permission	means planning permission (reference <i>[XXX]</i>) granted by the Council on <i>[XXX]</i>
Priority Groups	means those groups identified by the Parties as being underrepresented for the particular activity engaged in.
School	means the new free school, The Olive School, Manchester, which is intended to be built at the Site.
School Days	means Monday to Fridays inclusive during a School Term.
School Term	means the terms published by the School in each academic year
Site	means the land bound by Taverton Drive, Heywood Street and Brentfield Avenue part of Title Number GM846264 shown edged red on the Plan 1, as shown in the Plan.
Tenant	means the Secretary of State for Education and the Trust subject to the conditions precedent (as referred to at Recital 1.3 and 1.5) being met.

3. AimsThe Parties agree to pursue the following aims: *[NB amend as appropriate]*

- Providing access to the Batting Enclosure to the local community and sports organisations to participate in sport and physical activity for health improvement and development of their skills, particularly amongst low participant groups;
- For access to be affordable and for a sinking funding and lifecycle and maintenance costs of the Batting Enclosure to be self-financing;

4. Arrangements for Community Use

The [SofS and the] Trust agree[s] to make the Batting Enclosure available for Community Use outside Core Educational Hours in accordance with the provisions of Schedule 2 to this Agreement.

5. Targets for Community Use

The Trust shall offer the Batting Enclosure to MCRactive outside Core Educational Hours to achieve community use targets in line with appropriate sports development strategies.

6. Marketing and Promotion

The Trust will support MCRactive who will be responsible for marketing and promoting the use of the Batting Enclosure in accordance with this agreement and the agreed aims and targets. A marketing strategy may be prepared and implemented and reviewed on an annual basis.

7. Management

- 7.1 A Management Committee will be established within 3 months of the date of this Agreement to manage Community Use of the Batting Enclosure in accordance with the terms of reference and constitution of Schedule 3 to this Agreement.
- 7.2 Membership shall include representative(s) (or their nominee) from each of the following: -

- (a) The Trust¹
- (b) The Council
- (c) MCRactive

7.3 Under these terms of reference, the Management Committee will, in accordance with this Agreement, seek to establish a practical policy framework for the management and operation of the Batting Enclosure during agreed periods of Community Use. This framework should seek to enable:

- (a) a policy of affordable pricing to assist in the achievement of the aims of this Agreement. The policy will ensure that prices shall be no greater than similar local authority run facilities in the area;
- (b) the promotion and forward planning of development activities, at times which best suit the target groups;
- (c) equal opportunities of access;
- (d) an easy and accessible booking arrangement for Casual Use and block booking, this system to be reviewed on an annual basis;
- (e) an appropriate marketing strategy for the marketing of the Batting Enclosure for Community Use.

7.4 The Trust will be responsible for the Batting Enclosure and shall:-

- (a) offer controlled but unmanaged access on the occasions and times specified in Schedule 2
- (b) notify the Management Committee of any damage to the batting enclosure after each period of Community Use
- (c) propose an annual maintenance budget for the Batting Enclosure
- (d) where the agreed maintenance budget allows ensure that the Batting Enclosure continues to offer reasonable access for disabled users;

¹ To be the most appropriate person(s), such as Governor, Head Teacher, Head of PE.

- (e) cover the cost rates and taxes that may be attributable to the use of the Batting Enclosure;
- (f) arrange public liability and [property all risk insurance] (where available on reasonable rates and terms) to cover use and damage to the Batting Enclosure when in community use.

Commented [STAR1]: To check what levels of insurance would be available

8. Financial Matters

8.1 The costs of operating the Community Use at the Batting Enclosure will be fully covered by income from such use including:

- (a) a [fully funded contingency or sinking fund] for major maintenance, repairs and ultimately renewal of fixed life elements of the Batting Enclosure

Commented [STAR2]: This may need to be from the £420k and the responsibility of MCC

9. Monitoring and Review

- 9.1 MCRactive and the Trust shall prepare an annual report detailing all usage, bookings, maintenance and financial matters relating to the Community Use of the Batting Enclosure to assist with the continuation of community access.
- 9.2 The Trust shall not materially reduce the level of community access to the Batting Enclosure required by the condition precedent of the AfL as referred to at Recital 1.5 (**Condition Precedent**) without the prior written approval of the local planning authority following consultation with Sport England whose consent and approval should not be unreasonably withheld or delayed.

10. Duration of Agreement

This Agreement shall operate for so long as the Batting Enclosure is provided in accordance with the [Condition Precedent (as referred to at clause 9.6) or any subsequent] planning permission [granted in respect of the same]. In the event the School should cease the Parties agree to make every effort to secure the continued operation of the Batting Enclosure for Community Use.

11. Authority

The Parties warrant that they have the full right and authority to enter into this Agreement.

12. No Variations

This Agreement may only be varied in writing by a document executed by all the Parties hereto.

13. No Agency

Nothing in this Agreement shall be construed as creating a partnership, a joint venture, a contract of employment or a relationship of principal and agent between the parties hereto.

14. Severability

If any term condition or provision contained in this Agreement shall be held to be invalid unlawful or unenforceable to any extent such term condition or provision shall (save where it goes to the root of this Agreement) not affect the validity legality or enforceability of the remaining parts of this Agreement.

15. Waiver

No term or provision of this Agreement shall be considered as waived by any party to this Agreement unless a waiver is given in writing by that party.

16. Non-Assignability

This Agreement is personal to the parties and none of them shall assign sub-contract or otherwise deal with their rights or obligations without the prior written consent of the others.

17. Governing Law and Jurisdiction

This Agreement shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

Schedule 1 – the Plan

Schedule 2 -Batting Enclosure and Arrangements for Community Use

Batting Enclosure:

The facilities to be made available for Community Use shall comprise the following (as shown edged red on the attached plan: -

Batting Enclosure incorporating two associated cricket wickets nets, lockable access gate and perimeter fencing.

Arrangements for Community Use

1. Users

The Batting Enclosure shall be for Community Use.

2. Hours of Access

Access will be permitted outside of Core Educational Hours for evenings up to a minimum of one hour before sunset as the facilities are not floodlit.

TERM-TIME - The hours of maximum potential use during term time are as follows:

Community Use	Mon - Thurs: 18:00 - 20:00
	Fri: 18:00 - 20:00
	Sat : 10:00- 18:00
	Sun: 10:00– 13:00

SCHOOL HOLIDAYS

Community Use	Mon - Sun inc. public holidays: 10:00 – 15:00
---------------	---

[Subject to the School providing appropriate justification to the management committee, the School may restrict the use of the areas when they are in need of lifecycle replacement or planned maintenance and or are deemed unsafe for use.]

3. Pricing

A policy of affordable pricing shall apply to maximise Community Use and in accordance with the aims of this Agreement. Prices shall be no greater than for similar local authority run facilities in Manchester and that are managed under very similar financial terms.

[Insert details of pricing or benchmark prices]

4. Booking arrangements

4.1 An easy and accessible advance booking arrangement for Community Use and block bookings shall be established for use of the Batting Enclosure using a standard booking form including damage protection deposits or indemnities provided by users.

4.2 The agreed booking arrangements shall operate as follows: -

[Describe intended booking arrangements for the Batting Enclosure. Management Committee to finalise booking arrangements after the first management meeting]

Schedule 3 – Management Committee

Management Committee - Terms of Reference and Constitution [*amend as required*]

1. Purpose

- (a) To manage usage and financial viability and to provide regular reports.
- (b) To ensure effective partnership working between the organisations involved in school community use.
- (c) To determine strategies for future developments in Community Use.

2. Officers

The Chair shall have the following roles:

- Role of Chair:
 - To direct and control the meetings of the committee.
 - To cast a further vote if necessary to resolve any tied decision(s).
 - To represent the committee at other meetings and functions as necessary.

A Secretary will be elected by the full committee at the first meeting of each financial year (April to March) and will serve for one full year.

- Role of Secretary:
 - To compile and maintain minutes of all meetings.
 - To compile and issue agendas for meetings in timely fashion.
 - To take care of all communications to and from the committee.

3. Operation

- (a) The full committee will convene at least [*insert number*] per annum. Additional meetings will be held as considered necessary by a simple majority of members.

- (b) The Trust will resolve day to day issues. Whilst the Trust has full authority for any decisions they must adhere to the policy framework established by the full committee.
- (c) Day to day operation will be the responsibility of the Trust.
- (d) Sub-groups/committees may be formed by the Management Committee if considered necessary or desirable.

4. Reporting

- (a) Minutes of committee meetings will be maintained.
- (b) A formal annual report, as set out in clause 9 of this Agreement, will be issued to cover policy, financial and sports development matters.
- (c) Other specific reports requested by other committee members when possible.

IN WITNESS whereof the hands of the parties or their duly authorised representatives
the day and year first above written.

Signed by

Duly authorised by the **TRUST**

Signed by

Duly authorised by the **SECRETARY OF STATE FOR EDUCATION**

**THE COMMON SEAL OF
MANCHESTER CITY COUNCIL**
Was hereto affixed in the presence of

Authorised Signatory.....

Signed by

Duly authorised by **MANCHESTER ACTIVE LIMITED**