

**AMBITIOUS ABOUT AUTISM**

**CHARITY GROUP COLLABORATION AGREEMENT**

between

**(1) Ambitious about Autism**

and

**(2) Ambitious about Autism Schools Trust**

## CHARITY GROUP COLLABORATION AGREEMENT

Date: 2020

### Between:

- 1) **Ambitious about Autism:** Registered Charity Number: 1063184; Registered Company Number: 3375255; Registered Office: Pears National Centre for Autism Education, Woodside Avenue, London N10 3JA ("**the Charity**"); and
- 2) **Ambitious about Autism Schools Trust:** Registered Charity Number: 08335297; A charity exempt from registration: Registered Office: Pears National Centre for Autism Education, Woodside Avenue, London N10 3JA ("**the Trust**")

### Background:

- (A) The Charity (with other partners) established the Trust, under a Collaboration Agreement, dated 18 December 2012 ("*the Trust Establishment Agreement*"), as a closely associated, collaborative charity, to promote the common charitable purposes of the Trust and the Charity, by operating one, or more, schools to meet the needs of children and young people with Autism Spectrum Condition. The first such school was The Rise School ("*the Rise School*").
- (B) This created an arrangement between the Charity and the Trust akin to a charitable, corporate group ("*the Charitable Group*").
- (C) The Trust Establishment Agreement specified: (in Schedule 1) governing and operating principles for the Trust and the Rise School; with (in Schedule 3) assistance and professional supervision, consultancy and curriculum advice from the Charity; and with (in Schedules 2 and 4) services and assistance from former project partners, which are now also the responsibility of the Charity.
- (D) The Trust is a Multi-Academy Trust, regulated by the Department for Education ("*the DfE*") and the Charity has the status of an Academy Sponsor in relation to such regulation ("*MAT Regulation*"). The DfE approved the Trust Establishment Agreement.
- (E) The Charity, generally, has established, specialist capabilities, resources, facilities and services, with which it is able and willing to support the Trust and/or which it is able and willing to share with, or otherwise provide to, the Trust, on preferential terms, or, as far as necessary, or desirable, on fair and reasonable contractual terms.
- (F) The purpose of this Agreement is to set out the framework terms and conditions upon which the Charity and the Trust will collaborate and inter-relate, within the Charitable Group, in the promotion of their common charitable objects.

### It is hereby agreed:

#### 1. Interpretation

In this Agreement the definitions set out in the Heading, Background and **Schedule 4** apply.

#### 2. Group Governance

- 2.1. The Charity and the Trust have agreed, in accordance with the intentions and provisions of the Trust Establishment Agreement, that their common charitable objects may be optimised through a substantial integration of their governance arrangements, within the Charitable Group, subject to due respect for and attention to their respective legal statuses, as

independent charities and the application of appropriate potential conflict of management policies and procedures.

2.2. The principal elements of integrated governance, subject to further written agreement and any contrary resolutions of one, or both, Boards, are:

- a. The Charity is a company member of the Trust, with between two and four individuals as co-company members of the Trust, in compliance with MAT Regulation.
- b. The Boards shall, under their respective powers of delegation, appoint a “Joint Group Board Committee”, which shall comprise all the Trustees of both Charities (“*the Group Committee*”).
- c. There shall be operating principles that, to the optimum extent:
  - decision-making powers of the two Boards shall be delegated to the Group Committee; and
  - further matters shall be referred to the Group Committee, for recommendations to the two Boards.
- d. The Group Committee and the two Boards shall routinely meet on the same day at the same location, to optimise the co-ordination of the procedures of the Group Committee and the two Boards.
- e. The two Boards may, under their respective powers of delegation, appoint joint sub-committees, to report directly to the Group Committee, including: an “Education Committee”, overseeing the governance of the Rise School and the other educational institutions of the Charitable Group; a “Nomination and Remuneration Committee”; and a “Finance and Resources Committee” (to which the Charity’s “Investment Committee” shall report and an Audit Committee.
- f. There shall be three common Trustees, who shall be the individuals holding joint positions as: the chair of both Boards and the Group Committee; the vice-chair of both Boards and the Group Committee; and the Treasurer of both Boards, also acting as chair of the joint Finance and Resources Committee.
- g. A common chief executive and common executive leadership teams, of the charities, on appropriate bases of engagement. They will maintain separation of responsibility, activity and accountability in respect of the two charities, while integrating their responsibilities and activities to the optimum degree.

### **3. Conflict of Interest/loyalty safeguards in relation to Group Governance:**

3.1. The Charities shall ensure due attention is paid, within their overwhelming, public benefit coincidence of interest, to the potential for conflict of interest, or conflict of loyalty, issues to arise.

3.2. In addition to appropriate standard constitutional charity and corporate conflict of interest provisions, the following conflict of interest/loyalty safeguards are in place, or provided for:

- a. A “Company Members’ Agreement”, between the Trust’s company members, explicitly confirming the public benefit roles and responsibilities of company members of the Trust.
- b. Article 27 of the Charity’s Articles of Association requires at least three Trustees of the Charity, who are not also Trustees of the Trust.

- c. Article 45 of the Trust's Articles of Association requires at least a majority of Trustees of the Trust, who are not also Trustees of the Charity.
- d. Article 101 of the Trust's Articles of Association requires at least a majority of Trustees of the Trust on any committee of the Trust (including any joint group committee) with delegated decision-making powers.
- e. Article 102 of the Trust's Articles of Association requires an "Audit Committee" of the Board of the Trust, which is not a joint group committee.

#### **4. Support Services from the Charity to the Trust**

- 4.1. The Charity, as the founder of the Trust, in pursuance of its charitable objects (and in the terms of MAT Regulation, as a founding sponsor of the Trust), subsidized the establishment of the Trust, with a comprehensive package of preferential Support Services of direct and indirect financial value. Such Support Services are summarised in **Schedule 1**.
- 4.2. The Charity, in pursuance of its objects, as a collaborative, charity group corporate associate of the Trust (and in the terms of the MAT Regulations, as a continuing sponsor of the Trust), subsidizes the Trust, with a comprehensive package of preferential ongoing Support Services of direct and indirect financial value. Such Support Services, at the Agreement Date, are summarised in **Schedule 2**.
- 4.3. This Agreement records the principles of such Support Services (subject to contrary written agreement) and provides a framework for further such collaborative support, including through the periodic updating of the content of Schedule 2.

#### **5. Reciprocal support services from the Trust to the Charity**

- 5.1. In principle the Trust may (subject to Clause 5.2), in pursuance of its charitable objects as a collaborative, charity group corporate associate of the Charity provide, to the Charity, reciprocal support services of direct and indirect financial value.
- 5.2. Any reciprocal support services provided by the Trust to the Charity are subject, additionally, to specific, prescriptive MAT Regulation applicable to transactions between connected companies.

#### **6. Grant and Loan Funding**

- 6.1. The Charity may provide grant funding to the Trust, on specified written conditions.
- 6.2. The Charity may (subject to MAT Regulation) provide preferential inter-group loans to the Trust, on specified written terms and conditions, including in relation to preferential interest payments and any appropriate security arrangements, under any agreed debenture.
- 6.3. The Charity reserves the right to charge reasonable, commercial interest on any loans to the Trust, particularly by reference to the extent MAT Regulation requires a non-collaborative relationship between the Charity and the Trust in other respects.

#### **7. Premises**

- 7.1. The Charity may (subject to MAT Regulation) provide premises to the Trust, on appropriate, preferential lease, or licence, or shared occupation, terms and conditions, including preferential rent, licence fee, or shared cost payments.
- 7.2. The Charity reserves the right to charge reasonable, commercial rent, or licence fees, in respect of any leases, or licences of premises to the Trust, particularly by reference to the

extent MAT Regulation requires a non-collaborative relationship between the Charity and the Trust in other respects.

## **8. IP Rights**

- 8.1. The Charity shall, subject to Clause 8.3, licence, to the Trust, on a royalty free, non-exclusive, non-transferrable, basis, the use of the "*Ambitious about Autism*" name and logo, in the promotion of the Trust's charitable objects, in accordance with the Charity's instructions for use (as varied in writing).
- 8.2. The Charity may, subject to Clause 8.3, licence, to the Trust, on a royalty free non-exclusive, non-transferrable, basis, the use of the specified educational, therapeutic and other materials of the Charity, in the promotion of the Trust's charitable objects, in accordance with the Charity's instructions for use (as varied in writing).
- 8.3. The Charity reserves the right to charge reasonable, commercial royalties for the licences provided under Clauses 8.1 and 8.2, particularly by reference to the extent MAT Regulation requires a non-collaborative relationship between the Charity and the Trust in other respects.

## **9. Personnel**

- 9.1. The Charity may provide personnel to the Trust, on appropriate secondment terms and conditions, including in relation to line management and preferential secondment fees, related to cost.
- 9.2. The Charity reserves the right to charge reasonable, commercial secondment fees, particularly by reference to the extent MAT Regulations requires a non-collaborative relationship between the Charity and the Trust in other respects.

## **10. Data collection, use and protection**

- 10.1. Each Party shall ensure that it complies with its obligations in respect of all applicable legislative requirements relating to the use of data, especially personal and sensitive data, including, without limitation, the Data Protection 1998 and The General Data Protection Regulation.
- 10.2. Each Party shall in particular ensure all personal and sensitive data necessary for or otherwise to be used in the collaborative relationship between the Charity and the Trust is secured, by the Party collecting the data, in such manner that such data may properly be used, as agreed by, the other Party.
- 10.3. Where one Party ("*Processor*") processes any personal data on behalf of the other Party ("*Data Owner*"):
  - a. the Processor shall carry out such processing only in accordance with the instructions of the Data Owner; and
  - b. the Processor shall comply with all statutory obligations relating to the technical and organisational security of such data to which the Data Owner is subject.

## **11. Confidentiality**

Each Party will ensure that all confidential information of the other Party and of the Charitable Group is maintained with the same required care and diligence as is properly applicable to its own confidential information.

## **12. Safeguarding and health and safety**

Each Party will, as applicable, reasonably support the other in meeting their respective safeguarding and health and safety obligations in relation to their common beneficiary groups.

### **13. Charitable Group Shared Services**

- 13.1. The Charity shall provide Charitable Group Shared Services to the Trust, as agreed on an annual basis, in accordance with this Agreement, mutually to maximise efficiency and minimise cost, for each Party, within the context of the collaborative Charitable Group.
- 13.2. The Trust may provide Charitable Group Shared Services to the Charity on the same basis.
- 13.3. Such Charitable Group Shared Services, at the Agreement Date, are summarised in **Schedule 3**.
- 13.4. The basis of payment for Charitable Group Shared Services, by the Party providing the services to the other, shall be shared cost. The proper shared cost contribution shall be an agreed, fair, reasonable and proper apportionment of cost, based on the respective use made and benefit obtained by the Parties.
- 13.5. Any disagreement as to any proper shared cost contribution shall be resolved, at the request of either Party, by the auditors for the time being of the Charity nominating a chartered accountant (who may be from the auditors firm) to resolve the matter conclusively, as an expert and not an arbitrator. The costs of expert resolution shall be shared equally.

### **14. Additional and Exceptional Services**

Either Party may provide additional and/or exceptional services to the other, on appropriate terms, including in relation to payment, subject to the connected party provisions of MAT Regulation.

### **15. Payment arrangements**

- 15.1. Subject to contrary written agreement, invoices (plus any applicable VAT) in respect of inter-Charitable Group payments, due from one Party to the other, under this Agreement, in respect of each calendar month of this Agreement's duration, may be issued monthly in arrears. The first such invoice shall include any initial part month and the last such invoice may be in respect of a final part month. Inter-group payments may, by agreement, be set-off against each other.
- 15.2. Subject to contrary written agreement, such invoices shall be payable within 14 working days of receipt.
- 15.3. A Party issuing any invoice shall, promptly, upon reasonable request, provide any information relating to the invoice requested by the Party receiving the invoice.

### **16. No rights of assignment or sub-contract**

Neither Party may assign, mortgage, charge, sub-license or otherwise dispose of or deal with any of its rights under this Agreement of the other Party without the written consent of the other Party.

### **17. Term and Termination**

- 17.1. This Agreement reflects and from the Agreement Date, formalises, the collaborative arrangements between the Parties, from the establishment of the Trust.
- 17.2. Either Party may terminate this Agreement:
  - a. by giving at least six months' written notice to the other Party, up to 1 January, or 1 July in any year;
  - b. upon any fundamental breach of the Agreement by the other Party;

- c. if the other Party is subject to: liquidation, or administration, or the appointment of any receiver, administrative receiver, manager or similar officer in respect of the whole, or any part of its assets, or any scheme of arrangement, or composition, with its creditors, or if the other Party fails to meet its liabilities as they fall due.

## **18. Remediable Breach Procedure**

- 18.1. If one Party reasonably believes the other Party to be in remediable material breach of this Agreement, it may assert the alleged breach, in full detail, in a written breach notice to the Party considered to be in breach, specifying, reasonably, what is required to remedy the breach and a reasonable timescale for such remedy.
- 18.2. If a Party commits any material breach of this Agreement and is the subject of a remedy notice in respect of such breach under Clause 18.1, it shall remedy the breach as reasonably specified and within the reasonable timescale set out in the remedy notice.

## **19. Variation and Review**

- 19.1. Any variation to this Agreement shall be in writing signed on behalf of both Parties.
- 19.2. The Parties shall review this Agreement as part of the collaborative governance schedule and their respective governance schedules.

## **20. Resolution of issues, disagreement and dispute**

- 20.1. Any issue, in relation to this Agreement, requiring inter-action and/or involving disagreement between the Parties shall, as far as possible, be resolved in accordance with the agreed Charity Group governance procedures.
- 20.2. Any such issue which is not resolved under Clause 20.1 may lead to either Party giving to the other formal written notice of dispute, specifying the detail of such dispute and the Parties shall each procure that a senior authorised representative, without a position in the other Party and not involved in relation to the relevant issue under Clause 20.1, shall, as an urgent matter, engage in further discussion and negotiation to seek to resolve the matter.
- 20.3. Any such issue not resolved under Clause 20.2 may lead to either Party issuing a further formal written notice of the referral of the Centre for Dispute Resolution ([www.cedr.com](http://www.cedr.com)) for resolution in accordance with its standard applicable mediation procedure. Any cost of such referral shall be shared equally between the Parties, subject to any contrary determination in the mediation process, or contrary written agreement.

## **21. Notices**

Any formal notice from one Party to the other shall be sent by email, or delivered by hand, to the Trustees of the recipient Party, who are not also Trustees of the Party giving notice.

**In witness** authorised representatives have, on the date of this Agreement, duly executed this below:

**Signed** for and on behalf of

**Ambitious about Autism**

acting by:

Signature: 

Name: Paul Disley-Tindell

Position: Trustee Ambitious about Autism

**Signed**

for and on behalf of:

**Ambitious about Autism Schools Trust**

acting by:

Signature: 

Name: Joanna Healey

Position: Trustee Ambitious about Autism Schools Trust



## **Schedule 1:**

### **Operational phase Collaborative Support Services provided for in the Trust Establishment Agreement**

1. *Educational and therapeutic advice, supervision and support.*
2. *Marketing and communications.*
3. *Transitional and vocational opportunities, advice, HR, IT, finance and property maintenance (originally assigned to a project partner no longer participating in the collaboration).*

## **Schedule 2:**

### **Collaborative Support Services as at the Agreement Date**

1. Premises, including property maintenance
2. Intellectual Property
3. Personnel
4. Specialist Educational and therapeutic advice, supervision and support
5. Marketing and communications
  - 5.1. PR
  - 5.2. Advertising and publicity
6. Transitional and vocational opportunities
7. Personnel Services and HR
  - 7.1. Personnel services
  - 7.2. HR management
  - 7.3. Payroll management
  - 7.4. Recruitment
8. Finance and business management
  - 8.1. Financial accounting and book keeping
  - 8.2. Financial forecasting and reporting
  - 8.3. Budgeting and taxation
  - 8.4. Business planning and development
  - 8.5. Legal
  - 8.6. Procurement management
9. IT and telephony
  - 9.1. Office Computer system, including printing equipment
  - 9.2. Website
  - 9.3. Telephony system
10. Administrative services

- 10.1. Office equipment including desks, chairs, lights and stationery
- 10.2. Telephone connections
- 10.3. Postal services
- 10.4. Photocopying
- 10.5. Secretarial and typing facilities
- 10.6. Company secretarial services
- 10.7. Legal and accounting
- 10.8. Research information

**Schedule 3:**  
**Charitable Group Shared Services**

1. Personnel Services and HR
  - 1.1. Personnel services
  - 1.1. HR management
  - 1.2. Payroll management
  - 1.3. Recruitment
2. Finance and business management
  - 2.1. Financial accounting and book keeping
  - 2.2. Financial forecasting and monthly reporting
  - 2.3. Business planning and development
  - 2.4. Legal and Company Secretarial
  - 2.5. Procurement management
  - 2.6. Research information
  - 2.7. Risk management
3. IT and telephony
  - 3.1. Office Computer system, including printing equipment
  - 3.2. Website
  - 3.3. Telephony system
4. Premises
  - 4.1. Property maintenance
  - 4.2. Capital works management
5. Marketing and communications
  - 5.1. PR
  - 5.2. Advertising and publicity
  - 5.3. Brand positioning
6. Specialist Educational and therapeutic advice, supervision and support
7. Administrative services
  - 7.1. Company secretarial services
  - 7.2. Legal
  - 7.3. Research information

## **Schedule 4:**

### **Definitions**

*“Agreement” - this agreement;*

*“Agreement Date” - the date of this Agreement;*

*“Board(s)” - (according to context), the board of trustees of a Party, or the boards of trustees of the Parties;*

*“Charitable Shared Services” – services provided, by the Charity to the Trust, on a collaborative, cost-sharing basis;*

*“Data Owner” - as defined in Clause 10.3;*

*“Group Committee” - as defined in Clause 2.2;*

*“Party/ies” - a party to this Agreement;*

*“Processor” - as defined in Clause 10.3;*

*“Support Services” - services provided, by the Charity to the Trust, on a collaborative, preferential basis;*

*“Trustees” - (according to context), the charity trustees of a Party.*