

DATED 25 August 2017

HENRY HINDE SCHOOL (1)

and

TRANSFORMING LIVES EDUCATIONAL TRUST (2)

TRANSFER AGREEMENT

for the transfer of Henry Hinde Infant School

brownejacobson

Browne Jacobson LLP
Victoria Square House
Victoria Square
Birmingham
B2 4BU

Telephone: 0121 237 3900

DATE

25 August

2017

BETWEEN:

- (1) **HENRY HINDE SCHOOL**, a charitable company incorporated in England and Wales with registered company number 07988497 whose registered address is c/o Henry Hinde School, Grenville Close, Bilton, Rugby, Warwickshire, CV22 7JQ ("Transferor"); and
- (2) **TRANSFORMING LIVES EDUCATIONAL TRUST**, a charitable company incorporated in England and Wales with registered company number 07515832 whose registered address is c/o Ashlawn School, Ashlawn Road, Rugby, Warwickshire, CV22 5ET ("Transferee").

WHEREAS

- (A) The Transferor is an academy trust which operates and is the proprietor of Henry Hinde School.
- (B) The Transferor has agreed to transfer all assets, contracts and staff including those used by or employed at Henry Hinde School to the Transferee with effect from the Transfer Date on the terms and conditions of this Agreement.

1. INTERPRETATION

1.1 In this Agreement the following words shall have the following meanings:

"Academy"	means Henry Hinde School established at Henry Hinde School, Grenville Close, Bilton, Rugby, Warwickshire, CV22 7JQ and operated by the Transferor immediately prior to the Transfer Date pursuant to a funding agreement with the Secretary of State;
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"Academy Employees"	means those employees of the Transferor who are wholly assigned to the Academy and listed in
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the Employee Schedule;

“Academy Premises”

means the leasehold premises occupied by the Transferor in order to operate the Academy a Henry Hinde School, Grenville Close, Bilton, Rugby, Warwickshire, CV22 7JQ ;

“Administering Authority”

means a body listed in Part 1 of Schedule 3 of the LGPS Regulations 2013 which is required to hold a fund for the purposes of those Regulations;

“Agreed Form”

means in the form agreed and initialled by or on behalf of the parties;

“Assets”

means all property, undertaking, rights and assets, whether tangible or intangible, of whatever nature used or held by the Transferor for the purposes of operating the Academy and including:

- a. any other asset, equipment, furniture, fixtures and fittings situated at the Academy Premises which is under the undisputed sole control and ownership of the Transferor or any other asset purchased with restricted or unrestricted Academy funding or donations;
- b. all rights of the Transferor in respect of computer software used for the purposes of the Academy whether granted by licence or otherwise (to the extent only that such software can be transferred without the consent of the software provider);

- c. the debtors of the Transferor in respect of the Academy (whether invoiced or not);
- d. all of the Transferor's cash in hand or at the bank;
- e. the IPR;
- f. the Teaching Materials together with, to the extent the Transferor owns IPR in the Teaching Materials, IPR in the Teaching Materials;
- g. the Domain Names;

“Assumed Liabilities”

all debts, liabilities and obligations of any nature of the Transferor including those relating to the Academy and/or the Assets, including for the avoidance of doubt relating to the funding agreement entered into by the Secretary of State for Education and the transferor and varied by the Deed of Novation and Variation, whether actual or contingent, which are due or outstanding on or have accrued on or after the Transfer Date, but excluding the Excluded Liabilities;

“Business Information”

all information know-how and technique (whether or not confidential and whatever form held) which in any way relate to any of the following:

- a. all or any part of the Assets; and
- b. operations, management, administration or financial affairs of the Transferor

(including any accounts, business plans or forecasts, information relating to further business development or planning and information relating to litigation or legal advice);

“Completion”

means completion of the transfer of the Assets and Assumed Liabilities from the Transferor to the Transferee in accordance with this Agreement;

“Contractor”

means a contractor providing services to the Transferee to whom the contract of employment of any Transferring Employee is transferred pursuant to the Regulations on or after the Transfer Date;

“Contracts”

means the contracts entered into by the Transferor including those exclusively for the purpose of operating the Academy in the ordinary course of business which are still in force at the Transfer Date including, but not limited to those listed in Schedule 2; but excluding the contracts with the Transferring Employees and any contract of insurance for the benefit of directors and officers of the Transferor.

“Data Protection Legislation”

means the Data Protection Act 1998 (“DPA”), and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable, the guidance and codes of practice issued by the Information Commissioner;

“Deed of Novation and Variation”

means the deed of novation and variation entered into by the Transferor, the Transferee

and the Secretary of State to novate the Funding Agreement Academy to the Transferee and coming into effect on the Transfer Date;

“Directive” means the Safeguarding of Employees Directive (2001/23/EC) (as amended, re-enacted or extended from time to time);

“Disclosed” means fairly disclosed in writing to the Transferee with sufficient detail to identify the nature and scope of the matter disclosed by the earlier of the date of this Agreement or seven days prior to the Transfer Date;

“Domain Names” means the following domain name(s) owned by the Transferor and used in relation to the Academy:
<http://www.henryhindeinfantschool.co.uk/>

“Eligible Employees” means the Transferring Employees who are active members of or eligible to join either the LGPS or the TPS immediately before the Transfer Date;

“Employee Liability Information” means the information which a transferor is obliged to notify to a transferee pursuant to Regulation 11(2) of the Regulations;

“Employee Schedule” means a list of all Academy Employees as at the date that the list is provided to the Transferee;

“Encumbrance” means any mortgage, charge, pledge, lien, equity, option, restriction, right of refusal, right of pre-emption, third party right or interest, any other encumbrance or security interest of any

kind, and any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect;

“Excluded Liabilities”

means all liabilities of the Transferor (if any) arising as a result of any act or omission of any of the directors, which was either criminal in its nature or which the directors knew, or recklessly disregarded whether it was to be a breach of trust or not, which for the avoidance of doubt shall exclude any successfully defended claim of such;

“Funding Agreement”

means the funding agreement relating to the Academy entered into between the Secretary of State and the Transferee on 27 March 2012, which shall be novated and varied pursuant to the terms of the Deed of Novation and Variation;

“Intellectual Property Rights” or “IPR”

means intellectual property rights whether registered or not, including any patents, copyright and design rights, trademarks, service marks, database rights, Domain Names, rights in passing-off and know-how wholly or mainly associated with the Academy;

“LGPS”

means a Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under Sections 7 and 12 of the Superannuation Act 1972 as from time to time amended;

“Loss”

means all costs, claims, liabilities and expenses (including reasonable legal expenses) including without limitation any losses, liabilities or costs incurred as a result of defending or settling a

claim alleging such a liability and “Losses” shall be construed accordingly;

“Personnel Files”	means in respect of the Transferring Employees copies of all personnel files or records relating to their employment at the Academy, including without limitation a copy of any contractual documentation, any documentation relating to job description, pay information, training records, information relating to sickness absence, a copy of any disciplinary warnings and a copy of any grievances;
“Pupil Records”	means the records and information held by the Transferor in respect of the pupils at the Academy;
“Regulations”	means The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended or re-enacted from time to time);
“Secretary of State”	means the Secretary of State for Education acting if relevant through either the Department for Education or the Education Funding Agency (or any successor bodies);
“Staffing Information”	means, in respect of the Academy Employees, the information listed in Schedule 1;
“Teaching Materials”	means resources or methodologies developed and used by the Academy’s Employees in the course of educating pupils at the Academy;
“TPS”	means the Teachers’ Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under

sections 9 and 12 of and Schedule 3 to the Superannuation Act 1972 as from time to time amended;

“Transfer Date” means 00.01 on 1 September 2017;

“Transferring Balance” means the sum to be paid by the Transferor to the Transferee pursuant to clause 9;

“Transferring Employees” means any Academy Employees whose employment transfers to the Transferee or to a Contractor on the Transfer Date pursuant to the Regulations and who are listed in the Employee Schedule.

1.2 In this Agreement (except where the context otherwise requires):

1.2.1 use of the singular includes the plural (and *vice versa*) and use of any gender includes the other genders;

1.2.2 a reference to a party is to a party to this Agreement and shall include that party's personal representatives, successors or permitted assignees;

1.2.3 a reference to persons includes natural persons, firms, partnerships, bodies corporate and corporations, and associations, organisations, governments, states, foundations, trusts and other unincorporated bodies (in each case whether or not having separate legal personality and irrespective of their jurisdiction of origin, incorporation or residence); and

1.2.4 a reference to a Clause or Schedule is to the relevant clause of or schedule to this Agreement; a reference to a sub-clause or paragraph is to the relevant sub-clause or paragraph of the Clause or Schedule in which it appears.

- 1.3 The Schedules form an integral part of this Agreement and have effect as if set out in full in the body of this Agreement. A reference to this Agreement includes the Schedules.
- 1.4 In the event of any conflict or inconsistency between the Clauses and the Schedules of this Agreement, the Clauses shall prevail.
- 1.5 General words are not to be given a restrictive meaning because they are followed by particular examples, and any words introduced by the terms "including", "include", "in particular" or any similar expression will be construed as illustrative and the words following any of those terms will not limit the sense of the words preceding those terms.
- 1.6 Any reference to a statute, statutory provision or statutory instrument includes a reference to that statute, statutory provision or statutory instrument together with all rules and regulations made under it as from time to time amended, consolidated or re-enacted.

2. CONDITION PRECEDENT

This Agreement is conditional on the Deed of Novation and Variation being signed by the parties and the Secretary of State and being effective on or by the Transfer Date. If the Deed of Novation and Variation is not effective on or by the Transfer Date then this Agreement will not come into effect.

3. TRANSFER

- 3.1 In consideration of the Transferee assuming responsibility for the Assumed Liabilities, with effect from the Transfer Date the Transferor transfers to the Transferee in accordance with the terms of this Agreement the Academy as a going concern together with:

3.1.1 the Assets (subject in each case to all Encumbrances);

3.1.2 the Contracts;

3.1.3 the Transferring Employees; and

3.1.4 the Academy Premises,

subject to any Encumbrance which the Transferor shall use all reasonable endeavours to Disclose to the Transferee in writing prior to the date of this Agreement, and with all accrued benefits and rights attaching to them with effect from the Transfer Date, on which date all risk in and benefits attaching to them shall pass to the Transferee.

3.2 The Transferee with effect from the Transfer Date:

3.2.1 Assumes responsibility for and will pay, satisfy or perform the Assumed Liabilities;

3.2.2 Pay, satisfy or discharge all debts, liabilities and obligations incurred by the Transferee including those in connection with the Academy arising after the Transfer Date; and

3.2.3 shall have responsibility for the operation of the Academy from (and including) the Transfer Date and the Transferor shall have no further obligation in terms of the operation of the Academy from (and including) the Transfer Date.

4. COMPLETION

4.1 The Excluded Liabilities shall be excluded from the transfer under this Agreement.

4.2 The Transferor shall on or before the Transfer Date deliver to the Transferee the Personnel Files and the Pupil Records, to the extent that they are permitted to do so by Data Protection Legislation (and the Transferor shall use reasonable endeavours to ensure that it is permitted by Data Protection Legislation to deliver such information to the Transferee).

4.3 The Transferee undertakes not to use the Personnel Files or the Pupil Records for any purposes unconnected with the operation and management of the Academy, the purposes for which such information was originally collected or any other lawful purposes.

- 4.4 The Transferor agrees that it will continue in its corporate existence, shall not pass a resolution for the winding up or striking off of the Transferor or present any petition for its administration or liquidation before the earlier of 1 March 2017 after the completion of the actions detailed at clause 4.5.
- 4.5 The Transferee agrees to indemnify the Transferor and its directors in respect of:
- 4.5.1 the costs of winding up and/or closing down the Transferor and removing the Transferor from the register at Companies House, subject to the Transferor obtaining the prior written approval of the Transferee (such approval not to be unreasonably withheld or delayed) prior to incurring any such costs; and
 - 4.5.2 any ongoing company law obligations whilst the Transferor remains a registered company, subject to the Transferor and its directors acting in good faith and to the best of the Transferor's directors' reasonable knowledge and belief and in compliance with their statutory duties.
- 4.6 The Transferor shall, with effect from the Transfer Date, assign to the order of the Transferee, the benefit of all warranties, undertakings and indemnities given to the Transferor in accordance with the terms of the Commercial Transfer Agreement dated 30 March 2012 between Warwickshire County Council, The Governing Body of Henry Hinde Infant School and the Transferor.
- 4.7 As soon as practicable after Completion, the parties' shall issue a statement in the Agreed Form to the parents of pupils at the Academy informing them of the transfer of the management of the Academy to the Transferee.

5. THE ACADEMY EMPLOYEES

- 5.1 The parties intend and acknowledge that the transfer of the Assets pursuant to this Agreement shall constitute a transfer to which the Directive and the Regulations apply and agree that as a consequence that the contracts of employment made between the Transferor and the Transferring Employees (save insofar as such contracts relate to benefits for old age, invalidity or survivors under any occupational pension scheme) shall have effect from and after the Transfer Date as if originally made between the Transferee (or as the case may be a Contractor) and the Transferring Employees.

5.2 The Transferee shall comply (and shall procure that any Contractor complies) with its obligations under Regulation 13 of the Regulations during the period prior to the Transfer Date.

5.3 The Transferor shall comply with its obligations under Regulations 13 and 14 of the Regulations during the period prior to the Transfer Date, save where the Transferor is unable to do so as a result of the failure of the Transferee and/or any Contractor to comply with their duties under Regulation 13 of the Regulations.

6. PROVISION OF STAFFING INFORMATION AND WARRANTIES

6.1 Without prejudice to its obligation pursuant to the Regulations to provide the Employee Liability Information, the Transferor has, on or before the date 28 days before the Transfer Date, to the extent lawfully permitted, provided the Transferee with the Employee Schedule and Staffing Information.

6.2 The Transferor shall on or before the Transfer Date notify the Transferee of any material change to the Employee Schedule and the Staffing Information as soon as is reasonably practicable, and shall upon request by the Transferee meet the Transferee to discuss the information Disclosed.

6.3 The Transferor warrants as at the Transfer Date, but shall not be liable for any Losses in respect of the same, that save as Disclosed and in so far as it is aware having made due and careful enquiries:

6.3.1 that the information in the Employee Schedule and the Staffing Information shall be complete and accurate and kept up-to-date;

6.3.2 that it is not in material breach of the contract of employment of any of the Academy Employees nor is any Academy Employee in material breach of his contract of employment;

- 6.3.3 that none of the Academy Employees have given or received notice of termination of employment nor are any of the Academy Employees the subject of any disciplinary action nor is any Academy Employee engaged in any grievance procedure; and
 - 6.3.4 that it is not engaged in relation to any Academy Employee 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;
 - 6.3.5 that all Academy Employees who carry out teaching are eligible to do so in accordance with the Education (Specified Work and Registration) (England) Regulations 2003; and
 - 6.3.6 that by the Transfer Date all Transferring Employees will have been checked through the statutory Disclosure and Barring Service (or any statutory replacement of the same);
 - 6.3.7 no facts or circumstances exist would lead to a claim or demand by any Academy Employee or former Academy Employee (whether in contract, tort, under statute, pursuant to European law or otherwise) including any claim for unfair dismissal, wrongful dismissal, a redundancy payment, breach of contract, unlawful deduction from wages, discrimination on the grounds of sex, race, disability, age, sexual orientation, religion or religious belief, personal injury, a protective award or a claim or demand of any other nature as a direct or indirect result of the act or omission of the Transferor.
- 6.4 The Transferor undertakes to the Transferee that during the period from the date of this Agreement up to and including the Transfer Date:
- 6.4.1 the Transferor shall enable and assist the Transferee and such other persons as the Transferee may determine to communicate with and

meet the Academy Employees and their trade union or other employee representatives;

6.4.2 the Transferor shall not (and shall instruct senior management at the Academy to refrain from) without the prior written consent of the Transferee:

- (a) amend or vary (or purport or promise to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay and job description) of any of the Academy Employees (other than where such amendment or variation has previously been agreed between the Transferor and the Academy Employees in the normal course of business, and where any such amendment or variation is not in any way related to the transfer to the Transferee);
- (b) terminate or give notice to terminate the employment or engagement of any of the Academy Employees (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
- (c) employ or assign any person to the Academy who would or might as a consequence of such employment or assignment become a Transferring Employee.

7. PENSIONS

7.1 The parties acknowledge that the Transferee is a “scheme employer” for the purposes of the Local Government Pension Scheme Regulations 2013 (“**the LGPS Regulations**” which expression shall include any regulations amending or replacing the regulations from time to time) and that the LGPS Regulations shall apply to the Transferee (as the person carrying on the business of the Academy).

- 7.2 The parties acknowledge that the Transferee shall be the “employer” for the purposes of the Teachers’ Pension Scheme Regulations 2014 (“the **TPS Regulations**” which expression shall include any regulations amending or replacing the regulations from time to time) and that the TPS Regulations shall apply to the Transferee (as the person carrying on the business of the Academy).
- 7.3 The Transferee acknowledges that the Eligible Employees shall be or, as the case may be, remain, eligible for membership of the LGPS or the TPS (as the case may be) while employed at the Academy following the Transfer Date subject to the terms of the LGPS Regulations and the TPS Regulations.
- 7.4 The Transferor shall be responsible for all employer contributions payable to the LGPS and the TPS in respect of the Eligible Employees referable to service up to and including the Transfer Date.
- 7.5 The Transferee shall be responsible for any LGPS deficit of the Transferor relating to the Academy up to and including the Transfer Date.
- 7.6 The Transferee shall:
- 7.6.1 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any of the Eligible Employees;
 - 7.6.2 promptly provide to the Transferor such documents and information which the Transferor may reasonably request in advance of any onward transfer of any person engaged or employed by the Transferee; and
 - 7.6.3 fully co-operate with the reasonable requests of the Transferor relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Transferee.

- 7.7 The Transferee acknowledges that the basis on which the Administering Authority determines the value of either or both of the assets and liabilities to be notionally credited or attributed to the Transferee with effect from or at any valuation after the Transfer Date, is entirely a matter for the Administering Authority acting in accordance with its duties and responsibilities under the LGPS Regulations, and that the Transferor has no influence or obligation to attempt to influence the Administering Authority's decision making in this regard.

8. LIABILITIES & APPORTIONMENTS

- 8.1 The Transferor shall be responsible for all emoluments and outgoings in respect of the Academy Employees (including all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period up to but not including the Transfer Date, and will pay such liabilities in the ordinary course of business prior to the Transfer Date.

- 8.2 The Transferee shall with effect on and from the Transfer Date:

8.2.1 assume responsibility for and pay, satisfy or perform the Assumed Liabilities on behalf of the Transferor; and

8.2.2 pay, satisfy or discharge all debts, liabilities and obligations incurred by the Transferee in connection with the Academy arising after the Transfer Date,

and indemnify the Transferor against Losses in respect of the same.

9. THE ASSETS AND THE CONTRACTS

- 9.1 The Transferor shall assign to the Transferee or procure the assignment to the Transferee of all Contracts.
- 9.2 If any of the Contracts cannot be transferred to the Transferee except by an assignment made with the consent of another party or by an agreement of novation:

- 9.2.1 this Agreement shall not constitute an assignment or an attempted assignment of the Contract if the assignment or attempted assignment would constitute a breach of the Contract;
- 9.2.2 after the Transfer Date, the parties shall use their respective reasonable endeavours at the expense of the Transferee to obtain the consent of the other party to the assignment, or to procure the novation, of the Contract; and
- 9.2.3 until the consent or novation is obtained or until the Transferor is wound up (whichever is the earlier):
- (a) the Transferor shall hold the same on trust for the Transferee and shall (at the Transferee's cost) do all such acts and things as the Transferee may reasonably require to enable due performance of the Contract and to provide for the Transferee the benefits of the Contract (including enforcement of any right of the Transferor against the other party to the Contract arising out of its termination by the other party or otherwise);
 - (b) the Transferee shall (if sub-contracting is permissible and lawful under the Contract in question), as the Transferor's sub-contractor, perform all the obligations of the Transferor under such Contract and where sub-contracting is not permissible, the Transferee shall perform such obligations as agent for the Transferor;
 - (c) the Transferor shall not take any action in respect of any such Contract without the prior written consent of the Transferee (such consent not to be unreasonably withheld or delayed); and
 - (d) unless and until any such contract is assigned or novated, the Transferor shall (so far as it lawfully may) at the Transferee's cost give all such assistance as the Transferee may reasonably

require to enable the Transferee to enforce its rights under such Contract, including, providing access to all relevant books, documents and other information in relation to such Contract as the Transferee may reasonably require from time to time,

9.3 Pending the Transfer Date, possession of the Assets shall be retained by the Transferor.

9.4 All receipts relating to the Assets and the Contracts received by either the Transferor or Transferee from and including the Transfer Date shall belong to the Transferee.

10. GENERAL WARRANTIES

10.1 The Transferor warrants to the Transferee, but shall not be liable for any Losses in respect of the same, that so far as the Transferor is aware, unless Disclosed in writing to the Transferee:

10.1.1 having regard to the purpose for which the management accounts dated 17 November 2016 were prepared, they are not misleading in any material respect and neither materially overstate the value of the assets nor materially understate the liabilities of the Transferor as at the date to which they were drawn up;

10.1.2 it has at all times conducted the Academy in accordance with, and has acted in compliance with all applicable laws and regulations;

10.1.3 neither it nor any third party is in material breach of any of the Contracts;

10.1.4 it is not engaged in any dispute, claim or legal proceedings, arising under contract or common law or arising out of or relating to any statute in relation to the Academy, any Asset, any Contract or the Academy Premises;

10.1.5 there has been no material claim, complaint or regulatory investigation relating to the Academy that has occurred during the 12 months preceding the date of this Agreement.

11. CONFIDENTIALITY

11.1 Each party undertakes to the other that it will keep the contents of this Agreement confidential as between the parties and the Secretary of State except to the extent that disclosure is required by law, by regulatory body, provided to professional advisers or otherwise in the public domain (otherwise than through an unauthorised breach of this obligation).

11.2 No announcements about the transactions contemplated by this Agreement or any matter ancillary to them and no disclosure of the terms of this or any related Agreement shall unless it is a legal requirement to do so be made by any party except with the prior written consent of the other party.

12. THIRD PARTIES

No person who is not a party to this Agreement is intended to reserve a benefit under, or be entitled to enforce, this Agreement pursuant to the Contracts (Rights of Third parties) Act 1999 (the “Act”) save that any Contractor or director (or previous director) of the Transferor may enjoy the benefit and enforce the terms of this Agreement in accordance with the Act. Notwithstanding this, neither the Transferor nor the Transferee require the consent of any Contractor to rescind or vary this Agreement at any time, even if that variation or rescission affects the benefits conferred on such Contractor.

13. GENERAL

13.1 No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

- 13.2 No variation of this Agreement will be valid unless recorded in writing and signed by or on behalf of each of the parties to this Agreement.
- 13.3 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid or illegal, the other provisions will remain unaffected and in force.
- 13.4 Nothing in this Agreement will be construed as constituting or evidencing any partnership, contract of employment or joint venture of any kind between either of the parties or as authorising either party to act as agent for the other. Neither party will have authority to make representations for, act in the name or on behalf of or otherwise to bind the other party in any way.
- 13.5 Each party will, at the request of the other party and its own cost, do (or procure others to do) everything necessary to give the other party the full benefit of this Agreement.
- 13.6 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first class or recorded delivery or by commercial courier, to each party required to receive the notice at the addresses specified by the relevant party by written notice to the other (and if no such address is specified), the address set out at the front of this Agreement.
- 13.7 Any notice shall be deemed to have been duly received:
- 13.7.1 if delivered personally, when left at the address and for the contract referred to in this Clause; or
- 13.7.2 if sent by pre-paid first class post or recorded delivery, at 9.00 a.m. on the second business day after posting; or
- 13.7.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

- 13.8 Warranties qualified by the expression **so far as the Transferor is aware** (or any similar expression) are deemed to be given to the best of the knowledge, information and belief of the Transferor after it has made due and careful enquiries.
- 13.9 A notice required to be given under this Agreement shall not be validly given if sent by email.
- 13.10 This Agreement may be executed in any number of counterparts, each of which will be an original and all of which will together constitute a single agreement.
- 13.11 Each party shall bear its own costs and expenses (including legal fees) in relation to the preparation and execution of this Agreement.
- 13.12 This Agreement constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in and supersedes any previous agreement between the parties.
- 13.13 Each of the parties acknowledge and agrees that in entering into this Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.


14. GOVERNING LAW AND JURISDICTION

- 14.1 This Agreement will be governed by and interpreted in accordance with the law of England and Wales.
- 14.2 Each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Agreement.

IN WITNESS of which the parties or their duly authorised representatives have executed this agreement as a Deed on the date first written above.

EXECUTED AS A DEED by

HENRY HINDE SCHOOL acting by,


Director

a director, in the presence of:

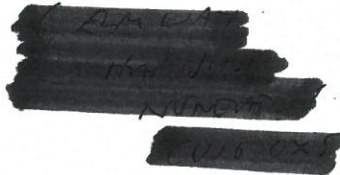
Signature of witness:



Witness' name:

ANDREW NICHOLLS


Witness' address:



EXECUTED AS A DEED by

TRANSFORMING LIVES
EDUCATIONAL TRUST

acting by,


Director

a director, in the presence of:

Signature of witness:



Witness' name:

ANDREW NICHOLLS

Witness' address:



1. The first part of the document is a list of the names of the persons who were present at the meeting. The names are listed in alphabetical order.

2. The second part of the document is a list of the names of the persons who were present at the meeting. The names are listed in alphabetical order.

- (b) redeployment procedures;
- (c) sickness absence and sick pay entitlements;
- (d) equal opportunities;
- (e) disciplinary matters;
- (f) maternity rights;

and details of whether or not each of the above are discretionary or contractual.

1.5 Copies of any job descriptions.

1.6 Details of any practices or customs which although not written down form part of employees' terms and conditions of employment.

2. **Collective bargaining**

2.1 Details of the names of all trade union and other employee representatives, with the name of the trade union, the position held and how long the position was held.

2.2 Details of any trade union recognised by the Transferor, giving the date and details of the recognition agreement (and a copy if available), with brief details of current and historic labour relations and any pending negotiations.

2.3 Details of any other agreement, whether school, local or national, with any trade union or other body of employee representatives (and copies if available) including any informal recognition and procedure arrangements and other arrangements honoured by "custom and practice".

2.4 Details of which, if any, of the terms of any collective agreement form part of individuals' terms and conditions of employment.

3. **Disputes**

3.1 Details of any dispute with any employee whether brought under the Transferor's disciplinary or grievance procedure or otherwise and any matters which might give rise to such.

- 3.2 Details of any litigation threatened or pending against the Transferor, including any court, employment tribunal or arbitration claims or any matters which might give rise to such.
- 3.3 Details of any enquiry, correspondence or contact between the Transferor and the Equality and Human Rights Commission, the Health and Safety Inspector and HM Revenue and Customs concerning employees.
- 3.4 Details of any court judgment or current employment tribunal award in respect of any employee dispute.
- 3.5 Details, and, if available, copies, of any warnings given to employees under the Transferor's disciplinary or capability procedures.
- 4. **Dismissals**
 - 4.1 Details of all dismissals/resignations within the last 12 months including reasons for the dismissal/resignation.
 - 4.2 Details of all employees recruited within the last 12 months.
- 5. **Working Time Regulations 1998**
 - 5.1 Copies of any individual, collective and workforce agreements entered into pursuant to the Working Time Regulations.
- 6. **Health and Safety**
 - 6.1 Details of any health and safety committees/representatives.
 - 6.2 Details of any health and safety complaints or recommendations or claims within the last 5 years.

7. Trainees/Consultants

7.1 Details of all individuals in the undertaking working on training, work experience or similar schemes.

7.2 Details of all consultancy agreements or self-employed personnel who are or may actually be employees.

8. Absent employees

8.1 Details of all employees who have notified the Transferor that they are pregnant or who are currently absent on maternity leave.

8.2 Details of all employees on long term sick leave together with confirmation of the nature of their illness and the duration and dates of their absence(s) due to that condition.

9. Job Evaluation Scheme

9.1 A copy of any job evaluation scheme.

10. Contractor Employees

10.1 Details of any individuals employed by contractors working in each Academy.

11. Pension

11.1 A list of all pension schemes (both occupational and personal) applicable to the employees.

11.2 Details of any current or pending applications for early retirement.

SCHEDULE 2

THE CONTRACTS

SCHEDULE 3

TRANSFEROR'S ACTIONS AND OBLIGATIONS AT COMPLETION

1. The Transferor shall deliver, or procure delivery, to the Transferee of, or make available to the Transferee:
 - (a) physical possession of all the Assets capable of passing by delivery, with the intent that title in such Assets shall pass by and upon such delivery;
 - (b) such conveyances, transfers, assignments and novations together with the requisite notices, licenses, documents of title and relevant consents as may be necessary to vest in the Transferee title to all of those Assets which are not transferable by delivery and which will permit the Transferee to enter into and take possession of the Assets, including without limitation:
 - (i) duly executed conveyances, assignments, licenses and other documents in the Agreed Form necessary to vest title in the Academy Premises in, or transfer the freehold of the Academy Premises to, the Transferee;
 - (ii) duly executed agreements in the Agreed Form for the assignment or novation of the benefit of the Contracts and IPR to the Transferee and all requisite notices, consents and licenses therefor;
 - (iii) all such consents as the Transferee may require to vest in the Transferee the full benefit of the Assets;
 - (iv) the title deeds relating to the Academy Premises and all invoices, policies, premiums, receipts, maintenance contracts, health and safety files and other accounts relating to the Academy Premises;
 - (v) all documents of title, certificates, deeds, licences, agreements and other documents relating to the IPR.
 - (c) all national insurance and PAYE records in respect of the Transferring Employees, and all records required to be kept under the Working Time Regulations 1998;

- (d) all documents and other materials and media on which all Business Information is recorded.
 - (e) such irrevocable instructions to the bank(s) of the Transferor as may be necessary to procure the automatic transfer to the Transferee of any payments that may be made for the benefit of the Academy to such bank(s) after the Transfer Date;
 - (f) a copy of the minutes of a meeting of the board of directors of the Transferor authorising the execution by the Transferor of this Agreement and all other documents ancillary to it or the transactions contemplated herein, and appointing the relevant signatory or signatories to execute this Agreement and any such other documents on the Transferor's behalf;
2. With effect from the Transfer Date, the Transferor shall transfer the Domain Names to the Transferee.