

SCHOOL LOGO



Service level agreement in relation to a trust partnership

**BETWEEN EDITH STEIN CATHOLIC
ACADEMY TRUST (ESCAT)**

AND

Name of School

Xxxxx (Date)

VERSION3.3

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Key information

- **Party 1 (“trust”)**

EDITH STEIN MULTI ACADEMY TRUST (ESCAT)

Stakes Hill Road

Waterlooville

Hants

PO7 7BW

- **Party 2 (“school”)**

The governing body of xxxxxx School

Address

Authorised Person: xxxxxx Headteacher

The parties are known collectively as the partnership

- **Partnership start date:** xxxxxx

- **Partnership end date:** xxxxxx

- **Service charge:** No charge

- **Internal reference number:** xxxxxx

- **Purchase order:**

The services:

- See schedule 1

Terms and conditions of the partnership agreement

1. Definitions and interpretation

1.1 The following terms have the following meanings for the purposes of this agreement:

Academy means an academy established in accordance with the Academies Act 2010;

Academy order an order made by the Secretary of State under the Academies Act 2010, section 4;

Agreement means this agreement between the parties;

Confidential information means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either party and all personal data and sensitive personal data within the meaning of the data protection legislation. Confidential information shall not include information which:

- was public knowledge at the time of disclosure;
- was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
- is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- is independently developed without access to the confidential information;

Consultation means consultation as required in accordance with Academies Act 2010, section 5;

Existing IPR means any and all IPR that are owned by or licensed to either party which are or have been developed independently of the agreement whether prior to the date of the agreement or otherwise;

EIR means the Environmental Information Regulations 2004;

FOIA means the Freedom of Information Act 2000;

Intellectual Property Rights (IPR) means any copyright, rights in designs, database rights, domain names, trademarks, service marks, patents or any applications for any of the foregoing, know-how or similar rights or obligations

(whether registerable or not) including Moral Rights as defined in Chapter IV of the Copyright, Designs and Patents Act 1988;

New IPR means IPR in items created by ESCAT (or by a third party on behalf of ESCAT) specifically for the purposes of the agreement and updates and amendments of these items including (but not limited to) data base schemes;

Partnership means the arrangement between the parties as set out in this agreement;

Parties means together the school and ESCAT;

Request for information means a request for information under FOIA;

Secretary of State means the Secretary of State for Education;

Services means the services to be provided by ESCAT during the partnership as set out in schedule 2 (services);

Service charge means the charges for the services as set out in schedule 1 (service charge);

SVA means the Safeguarding Vulnerable Groups Act 2006 (as amended under the Protection of Freedoms Act 2012);

2. Purpose

- 1.1. ESCAT and the school are forming the partnership so that ESCAT can work with the school developing processes and procedures that could be enabled should the school join ESCAT. During the partnership, the school will consider converting into an academy based on its experience of working with ESCAT.
- 1.2. The purpose of this agreement is to set out the services which ESCAT will provide to the school as it explores the possibility of academisation, the key information which governs and underpins the partnership and to define the responsibilities of the parties.

3. Commencement and Duration

- 3.1. This agreement will come into force on the date that it has been signed by both parties.
- 3.2. The partnership will run for an initial period as set out in the key information above.
- 3.3. With the agreement of both parties the partnership can be extended for a period of no more than **1 YEAR** Any such agreement to extend the partnership shall only take effect when recorded in writing by the parties, as a variation to this agreement.

4. Service delivery and trust responsibilities

- 1.3. ESCAT will deliver the services as set out in schedule 2 (service) and in doing so will:
 - 4.1.1. ¹ Provide consultative leadership to the school including allowing the school to attend board meetings
 - 4.1.2. support the school in exploring the possibility of converting into an academy;
 - 4.1.3. support the development of effective, strong governance at the school;
 - 4.1.4. support teaching and learning;
 - 4.1.5. support opportunities to develop middle and senior leaders; and
 - 4.1.6. provide suggestions for the make up of future governance and integrated financial systems

5. School responsibilities

- 5.1. The school will:
 - 1.3.1. share data and information with ESCAT as is reasonably required to enable ESCAT to provide the services and to meet its responsibilities;
 - 5.1.1. attend trust events and training; allow trust access to governing body meetings
 - 1.3.2. ensure that staff are available as reasonably required to enable ESCAT to provide the services;
 - 5.1.2. share information with trust leaders about decisions making; and

6. Mutual responsibilities

- 6.1. The parties will keep discussions and information about the partnership confidential, in accordance with the provisions of clause 10 (confidentiality).
- 6.2. The parties will act in the spirit of collaboration and cooperate with each other in relation to all matters under this agreement.
- 6.3. The parties will comply with their respective obligations in relation to relevant legislation including as set out in clause 9 (safeguarding), clause 11 (freedom of information) and clause 12 (data protection).

¹ Please note that this list can be adapted on a case-by-case basis to suit your requirements. Please remove the square brackets before the agreement is finalised and signed.

7. Academisation process and discussions

- 7.1. The parties agree that the existence of the partnership does not of itself mean that the school will convert to an academy. However, during the partnership, the school will give due consideration to academisation.
- 1.4. It is anticipated that the school will launch a consultation, 90 days prior to the partnership end date. (xxxxxx) The consultation will be timed to ensure any potential/proposed academisation takes place on xxxxxx subject to the granting of an academy order by the Secretary of State, and the stated conversion date in any academy order.
- 1.5. Following conclusion of the consultation the governing body of the school will vote on whether to progress to academisation and will notify ESCAT of the outcome of that vote. This will be given to the MAT board in writing.
- 1.6. If, the outcome is that the school will not convert to an academy, the partnership will automatically end on xxxxxx² if the partnership end date has not been reached.

8. Charges for the support service

- 8.1. There is no charge for the service.

9. Safeguarding

- 9.1. The parties each undertake regulated activity as defined under the SVA and each party must comply with the legal requirements arising from the SVA in respect of referrals to the Disclosure and Barring Service (DBS).
- 9.2. Both parties shall make arrangements for ensuring that the services are provided with a view to safeguarding and promoting the welfare of children receiving education. In doing so, both parties shall have regard to any guidance published, by the Secretary of State, which sets out the expectations in relation to safeguarding practice within schools.
- 1.7. ESCAT confirms that it has carried out appropriate DBS checks on all staff who may work at the school in regulated activity relating to children (as defined by the SVA Groups Act 2006) at the school, through the partnership.
- 9.3. Neither party shall employ or engage, or continue to employ or engage, any person who is subject to a prohibition order made under section 141B of the Education Act 2002 to carry out teaching work (as defined in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012).
- 9.4. Each party must be able to demonstrate, at the request of the other, that they have robust record-keeping procedures in respect of safeguarding through checks on record keeping undertaken.

² Please delete as appropriate and then please remove the square brackets before the agreement is finalised and signed.

10. Confidentiality

- 10.1. Except to the extent set out in this clause 10 or if disclosure or publication is expressly permitted elsewhere in the agreement, each party shall treat all confidential information belonging to the other party as confidential and shall not disclose any confidential information belonging to the other party to any other person without the other party's consent, except to such persons and to such extent as may be necessary for the performance of the party's obligations under the agreement.
- 10.2. Clause 10.1 shall not apply to the extent that:
 - 10.2.1. such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
 - 10.2.2. such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 10.2.3. such information was obtained from a third party without obligation of confidentiality;
 - 10.2.4. such information was already in the public domain at the time of disclosure otherwise than by a breach of the agreement; or
 - 10.2.5. it is independently developed without access to the other party's confidential information.

11. Freedom of information and environmental information

- 11.1. The parties acknowledge that they are each subject to the requirements of the FOIA and the EIR and that they each agree to promptly cooperate and assist the other, each at their own cost, if either party receives a request for information related to this agreement.

12. Data protection

- 12.1. The parties agree to comply with the provisions of schedule 3 (Data Protection).

13. Intellectual property rights

- 13.1. Each party keeps ownership of its existing IPR.
 - 1.8. Any new IPR created under this agreement will be owned by ESCAT.
 - 1.9. ESCAT gives the school a non-exclusive, perpetual, royalty-free, irrevocable, transferable UK-wide licence to use and change ESCAT's existing IPR and any new IPR to enable it to receive and use the services for the duration of this agreement.
 - 1.10. The school gives ESCAT a licence to use the schools existing IPR for the purpose of providing the services for the duration of this agreement.

- 13.2. Where a party acquires ownership of IPR incorrectly under this agreement it must do everything reasonably necessary to complete a transfer assigning them in writing to the other party on request and at its own cost.
- 13.3. Neither party has the right to use the other party's IPR, including any use of the other party's names, logos, or trademarks, other than as set out in this clause 13 or as agreed in writing.
- 1.11. ESCAT hereby waives any moral rights as defined at Chapter IV of the Copyright, Designs and Patents Act 1988.
- 1.12. ESCAT confirms that ESCAT's IPR comprise its own original work including where the IPR are created on behalf of ESCAT.

14. Termination

- 1.13. ESCAT or the school may terminate this agreement on one month's written notice. In the event of termination.
- 1.14. ESCAT may terminate this agreement immediately on the following grounds:
 - 14.1.1. If the school commits a material breach of this service level agreement which is not capable of remedy;
 - 1.14.1. If the school commits a material breach of this service level agreement which is capable of remedy but continues for more than 14 days after ESCAT gives written notice of the material breach and has requested that the school remedies the breach within 7 days.

15. Variation

- 15.1. The agreement may be varied by the parties, any such variation to be recorded in writing and signed by each party.

16. Dispute Resolution

- 1.15. The parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the agreement. This shall include escalating the dispute to a more senior level within both the school and ESCAT with a view to reaching a settlement.
- 16.1. Any dispute not capable of resolution by the parties in accordance with the terms of clause 16 may be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

Signed on behalf of ESCAT:

CEO:

Chair of Board Trust:

Date:

Signed on behalf of the school:

Chair of governors:

Headteacher:

Date:

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Schedule 1: service charge

There is no service charge.

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Schedule 2: services

ESCAT working in partnership with the school will:

- *Provide advice and support*
- *Provide mentoring and support to the Headteacher and other senior managers on the conversion process*
- *Provide support to the school, in cross-trust activities*
- *Provide advice on budgetary matters to reduce the risk to the school or ESCAT in advance of joining*
- *Collaborate on the development of services available to schools in the ESCAT*
- *Share school improvement models proven to be effective within the classroom*
- *The school and ESCAT will work together school improvement plans which may also involve other schools in ESCAT or in partnership*
- *Provide guidance on financial management and governance in preparation for conversion*
- *Share information and good practice on the collective benefit of workforce planning across the academies/group of academies within ESCAT*
- *Sharing information and good practice on the collective benefit of operating governance processes and financial management across the academies within ESCAT*

Schedule 3: data protection

1. Definitions

Control means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **controls** and **controlled** are interpreted accordingly;

Data loss event - any event that results, or may result, in unauthorised access to personal data held by the processor under this agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this agreement, including any Personal Data Breach.

DPA - Data Protection Act 2018

Data protection impact assessment (DPIA) - an assessment by the controller of the impact of the envisaged processing on the protection of personal data.

Data protection legislation - (i) the GDPR, the LED and any applicable national implementing laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable law about the processing of personal data and privacy;

Data subject request - a request made by, or on behalf of, a data subject in accordance with rights granted pursuant to the data protection legislation to access their personal data.

Controller, processor, data subject, personal data, personal data breach, data protection officer shall have the meanings given in the GDPR;

GDPR - the General Data Protection Regulation (Regulation (EU) 2016/679)

Law - means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, byelaw, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory

policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the processor is bound to comply;

LED - Law Enforcement Directive (Directive (EU) 2016/680)

Processor contractor staff - employees, agents, consultants, and contractors of the processor and/or of any sub-processor engaged in the performance of its obligations under this agreement.

Protective measures - appropriate technical and organisational measures which may include: pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it including those set out in the agreement.

Sub-processor - any third party appointed to process personal data on behalf of the processor related to this agreement.

- The parties acknowledge that for the purposes of the data protection legislation, the school is the controller, and ESCAT is the processor unless otherwise specified in section 2 of schedule 3. The only processing that the processor is authorised to do is listed in section 2 by the controller and may not be determined by the processor.
- 1.1. The processor shall notify the controller immediately if it considers that any of the controller's instructions infringe the data protection legislation.
- 1.2. The processor shall provide all reasonable assistance to the controller in the preparation of any DPIA prior to commencing any processing. Such assistance may, at the discretion of the controller, include:
 - 1.2.1. a systematic description of the envisaged processing operations and the purpose of the processing;
 - 1.2.2. an assessment of the necessity and proportionality of the processing operations in relation to the services;
 - 1.2.3. an assessment of the risks to the rights and freedoms of data subjects; and
 - 1.2.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data.
- 1.3. The processor shall, in relation to any personal data processed in connection with its obligations under this agreement:
 - 1.3.1. process that personal data only in accordance with section 2 of schedule 3 unless the processor is required to do otherwise by law. If it is so required, the processor shall promptly notify the controller before processing the personal data unless prohibited by law;
 - 1.3.2. ensure that it has in place protective measures, which are appropriate to protect against a data loss event, which the controller may reasonably reject

(but failure to reject shall not amount to approval by the controller of the adequacy of the protective measures), having taken account of the:

- 1.3.2.1. nature of the data to be protected;
- 1.3.2.2. harm that might result from a data loss event;
- 1.3.2.3. state of technological development; and
- 1.3.2.4. cost of implementing any measures;

1.3.3. ensure that:

- 1.3.3.1. the processor contractor staff do not process personal data except in accordance with this agreement (and in particular this schedule 8);
- 1.3.3.2. it takes all reasonable steps to ensure the reliability and integrity of any processor contractor staff who have access to the personal data and ensure that they:
 - 1.3.3.2.1. are aware of and comply with the processor's duties under this clause;
 - 1.3.3.2.2. are subject to appropriate confidentiality undertakings with the processor or any sub-processor;
 - 1.3.3.2.3. are informed of the confidential nature of the personal data and do not publish, disclose or divulge any of the personal data to any third party unless directed in writing to do so by the controller or as otherwise permitted by this agreement; and
 - 1.3.3.2.4. have undergone adequate training in the use, care, protection and handling of personal data; and

1.3.4. not transfer personal data outside of the EU unless the prior written consent of the controller has been obtained and the following conditions are fulfilled:

- 1.3.4.1. the controller or the processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the controller;
- 1.3.4.2. the data subject has enforceable rights and effective legal remedies;
- 1.3.4.3. the processor complies with its obligations under the data protection legislation by providing an adequate level of protection to any personal data that is transferred (or, if it is not so bound, uses its best endeavours to assist the controller in meeting its obligations); and
- 1.3.4.4. the processor complies with any reasonable instructions notified to it in advance by the controller with respect to the processing of the personal data;

1.3.5. at the written direction of the controller, delete or return personal data (and any copies of it) to the controller on termination of the agreement unless the processor is required by law to retain the personal data.

- 1.4. Subject to clause 1.6, the processor shall notify the controller immediately if it:
 - 1.4.1. receives a data subject request (or purported data subject request);
 - 1.4.2. receives a request to rectify, block or erase any personal data;
 - 1.4.3. receives any other request, complaint or communication relating to either party's obligations under the data protection legislation;
 - 1.4.4. receives any communication from the Information Commissioner or any other regulatory authority in connection with personal data processed under this agreement;
 - 1.4.5. receives a request from any third party for disclosure of personal data where compliance with such request is required or purported to be required by law; or
 - 1.4.6. becomes aware of a data loss event.
- 1.5. The processor's obligation to notify under clause 1.5 shall include the provision of further information to the controller in phases, as details become available.
- 1.6. Taking into account the nature of the processing, the processor shall provide the controller with full assistance in relation to either party's obligations under data protection legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the controller) including by promptly providing:
 - 1.6.1. the controller with full details and copies of the complaint, communication or request;
 - 1.6.2. such assistance as is reasonably requested by the controller to enable the controller to comply with a data subject request within the relevant timescales set out in the data protection legislation;
 - 1.6.3. the controller, at its request, with any personal data it holds in relation to a data subject;
 - 1.6.4. assistance as requested by the controller following any data loss event;
 - 1.6.5. assistance as requested by the controller with respect to any request from the Information Commissioner's Office, or any consultation by the controller with the Information Commissioner's Office.
- 1.7. The processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the processor employs fewer than 250 Staff, unless:
 - 1.7.1. the controller determines that the processing is not occasional;
 - 1.7.2. the controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or personal data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - 1.7.3. the controller determines that the processing is likely to result in a risk to the rights and freedoms of data subjects.
- 1.8. The processor shall allow for audits of its data processing activity by the controller or the controller's designated auditor.
- 1.9. Each party shall designate its own data protection officer if required by the data protection legislation.

- 1.10. Before allowing any sub-processor to process any personal data related to this agreement, the processor must:
 - 1.10.1. notify the controller in writing of the intended sub-processor and processing;
 - 1.10.2. obtain the written consent of the controller;
 - 1.10.3. enter into a written agreement with the sub-processor which give effect to the terms set out in this clause 1 such that they apply to the sub-processor; and
 - 1.10.4. provide the controller with such information regarding the sub-processor as the controller may reasonably require.
- 1.11. The processor shall remain fully liable for all acts or omissions of any sub-processor.
- 1.12. The controller may, at any time on not less than 30 business days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this agreement).
- 1.13. The parties agree to take account of any guidance issued by the Information Commissioner's Office. The controller may on not less than 30 business days' notice to the processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

2. Processing, personal data and data subjects

There will be no personal data shared between ESCAT and the school other than contact details that are currently in the public domain. Additional information relating to minutes of meetings and action / development plans may also be shared.

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Department
for Education

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