

**DEED OF VARIATION
OF THE
FUNDING AGREEMENT FOR MANCHESTER COMMUNICATION ACADEMY**

The Parties to this Deed are:

(1) **THE SECRETARY OF STATE FOR EDUCATION** of Sanctuary Buildings, Great Smith Street, London SW1P 3BT (the "**Secretary of State**");

(2) **MANCHESTER COMMUNICATION ACADEMY**, a charitable company incorporated in England and Wales with registered company number 06754335 whose registered address is at P.O. Box 532 Town Hall, Manchester, M60 2LA ("**MCA**"),

together referred to as the "**Parties**".

INTRODUCTION

- A. At the date of this agreement, MCA (a single entity academy trust) operates the Manchester Communication Academy, being an academy within the meaning of the Academies Act 2010 (the "**academy**").
- B. The Secretary of State and the Company entered into a Funding Agreement on 13 March 2009 (the "**Agreement**") for the maintenance and funding of the academy (attached as Schedule 1).
- C. It is proposed that, with effect from 00.01 am on 1 September 2016 ("**Conversion Date**"), MCA will convert into a multi-academy trust.
- D. The Secretary of State and MCA wish to vary the terms of the Agreement subject to the provisions of this Deed.

LEGAL AGREEMENT

- 1. Any word or phrase used in this Deed shall, if that word or phrase is defined in the Agreement, bear the meaning given to it in the Agreement.

VARIATION

- 2. The Secretary of State and MCA agree that with effect from the Conversion Date:
 - 2.1 MCA shall enter into a new master funding agreement in the form set out at Part A of Schedule 2; and

2.2 the Agreement shall be amended and replaced by the supplemental funding agreement set out at Part B of Schedule 2.

3. As varied by this Deed, the Agreement shall remain in full force and effect.

4. This Deed shall be governed by and interpreted in accordance with English law.

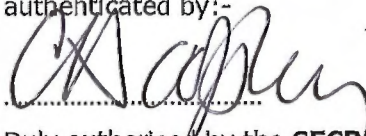
5. The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this deed or its subject matter or formation (including non-contractual disputes or claims).

COUNTERPARTS

6. This Deed may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

IN WITNESS whereof this Deed has been executed by the parties hereto and is intended to be and is hereby delivered on the last date listed below.

EXECUTED as a deed by affixing the corporate seal)
of **THE SECRETARY OF STATE FOR EDUCATION**)
authenticated by:-)


.....
Duly authorised by the **SECRETARY OF STATE FOR EDUCATION**
Date: 30/10/16.....



EXECUTED as a deed by **MCA**
acting by one director in the
presence of a witness:

Director *S Webster*
Print name..... *S WEBSTER*
Date *15/08/2016*

Witness *Shel*
Print name..... *Suzanne Lee*
Address..... *Mills & Reeve LLP, 1 New York St,*
Occupation..... *Trainee Solicitor. Manchester, M1 4HD*

Schedule 1
Funding Agreement

Annex - Manchester Communication Academy
 Manchester 2
 Funding Agreement

<p>Exemptions in full</p> <p>Annex A Memorandum and Articles of Association - exempt under section 21 of the Act, as this document is available at Companies House. http://www.companieshouse.gov.uk/</p> <p>Partial exemptions [if any]</p>	
<p>Factors for disclosure of...</p>	<p>Factors for Withholding</p>
<ul style="list-style-type: none"> ▪ further to the understanding of and increase participation in the public debate of issues concerning Academies. ▪ to ensure transparency in the accountability of public funds 	<ul style="list-style-type: none"> ▪ DCSFs' commercial interest would be prejudiced – ▪ To reveal financial relationships between the SoS and the Academy Trust and others would prejudice Ads ability to obtain maximum VFM in future agreements.
<p>Reasons why public interest favours withholding information</p> <p>Whilst releasing the majority of the Funding Agreement will further the public understanding of Academies. The whole of the Funding Agreement cannot be revealed. If Annex A was to be revealed under the FOI act, DCSFs' commercial interest would be prejudiced, which could result in the less effective use of public money.</p>	

**MANCHESTER COMMUNICATION ACADEMY
FUNDING AGREEMENT**

13 MARCH 2009
NOVEMBER 2008

Anthony Collins Solicitors LLP
134 Edmund Street
Birmingham
B3 2ES

FUNDING AGREEMENT

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INTRODUCTION

- 1) This Agreement is made under section 482 of the Education Act 1996, as substituted by the Education Act 2002, between the Secretary of State for Children, Schools and Families ("the Secretary of State") and the Manchester Communication Academy hereafter "the Academy Trust".
- 2) The Academy Trust is a charitable company incorporated in England and Wales, limited by guarantee with registered no () and shall be registered as a charity with the Charity Commission no later than 31 August 2009.
- 3) The following expressions used in this Agreement have the respective meanings assigned to them by the numbered clauses of this Agreement referred to immediately after the reference to the expressions -
 - a) "Accounting Officer" – clause 67;
 - b) "admission arrangements" – Annex 2 and the separate admissions arrangements appended to it;
 - c) "annual letter of funding" – clause 61;
 - d) "GAG" – clause 38;
 - e) "capital expenditure" - clause 39;
 - f) "the Academy" - clause 8
 - g) "the Academy Trust " - clause 1;
 - h) "EAG" – clause 38;
 - i) "financial year" – clause 62;
 - j) "Governing Body" – clause 11;
 - k) "recurrent expenditure" – clause 38;
 - l) "School Development Plan" – clause 14-16;
 - m) "start up period" – clause 54a;
 - n) "the Memorandum and Articles" – Annex 1
- 4) In this Agreement the following words and expressions shall have the following meanings:-

"LA" means local education authority;

"headteacher" means the Principal of the Academy

references to "school" shall where the context so admits be references to the Academy.

"Agreement" means this agreement and its Annexes and a reference in the Agreement to a numbered clause or Annex is a reference to the clause or Annex of this Agreement bearing that number.

- 5) The Interpretation Act 1978 shall apply for the interpretation of this Agreement as it applies for the interpretation of an Act of Parliament.
- 6) Questions arising on the interpretation of the arrangements in this funding agreement shall be resolved by the Secretary of State acting reasonably after consultation with the Academy Trust.
- 7) Section 482 (1) of the Education Act 1996 as substituted states that -

"(1) The Secretary of State may enter into an agreement with any person under which -

- (a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England with the characteristics mentioned in subsection (2), and such other characteristics as are specified in the agreement, and
- (b) the Secretary of State agrees to make payments to that person in consideration of those undertakings."

LEGAL AGREEMENT

- 8) In consideration of the Academy Trust undertaking to establish and maintain, and to carry on or provide for the carrying on, of an independent school to be known as the Manchester Communication Academy ("the Academy") and having such characteristics as are referred to in clauses 9 - 10, the Secretary of State agrees to make payments to the Academy Trust in accordance with the conditions and requirements set out in this Agreement. Any obligations imposed upon or powers given to the Academy by this agreement shall be treated as being imposed upon and given to the Academy Trust.

CHARACTERISTICS OF AN ACADEMY

- 9) The characteristics of an Academy set down in section 482 (2) of the Education Act 1996 as substituted by the Education Act 2002, are that the school:
 - a) has a broad curriculum with an emphasis on a particular subject area, or particular subject areas, specified in the agreement, and
 - b) provides education for pupils of different abilities and who are wholly or

mainly drawn from the area in which the school is situated.

CONDITIONS OF GRANT

General

10) Section 482(4) of the Education Act 1996 provides for the agreement to specify other conditions and requirements. These conditions in respect of the Academy are that:

- a) the school will be at the heart of its community, sharing facilities with other schools and the wider community;
- b) there will be assessment in the core subjects of the national curriculum at Key Stage 3, and the opportunity to study for external qualifications as defined by section 96 of the Learning and Skills Act 2000;
- c) the admissions policy and arrangements for the school will be in accordance with admissions law, and the DCSF Codes of Practice, as they apply to maintained schools;
- d) teachers will be required to have qualified teacher status; levels of pay and conditions of service for all employees will be the responsibility of the Governing Body;
- e) there will be an emphasis on the needs of the individual pupils including pupils with special educational needs (SEN) both those with and without statements of SEN;
- f) there will be no charge in respect of admission to the school and the school will only charge pupils where the law allows maintained schools to charge.

Governance

11) The Academy will be governed by a governing body ("the Governing Body") who are the directors of the company constituted under the Memorandum and Articles of the Academy Trust. The Governing Body shall exercise its powers and functions with a view to fulfilling a largely strategic role in the running of the school and shall consider any advice given by the headteacher. The Governing Body may exercise its powers and fulfil its functions through its servants or agents.

12) Subject to the Memorandum and Articles, and to this Agreement, the Governing Body may regulate its own procedure and that of any of its committees.

Conduct

13) The Academy shall be conducted in accordance with:

- a) the Memorandum and Articles (attached as Annex 1 to this Agreement) which Memorandum or Articles shall not be amended by the Academy Trust without the explicit consent of the Secretary of State, such consent not to be unreasonably withheld or delayed;
- b) all provisions by or under statute which confer rights or impose obligations on Academies;
- c) the terms of this Agreement.

Pupil well-being; Community Cohesion; and, the Children & Young People Plan

13A) In conducting the Academy and in providing community facilities the Governing Body shall, so far as is reasonably practicable –

- (a) promote the well-being of pupils at the Academy;
- (b) promote community cohesion; and
- (c) have regard to any plan published by the local education authority under section 17 of the Children Act 2004 or (where the authority is not required to publish such a plan) any plan published by the authority setting out their strategy in relation to children and relevant young people.

Designated teacher for children in care

13B) The Academy Trust will in respect of the Academy act in accordance with, and be bound by, all relevant statutory and regulatory provisions and with any guidance and codes of practice issued pursuant to such provisions, as they apply at any time to a maintained school, relating to the designation of a person to manage the teaching and learning programme for children who are looked after by an LA and are registered pupils at the school. For the purpose of this clause, any reference to the governing body of a maintained school in such statutory and regulatory provisions, or in any guidance and code of practice issued pursuant to such provisions, shall be deemed to be references to the Governing Body of the Academy Trust.

Development Plan and target setting

14) The Academy shall draw up a School Development Plan each year in accordance with a format and timetable to be advised by the Secretary of State. The School Development Plan shall, in particular:

- a) in accordance with a format and timetable to be advised by the Secretary of State set out plans for ensuring that all pupils are supported to reach the highest standards of which they are capable;
- b) describe the Academy's proposals to work with other schools and with

the wider community.

15) The Academy shall set such targets in areas to be specified by the Secretary of State each year. The target areas for the initial year shall be:

- a) percentage of pupils achieving five or more GCSEs at grades A* - C; and
- b) percentage of pupils achieving level 5 or above at Key Stage 3 in English, maths science and ICT;
- c) the average point scores at Key Stage 4 for Approved Qualifications

In this clause "Approved Qualification" means an external qualification at entry level, level 1 or level 2 (as set out in the Qualifications and Curriculum Authority's National Qualifications Framework and determined by the Qualifications and Curriculum Authority) or a GCE AS level, which is approved under section 98 of the Learning and Skills Act 2000 and which is appropriate for pupils of compulsory school age.

16) The Academy shall consult the Secretary of State and the LA in whose area it is situated each year before setting these targets and shall take into account but not be bound by any comments received from the Secretary of State and/or the LA. The Academy shall set its targets in accordance with the timetable for target setting which applies to maintained schools.

Pupils

17) The Academy is an all ability and inclusive school. The arrangements for:

- a) the admission of pupils to the Academy; and
- b) the admission of and support for pupils with Special Educational Needs and with disabilities (for pupils who have and who do not have statements of Special Educational Needs) (including the appointment of a responsible person);

are set out in Annexes 2 and 3 to this Agreement, together with the arrangements for making changes to such arrangements, including the requirement to secure the consent of the Secretary of State, such consent not to be unreasonably withheld. Arrangements for pupil exclusions are set out in Annex 4.

17A) With effect from 1 April 2009, the Academy will, if invited to do so by a local authority, enter into an agreement with that local authority which provides for the arrangements for budget share adjustments in respect of permanently excluded pupils which apply to maintained schools under regulations made pursuant to section 47 of the School Standards and Framework Act 1998, or any successor legislation, to apply to the Academy. These currently provide for the payment by a maintained school to the local

authority of a pro-rata daily rate for each day in that financial year for which a pupil registered at that school is permanently excluded from that maintained school and for the local authority to make pro-rata payments to the maintained school if the maintained school admits any pupil who has been previously permanently excluded from a maintained school. A locally agreed higher rate deduction for permanently excluded pupils resident in the local authority area may be put in place and applied to Academies provided that:

- a. the local authority has agreed that it will pay the Academy any locally agreed higher rate addition to its budget for admitting a pupil permanently excluded from a maintained school or another Academy situated in the area of that local authority; and
- b. academies are represented as members on the schools forum of the local authority concerned

Teachers and other staff

18) The Academy Trust shall not engage anyone under a contract of employment or for services to carry out planning and preparing lessons and courses for pupils, delivering lessons to pupils, assessing the development, progress and attainment of pupils, and reporting on the development, progress and attainment of pupils ("specified work") who is not -

- a) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002 and registered with full registration with the General Teaching Council for England; or
- b) otherwise eligible to do specified work in a maintained school under the Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003/1663).

For the avoidance of doubt, nothing in this clause 18 restricts the engagement (including but not limited to engagement as headteacher), under a contract of employment or for services, of anyone to carry out work which excludes specified work.

19) The Governing Body shall ensure that all teachers employed at the Academy have access to the Teachers Pension Scheme and, in so doing, will comply with the statutory provisions underlying the scheme.

20) The Governing Body shall ensure that all employees other than teachers have access to the Local Government Pension Scheme.

21) Reasonable notice shall be given to the Secretary of State of any meeting of the Governing Body of the Academy or any committee or sub-committee thereof (including any interview or appointments panel), at which the appointment of a Principal of the Academy is being considered and a representative of the Secretary of State shall be entitled to attend and speak at any such meeting whether or not they are also entitled to attend

such meeting by virtue of clause 105 of this agreement. Advice given by any such representative shall be taken into account by, but shall not bind those persons considering the appointment of the Principal before a decision is made.

22) It shall be the responsibility of the Governing Body to agree levels of pay and conditions of service with its employees, and to determine and employ such numbers of staff as may be appropriate. The Governing Body shall approve policies for:

- a) staffing structure, and staff remuneration; and
- b) staff discipline and performance management.

14-19 entitlement

22A)(1) The Governing Body shall make arrangements to ensure that, so far as reasonably practicable, a pupil at the Academy in the fourth key stage has the same curriculum entitlements as are conferred on such a pupil at a maintained school by section 85A(1) of the Education Act 2002.

(2) The Governing Body shall make arrangements to ensure that, so far as reasonably practicable, a course of study in the core subjects and a course of study in one of the entitlement areas is made available (whether at the Academy or otherwise) to any pupil at the Academy who is above compulsory school age.

(3) Nothing in this clause-

- (a) requires the Academy to incur disproportionate expenditure in making these arrangements;
- (b) confers any greater entitlements on a pupil than are conferred by section 85A(1) of the Education Act 2002 and section 3A of the Learning and Skills Act 2000.

(4) In making arrangements under this clause the Governing Body shall have regard to any guidance issued from time to time by the Secretary of State or the Qualifications and Curriculum Authority.

(5) In this clause "course of study", "core subjects" and "entitlement areas" have the same meaning as in sections 3A, 3B and 3C respectively of the Learning and Skills Act 2000.

Curriculum, Curriculum Development and Delivery and RE and Collective Worship

23) The curriculum provided by each Academy to pupils up to the age of 16 shall be broad and balanced with an emphasis on digital communications. The Academy shall ensure that:

a) English, Mathematics and Science and ICT are taught to all pupils in years 1 to 6 (where these exist in the school) and years 7 to 11; and

b) the National Curriculum programmes of study for English, mathematics, science and ICT for the time being prescribed by the Secretary of State under section 87 of the Education Act 2002 are taught so far as appropriate during the relevant Key Stage and in any event will have been covered in full by the end of the final year of each Key Stage;

The Academy is not required to teach an individual pupil or group of pupils in one or more subjects where, in the opinion of the principal, it is inappropriate to do so by reason of the pupil's or group's ability or attainment.

24) The Academy shall make provision for the teaching of Religious Education and for a daily act of collective worship.

25) Subject to clause 27, provision shall be made for Religious Education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998, and having regard to the requirements of the Qualifications and Curriculum Authority's national framework for religious education in schools.

26) Subject to clause 27, the Academy shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a community, foundation or voluntary school which does not have a religious character, except that the provisions of paragraph 4 of that Schedule do not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule, the Secretary of State's consent to such an application not to be unreasonably withheld or delayed.

27) Section 71(1) - (4) of the School Standards and Framework Act 1998 shall apply as if the Academy were a community, foundation or voluntary school, and as if references to "religious education" and to "religious worship" in that section were references to the religious education and religious worship provided at the Academy in accordance with clauses 25 and 26 respectively.

28) The Academy shall have regard to any guidance issued by the Secretary of State on Sex and Relationship Education to ensure that children are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for

bringing up children.

Assessment

29) The Secretary of State will notify the National Assessment Agency (NAA) about the Academy

29A) The Academy Trust shall ensure that the pupils at the Academy take part at the end of Key Stage 3 in teacher assessments of pupil's performance in English, Maths, Science and ICT.

29B) The Academy Trust shall report to the NAA and its agencies on the assessments required under clause 29A and shall provide the NAA with such information as the NAA may require in order for the requirements of clause 29A to be met.

29C) The Academy Trust shall ensure that the Academy complies with the relevant provisions of the 'Assessment and Reporting Arrangements' as published from time to time by the Qualifications and Curriculum Authority, as they apply to maintained schools.

29D) The results of any test or assessment conducted in accordance with clause 29A shall also be reported to the Secretary of State and/or the LA as required and as set out in the 'Assessment and Reporting Arrangements', in a format approved by the Secretary of State.

30) The Academy may not offer courses which lead to external qualifications, as defined in section 96 of the Learning and Skills Act 2000, unless they are either approved under section 98 of that Act, or, in respect of individual pupils, groups of pupils or all pupils in Key Stage 4, the Secretary of State gives specific consent for such courses to be offered.

Crisis Management Plan

31) Before the Academy opens to pupils it shall have in place a Crisis Management Plan setting out steps to be taken in the event of an emergency situation at the Academy.

School meals

32) The Academy shall, if requested to do so by or on behalf of any pupils at the Academy provide school lunches for those pupils unless it would be unreasonable for them to do so. Subject to the provisions of clause 33 charges may be levied for lunches.

33) In relation to a pupil who is himself or whose parents are in receipt of benefits mentioned in section 512(3)B of the Education Act 1996 (or equivalent provision governing the entitlement to free school lunches of pupils at maintained schools), the Academy shall ensure that a school lunch is provided for such a pupil, which shall be provided free of charge.

33A) All food and drink provided by or on behalf of the Academy shall comply with legislation governing the provision of food and drink in maintained schools as this applies from time to time. In particular, the Academy shall ensure that school meals (breakfasts, lunches or other meals); and food and drink available on the Academy premises through other outlets such as tuck shops and vending machines comply with the relevant standards set out in regulations.

Charging

34) Sections 402 (Obligation to enter pupils for public examinations), 450 - 457 (charges), 459 (regulations about information about charges and school hours) and 460 (voluntary contributions), 461 (recovery of sums as civil debt) - 462 (Interpretation re charges) of the Education Act 1996 shall be deemed to apply to the Academy with the following modifications:

- a. references to any maintained school shall be treated as references to the Academy;
- b. references to registered pupils shall be treated as references to registered pupils at the Academy;
- c. references to the governing body or the local education authority shall, in each case, be treated as references to the governing body of the Academy;
- d. the charging and remissions policies required to be determined under section 457, and any amendment thereto, shall require the approval of the Secretary of State (such approval not to be unreasonably withheld or delayed);
- e. the Academy may charge persons who are not registered pupils at the Academy for education provided or for facilities used by them at the Academy.

Provision of Information to parents and others

35) The Academy shall publish a prospectus annually, shall send this on request (free of charge) to parents of pupils at the Academy and to the Secretary of State; and shall make it available for inspection by other persons at the Academy. The prospectus shall include details of admission arrangements and, except insofar as such information is published in a document known as a School Profile (which would accompany the prospectus) the following:

- a. details of the curriculum offered, of assessment arrangements and of the results of attainment tests and public examinations at school level, but this shall not include details of individual pupils' attainment and examination results;
- b. details of any religious affiliation of the school; policy on providing for children with SEN; arrangements for pupils with disabilities (as specified in Annex 3 to this agreement); pupil

- absence rates; and destination of school leavers; and
- c. such other information as the Governing Body may determine;
- d. any further information as set out in Schedule 3 of the Education (School Information) (England) Regulations 2002 (SI 2002/2897) as applies to maintained schools.

36) The prospectus shall be published in the school year immediately preceding the school year to which it relates and shall be published at least six weeks before the closing date for applying for a place.

36A) The Secretary of State may provide to the LA the information which the Academy Trust has provided to the Secretary of State:

- a. under Schedules 2-5 to the Education (School Performance Information) (England) Regulations 2007; and
- b. under paragraphs 1-3 of Part 3 to Schedule 1 to the Education (Information about Individual Pupils) (England) Regulations 2006.

36B) The Academy Trust shall ensure that all pupils at the Academy and their parents are informed via fair processing notices that the pupils' personal data may be transferred in accordance with clause 36A

GRANTS TO BE PAID BY THE SECRETARY OF STATE

General

37) The Secretary of State shall pay grants under this Agreement towards capital expenditure and recurrent expenditure. Except with the Secretary of State's prior agreement (which shall not be unreasonably withheld or delayed), the Academy Trust shall not budget for expenditure in any year in excess of expected income. The Academy Trust shall not enter into commitments which are likely to have substantial implications for future levels of grant, or for the period for which grant may be required. No decision by the Academy Trust shall commit the Secretary of State to paying any particular amount of grant.

38) "Recurrent expenditure" means any expenditure on the establishment, conduct, administration and maintenance of the Academy which does not fall within the categories of capital expenditure set out at clause 39. The Secretary of State shall pay two separate and distinct grants under the Agreement in respect of recurrent expenditure: General Annual Grant (GAG) and Earmarked Annual Grant (EAG). He will also pay a grant, known as Implementation Grant, as defined in clause 44.

General Annual Grant

49) General Annual Grant will be paid by the Secretary of State to the Academy Trust in order to cover normal running costs of the Academy. These costs will include, but are not limited to:

- a) teachers' salaries and related costs (including full and part time teaching staff and seconded teachers);
- b) non-teaching staff salaries and related costs (including educational support staff, administrative and clerical staff and manual and premises related staff);
- c) employees' expenses;
- d) the purchase, maintenance, repair and replacement of teaching and learning materials and other educational equipment including books, stationery, ICT equipment and software, sports and laboratory equipment and materials, other supplies and services;
- e) examination fees;
- f) repairs, servicing and maintenance of buildings (including redecoration, heating, plumbing, lighting etc); maintenance of grounds (including boundary fences and walls); cleaning materials and contract cleaning; water and sewage; fuel and light (including fuel oil, solid and other fuel, electricity and gas); rents; rates; purchase, maintenance, repairs and replacement of furniture and fittings;
- g) insurance;
- h) medical equipment and supplies;
- i) staff development (including in-service training);
- j) curriculum development;
- k) the costs of providing school meals for pupils (including the cost of providing free school meals to pupils who are eligible to receive them) and discretionary grants to pupils to meet the cost of pupil support, including support for pupils with special educational needs or disabilities (taking account of the fact that separate additional money will be available for pupils with statements of special educational needs);
- l) administration;
- m) establishment expenses and other institutional costs.

50) Subject to clauses 50A and 54 to 56, GAG for each financial year of the Academy Trust will be the total of the following three elements of funding;

- a. Formula Funding: Funding equivalent to the level of funding which would be provided through the funding formula of the LA in whose area the Academy is situated, to a maintained school which had all of the Academy's relevant characteristics, including its number of pupils;
- b. Local Authority Central Spend Equivalent: Funding representing a proportion of the LA Education Budget money which the LA would be able to retain, from the non-delegated elements of the Schools Block and the relevant items in the LA Block, if the Academy were a maintained school. The proportion which this funding will represent will be based on the elements of the LA's Section 52 Budget Return which are relevant to the Academy.
- c. Specialist Schools Allowance: Funding equivalent to that which a maintained school with the Academy's characteristics would receive in respect of their participation in the specialist schools programme;

50A) The Secretary of State shall not pay to the Company that part of the Formula Funding element of the GAG which relates to pupils in Year 12 and Year 13 in each Academy ("Sixth Form Payments") if the Secretary of State has entered into arrangements with a third party under which it is agreed that Sixth Form Payments shall be paid to the third party. Annex 5 sets out the proposed arrangements for Year 12 and Year 13.

51) The GAG for the Academy will also include, payable on a basis equivalent to that applied to maintained schools:

- a. funding for matters for which it is necessary for the Academy to incur extra costs, for as long as those costs are deemed necessary by the Secretary of State; and
- b. payments in respect of further, specific grants made available to maintained schools, where the Academy meets the requisite conditions and criteria necessary for a maintained school to receive these grants.

52) The basis of the pupil number count used to calculate (in accordance with clause 50a) the formula funding element of GAG will initially be the Governing Body's estimate each November for numbers on roll in the following September. However, the basis of the pupil number count will be the Schools Census for the January preceding the academic year in question (preceding September Pupil Count or autumn term Schools Census for pupils in Year 12 and above), once the following conditions

have been satisfied for the academic year for which funding is being calculated;

a) all planned year-groups will be present (that is, all the pupil cohorts relevant to the age-range of the academy will have some pupils present); and

b) the total number of pupils as measured in the Schools Census for the preceding January is 90% or more of the planned final size of the Academy, that is 1320 pupils (including post 16).

and this basis will continue in all subsequent years.

53) For any academic year in which the formula funding element of GAG has been based on the Governing Body's estimate, an adjustment will be made to the following year's formula funding element of GAG to recognise any variation from that estimate greater than 2.5%, the additional or clawed-back grant being only that amount relevant to the number of pupils beyond the 2.5% variation. For any academic year in which the formula funding element of GAG is based on the Schools Census (or the September Pupil Count for sixth form pupils), no adjustment will be made to the formula funding element for actual pupil numbers which are below those used to calculate the formula funding element of GAG. Neither will an adjustment normally be made to the formula funding element for actual pupil numbers higher than those used; but an adjustment may be made by the Secretary of State if the Academy Trust demonstrates that there has been a significant impact on costs (eg an extra class had been added). For any other element of GAG the Secretary of State may make adjustments to recognise a variation in pupil numbers from that used to calculate the element of grant in question; the basis of these will be set out in the annual letter of funding.

54) The Secretary of State recognises that:

a. in relation to Academies which open with intakes representing only a proportion of the final planned size of the Academy, payments based simply upon the number of pupils present are unlikely to be sufficient to meet the Academy's needs in the years before all age groups are present at their planned size (the "start-up period") because of a lack of economies of scale. The Secretary of State undertakes to pay an appropriately larger GAG in the start-up period than would be justified solely on the basis of the methods set out in clauses 50 and 51 in order to enable the Academy to operate effectively. The Academy will apply to the Secretary of State for this addition to GAG, providing appropriate supporting evidence (including evidence of need);

- b. in relation to Academies which open with pupils transferred from one or more LA-maintained schools which have closed, additional GAG resources will be required to take account of transitional costs including any costs associated with supporting the integration of pupils from the closed schools and - where necessary - to offer a dual curriculum;
- c. in relation to the circumstances constituted by an Academy opening and operating in the premises of an LA-maintained predecessor school or schools, but with the intention that the Academy moves to new premises when available, additional GAG resources may be required to take account of transitional costs arising from those circumstances. The Secretary of State undertakes to pay such appropriately larger GAG that would be justified solely on the basis of the methods set out in clauses 50 and 51. The Academy will apply to the Secretary of State for this addition to GAG, providing appropriate supporting evidence (including evidence of need)

55) During the start-up period or during the period when year groups are present who have transferred from a predecessor school or schools, the Secretary of State will pay a further element of GAG additional to that calculated in accordance with the methods set out in clauses 50 and 51 to allow the Academy to:

- a. purchase a basic stock of teaching and learning materials (including library books, text books, software, stationery, science equipment and equipment for physical education) and other consumable materials;
- b. meet the costs associated with the recruitment and induction of additional teaching and other staff.

After the start-up period these costs will be met through the ordinary GAG.

56) The Secretary of State recognises that if he serves notice of intention to terminate this Agreement under clause 88 the intake of new pupils during the 7 year notice period is likely to decline and that in such circumstances payments based simply upon the number of pupils attending the Academy are unlikely to be sufficient to meet the Academy's needs during the notice period. The Secretary of State undertakes to pay a reasonable and appropriately larger GAG in the notice period than would be justified solely on the basis of the methods set out in clauses 50 and 51 in order to enable the Academy to operate effectively.

Earmarked Annual Grant

57) Earmarked Annual Grant shall be paid by the Secretary of State to the Academy Trust in respect of either recurrent or capital expenditure for such specific purposes as may from time to time be agreed between the Secretary of State and the Academy Trust and as described in the relevant funding letter. The Academy is free to determine how best to use each of its EAGs within the scope, terms and conditions of the grant set out in the relevant funding letter.

58) Where the Academy Trust is seeking a specific EAG in relation to any financial year, it shall submit a letter outlining its proposals and the reasons for its request to the Academies Division, Sanctuary Buildings, Great Smith Street, London SW1P3BT, by 15th February preceding the financial year in question.

Arrangements for Payment of GAG and EAG

59) The Secretary of State shall notify the Academy Trust in December preceding the start of each financial year of the GAG and EAG figures which, subject to Parliamentary approval, the Secretary of State plans for that year and of the assumptions and figures on which these are based.

60) If an error in the calculation of GAG or EAG occurs for any year, whether in the calculation or because of erroneous data supplied to the Secretary of State, the Secretary of State reserves the right to correct the calculation and, if appropriate, amend the baseline calculations for GAG in subsequent years. If an underpayment or overpayment has occurred as a consequence of the error, the Secretary of State will consider paying additional grant, and reserves the right to recover overpaid grant, as appropriate, having considered all the relevant circumstances.

61) The amount of GAG for an Academy financial year will be determined annually by the Secretary of State. The amount of GAG will be notified to the Academy Trust in a funding letter not later than 1 April preceding that financial year ("the annual letter of funding"). The annual letter of funding will not include the amount that the Academy Trust will receive in respect of grants for which information to enable timely calculation is not available or is incomplete, such grants will be notified as soon as practicable later in the year. Amounts of EAG will be notified to the Academy Trust wherever possible in the annual letter of funding or as soon as practicable thereafter.

62) For the purposes of this Agreement, the Academy's financial year shall be deemed to run from September to August, in order to align it to the school academic year. The Secretary of State undertakes to pay GAG in monthly instalments on or before the twenty fifth day of each month, each such instalment to fund the salaries and other payroll costs for the relevant month of all monthly paid employees and all other costs

payable during the next following month. The detailed arrangements for payment will be set out in the annual letter of funding.

Other relevant funding

- 63) The Secretary of State shall meet a proportion of the costs arising from the inclusion of Academies in the Schedules to the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999. The Secretary of State shall meet the costs of the employee's prior eligible service and the Academy Trust shall meet the costs of service in the Academy. The Academy shall seek the Secretary of State's consent for these redundancies, such consent not to be unreasonably withheld, before committing to the redundancies.
- 64) The Secretary of State may meet costs incurred by the Academy Trust in connection with the transfer of employees from a predecessor school under the Transfer of Undertakings (Protection of Employment) Regulations 1981. Payment of grant in respect of such costs is to be agreed between the parties on a case by case basis and the Academy Trust shall not budget on the basis that it will receive any grant in respect of such costs unless it is specifically notified that such grant will be paid.
- 65) The Academy Trust may also receive funding from LAs in respect of the provision detailed in statements of special educational needs for pupils attending the Academy in accordance with the provisions of Section 483A of the Education Act 1996 and regulations made under that section. The Academy shall ensure that all provision detailed in statements of SEN is provided for such pupils.
- 66) The Academy Trust should also receive funding from the LA in whose area it is located, from the Standards Fund. The scheme under which the Standards Fund money is to be distributed by the Secretary of State to LAs and schools will permit LAs to receive grants on behalf of Academies in the same way as they can do for maintained schools. The Academy must use any grants received under the Standards Fund in accordance with any conditions specified in relation to that grant. Grants paid to the Academy Trust from the Standards Fund are not paid under this Agreement.

Financial and Accounting Requirements

- 67) The headteacher shall be the Academy's Accounting Officer. The Accounting Officer will be personally responsible to the Governing Body for ensuring regularity and propriety, and for the economic, efficient and effective use of resources (i.e. ensuring value for money), and administration of the financial affairs of the Academy. The Accounting Officer may delegate or appoint others, such as a Finance Director, to assist in carrying out these responsibilities.

- 68) The Academy shall abide by the provisions within the Academies Financial Handbook, as published by the Department for Education and Skills and amended from time to time, which sets out in detail provisions for the financial management of the Academy including guidance on financial systems and controls and accounting and reporting requirements.
- 69) The formal budget should take in to account items in the School Development Plan requiring expenditure and must be approved each year by the Governing Body.
- 70) Any payment of grant by the Secretary of State is subject to his being satisfied as to the fulfilment by the Academy of the following conditions:
- a. that in its conduct and operation the Academy shall apply financial and other controls which conform with the requirements of propriety and the principles of good financial management;
 - b. that arrangements have been made to maintain proper accounting records and that statements of income and expenditure and balance sheets are produced in such form and frequency as the Secretary of State may from time to time reasonably direct;
 - c. that such financial statements are published at the end of each financial year (as defined in clause 62) in such form and manner as the Secretary of State may reasonably direct and a copy sent to him by 31 December each year. These should carry an independent audit report stating that, in the opinion of the auditors, the statements show a true and fair view of the Academy affairs and that the grants were used for the purposes intended. The independent auditors shall be appointed under arrangements approved by the Secretary of State and detailed in the Academies Financial Handbook.
 - d. that the Academy prepares and files with the Companies Registry such annual accounts as are required by the Companies Act 1985 (or any statutory re-enactment or modification of that Act);
 - e. that a statement of the accounting policies used is sent to the Secretary of State with the financial statements;
 - f. that the Academy insures or procures insurance by another person of its assets in accordance with normal commercial practice or under the terms of any subsisting leases in respect of the leasehold interest of the site upon which the Academy is situated;
 - g. (i) that the Academy prepares and files with the Charity Commission annual accounts prepared in accordance with the

Statement of Recommended Practice;

(ii) the Governing Body shall comply with their obligation under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual report and its transmission to the Charity Commissioners;

- 71) In addition, and at his expense, the Secretary of State may instruct auditors to report to him on the adequacy and effectiveness of the accounting systems and internal controls to standards determined by the Secretary of State and to make recommendations for improving the financial management of the Academy.
- 72) The books and accounts and all relevant records, files and reports of the Academy including those relating to financial controls, shall be open at all reasonable times to officials of the Department for Education and Skills and the National Audit Office and to contractors retained by the Department for Education and Skills or the National Audit Office for inspection or the carrying out of value for money studies; and the Academy shall secure that those officials and contractors are given reasonable assistance with their enquiries. For the purposes of this clause, relevant means in any way relevant to the provision and use of grants provided by the Secretary of State under this Agreement.
- 73) The Governing Body shall submit indicative budgets to the Secretary of State not later than by 15 February before the start of each Academy financial year. Such budgets shall set out clearly the prospective income and expenditure of the Academy and shall differentiate, and give adequate details of:
- a. a statement of expected income for that year including cash donations and gifts in kind from sources other than GAG, EAG and grants from the Secretary of State towards capital and revenue expenditure, distinguishing between income from public funds including the national lottery and income from other sources;
 - b. a statement of proposed recurrent expenditure for that financial year;
 - c) a statement of proposed capital expenditure for that financial year.
- 74) At the beginning of any year the Company may hold unspent GAG from previous years amounting to 12% of the total GAG payable in the year just ended or such higher amount figure as may from time to time be agreed. This carried forward amount may be used as follows:

a) equivalent to 2% of the total GAG payable in the year just ended, may be used for any of the purposes for which GAG is paid

b) equivalent to 12% of the total GAG payable in the year just ended, or such higher amount figure as may from time to time be agreed, minus any amount used under clause (a), may be used on the upkeep and improvement of premises, including the cost of equipment and routine repairs and maintenance, and on capital expenditure

Any grant paid in accordance with clauses 55 and 56 may be carried forward without limitation or deduction to the end of the start up period or until the circumstances referred to in clause 60 come to an end.

75) Any savings of GAG not allowed under clause 74 will be taken into account in the payment of subsequent grant.

76) The Governing Body may also accumulate funds from private sources or public sources other than grant from the Secretary of State for application to the benefit of the Academy as it sees fit. Any surplus arising from private sources or public sources other than grant from the Secretary of State shall be separately identified in the balance sheet.

77) The Academy Trust shall not, without the prior written consent of the Secretary of State which shall not be unreasonably withheld or delayed:

- a. give any guarantees, indemnities (except such as are given in normal contractual relations) or letters of comfort;
- b. write off any debts or liabilities owed to it above a value to be set out in the annual funding letter, nor offer or make any ex gratia payments;
- c. make any freehold sale or purchase; or
- d. grant or take up any leasehold or tenancy agreement for a term exceeding three years.

78) Each discovered loss of an amount exceeding the amount set out in the annual letter of funding, and arising from suspected theft or fraud, shall be reported by the Governing Body to the Secretary of State at the earliest opportunity.

79) It is the responsibility of the Governing Body to ensure that the Academy balances its budget from year to year.

Borrowing Powers

80) The Academy Trust shall not borrow without specific approval of the Secretary of State, such approval may only be granted in limited circumstances. The Academy Trust shall not operate an overdraft

except to cover irregularities in cash flow. Such an overdraft, and the maximum amount to be borrowed, shall require approval by the Academy Trust in General Meeting and in writing by the Secretary of State, and shall be subject to any conditions which the Secretary of State may reasonably impose.

DISPOSAL OF ASSETS

- 81) Where the Academy Trust acquires assets for a nil consideration or at an under value it shall be treated for the purpose of this Agreement as having incurred expenditure equal to the market value of those assets at the time that they were acquired. This provision shall not apply to assets transferred at nil or nominal consideration and which were previously used for the purposes of a school or where transferred from an LA; the value of which assets shall be disregarded.
- 82) The sale, or disposal by other means, or reinvestment of proceeds from the disposal, of a capital asset by an Academy Trust shall require the consent of the Secretary of State where:
- a. the Secretary of State paid capital grant in excess of £20,000 for the asset; or
 - b. the asset was transferred to the Academy Trust from a Local Education Authority for no or nominal consideration

such consent not to be unreasonably withheld or delayed. Furthermore, reinvestment exceeding £1m or with other special features will be subject to Parliamentary approval.

- 83) This clause applies in the event, during the lifetime of this agreement, of the disposal of a capital asset for which capital grant of any amount was paid, where the asset was acquired by the Academy Trust. In this event, the Academy Trust shall repay to the Secretary of State the same proportion of the proceeds of the disposal as equates with the proportion of the original cost met by the Secretary of State, unless the Secretary of State agrees to some or all of the proceeds being retained by the Academy Trust for its charitable purposes.
- 84) This clause applies in the event, during the lifetime of this agreement, that the Secretary of State consents to the disposal of an asset which was transferred to the Academy Trust from a Local Education Authority for no or nominal consideration. In this event the Secretary of State may give consent on the basis that all or part of the proceeds of the disposal should be made over to the Local Education Authority from which the asset was transferred, taking into account the amount of the proceeds to be reinvested by the Academy Trust. The Secretary of State will have regard to any representations from the Academy Trust and the Local Education Authority from which the asset was transferred

before giving a consent under this clause. Consent of the Secretary of State as mentioned in this clause shall not be unreasonably withheld or delayed.

85) Except with the consent of the Secretary of State, the Academy Trust shall not dispose of assets for a consideration less than the best that can reasonably be obtained.

TERMINATION

86) Subject to prior termination of this agreement under clauses 88-94, the Secretary of State shall continue payments in respect of recurrent expenditure for a period of not less than seven years.

87) Either party may give seven years written notice of its intention to terminate this Agreement, such notice to expire on 31 August in any year.

88) If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 9 or that the conditions and requirements set out in clauses 10 - 36 are not being met, or is otherwise in breach of the provisions of this Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

89) Any such notice shall be in writing and shall:

- a. state the grounds on which he considers the Academy no longer has the characteristics set out in clause 9 or is not meeting the conditions and requirements of clauses 10 - 36 or is otherwise in breach of the provisions of this Agreement;
- b. specify the measures needed to remedy the situation;
- c. specify the date by which these measures are to be implemented; and
- d. state the form in which the Governing Body is to provide its response and the date by which it must be provided.

90) If no response is received by the date specified in clause 89d, the Secretary of State may give the Governing Body 12 months, or such lesser period as he considers appropriate in the circumstances, written notice of his intention to terminate this Agreement.

91) If a response is received by the date specified in clause 89d, the Secretary of State shall consider it, and any representations made by the Governing Body, and shall, within 3 months of its receipt, indicate that:

- a. he is content with the response and that the measures which he specified are being implemented; or

- b. he is content, subject to any further measures he specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or
- c. he is not satisfied, that he does not believe that he can be satisfied, and that he will proceed to terminate the Agreement.

92) In the circumstances of clause 91c the Secretary of State shall notify the Governing Body why he believes that he cannot be satisfied and, if so requested by the Governing Body within thirty days from such notification, he shall meet a deputation from the members and governors of the Academy to discuss his concerns. If following such meeting he has good reasons for remaining satisfied that the Academy does not and will not have the characteristics set out in clause 9 or does not and will not meet the conditions and requirements set out in clauses 10 - 36 or does not and will not otherwise comply with the provisions of this Agreement, he shall give the Governing Body twelve months written notice of his termination of this Agreement.

93) If the Secretary of State has cause to serve a notice on the Governing Body under s.165 of the Education Act 2002 and the matters specified in the notice are not remedied, the period of twelve months notice referred to in clause 92 may be shortened to a period deemed appropriate by the Secretary of State.

94) The Secretary of State may at any time by notice in writing terminate this Agreement forthwith on the occurrence of any of the following events:-

- a. the Academy Trust calls a meeting of its creditors (whether formal or informal) or enters into any composition or arrangement (whether formal or informal) with its creditors; or
- b. the Academy Trust proposes a voluntary arrangement within Section 1 of the Insolvency Act 1986; or
- c. the Academy Trust is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 provided that, for the purposes of this Clause, Section 123 (1)(a) of the Insolvency Act 1986 shall have effect as if the amount of £10,000 was substituted for £750. The Academy Trust shall not be deemed unable to pay its debts for the purposes of this clause if any such demand as is mentioned in the said Section is being contested in good faith by the Academy; or
- d. the Academy Trust has a receiver (and manager with the exception of Receivers and Managers appointed by the Charity Commission under the Charities Act 1993 or any subsequent re-enactment of that Act), administrator or administrative receiver appointed over all or any part of its undertakings, assets or

income; or

- e. any restraint, execution or other process is levied or enforced on any of the Academy Trust's property and is not paid out, withdrawn or discharged within fifteen Business Days; or
- f. the Academy Trust has passed a resolution for its winding up; or
- g. the Academy Trust has a petition presented to any Court for its winding up or for an administration order; or
- h. the Academy Trust has ceased to carry on or provide for the carrying on of Academy (except where such cessation occurs temporarily by reason of an event of Force Majeure);
- i. both: ia) following an inspection of the Academy under Chapter 1 of Part 1 of the Education Act 2005, the Chief Inspector has provided a notice to the Secretary of State under subsection 13 (3)(a) of the Education Act 2005 specifying that the case falls within subsection 1(a) of that section ("*school requiring special measures*") (a Special Measures Notice) ; and

ib) not less than 12 months after the provision of any Special Measures Notice provided in respect of the Academy, a subsequent inspection of the Academy has been made under Part 1 of the Education Act 2005 whilst the Special Measures Notice still applies and the person making the subsequent inspection has made a report stating that in his opinion the Academy has made insufficient progress since the last inspection, or has otherwise failed to improve to the extent required by the person making the inspection.

"Business Days" in this clause, means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.

Effect of Termination

- 95) In the event of termination of this agreement, however occurring, the school shall cease to be an Academy.
- 96) If the Secretary of State terminates this Agreement for reasons other than that the Academy no longer has the characteristics set out in clause 9, or is no longer meeting the conditions and requirements set out in clauses 10 - 36 or is otherwise in breach of the provisions of this Agreement, the Secretary of State shall indemnify the Academy Trust.
- 97) The amount of any such indemnity shall be determined by the Secretary of State, acting reasonably and taking into any representations made to him by the Academy Trust, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

98) The amounts and categories of expenditure incurred by the Academy Trust in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Academy Trust include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.

99) In the event of the termination of this Agreement however occurring the Secretary of State shall procure that his nominee shall resign as a member of the Academy Trust and shall co-operate in making any associated amendments to the Academy Trust Articles of Association.

100) Subject to clause 101, on the termination of this agreement, however occurring, the Academy Trust shall repay to the Secretary of State a sum in respect of the capital contribution made by him under clauses 40-42 above. The amount to be repaid to the Secretary of State shall be a percentage of the value of the assets belonging to the Academy Trust at the date of termination (or by agreement with the Secretary of State) at the date of subsequent disposal of those assets, such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.

101) The Secretary of State may waive in whole or in part the repayment due under the above clause if:

- a. The Academy Trust is unable to realise the market value of land or premises because they are returned to the Local Authority at less than market value; or
- b. The Academy Trust obtains his permission to invest the proceeds of sale for its charitable objects; or
- c. The Secretary of State directs all or part of the repayment to be paid to the Local Authority.

102) If any land or premises of the Academy were acquired from a Local Authority by a scheme under Schedule 35A of the Education Act 1996 or otherwise at less than the market price, and the Secretary of State does not make a scheme as provided for in Schedule 35A (Paragraph 8) of the Education Act 1996, the Academy Trust may dispose of its interest in that land or premises but only with the consent of the Secretary of State, who shall have regard to any representations from the Academy Trust and the Local Authority from which the land was transferred before giving or withholding that consent.

GENERAL

103) Without prejudice to any other provision of this Agreement, the

Secretary of State acting reasonably may from time to time call for information on, inter alia, the Academy's:

- a. curriculum;
- b. arrangements for the assessment of pupils;
- c. targets, including those set in accordance with the provisions of clause 14;
- d. teaching staff including numbers, qualifications, experience, salaries and teaching loads;
- e. class sizes;
- f. outreach work with other schools and the local community;
- g. operation of the admission criteria and over subscription arrangements for the Academy including number of applications for places and the number of characteristics of pupils accepted for admission;
- h. number of pupils excluded (including permanent and fixed term exclusions);
- i. levels of authorised and unauthorised attendance;
- j. the Academy's charging and remissions policies and the operation of those policies;
- k. organisation, operation and building management;
- l. financial controls; and
- m. membership and proceedings of the governing body.

104) The Governing Body shall make such information available to the Secretary of State, in such form and manner and at such times as may reasonably be required. The Secretary of State shall provide the Governing Body with such information as they may reasonably require of him for the running of the Academy.

Access by the Secretary of State's Officers

105) The Governing Body shall allow access to the premises of the Academy at any reasonable time to DCSF officials. All records, files and reports relating to the running of the Academy shall be available to them at any reasonable time. The Governing Body shall provide the Department in advance with papers relating to all meetings of the Governing Body of the Academy and of members of the Academy. Two DCSF officials shall be entitled to attend and to speak at all such meetings, but shall withdraw from any discussion of the Academy's relationship with

the Secretary of State or any discussion of bids for funding to the Secretary of State. The Academy shall take any steps which are required to secure its compliance with the obligations imposed by this clause of the agreement.

106) The Academy shall ensure that:

- i) the agenda for every meeting of the Governing Body;
- ii) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
- iii) the signed minutes of every such meeting; and
- iv) any report, document or other paper considered at any such meeting, are made available for inspection at the Academy and, as soon as is reasonably practicable, sent to the DCSF.

107) There may be excluded from any item required to be made available and sent to the DCSF by virtue of clause 106 any material relating to:

- a) a named teacher or other person employed, or proposed to be employed, at the Academy;
- b) a named pupil at, or candidate for admission to, the Academy; and
- c) any matter which, by reason of its nature, the Governing Body are satisfied should remain confidential.

Notices

108) Any notice or other communication concerning this Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the Governing Body at the registered office of the Academy Trust or such other addressee/address as may be notified in writing from time to time by the Academy and, in the case of a notice or communication from the Academy to the Secretary of State to Head of Academies Division, Department for Children, Schools and Families, Sanctuary Buildings, Great Smith Street, London SW1P 3BT; or such other address as may be notified from time to time by the Secretary of State and where any such notice or communication is sent by post, unless the contrary is proved, it shall be deemed, subject to satisfactory proof of posting, to be effected at the time at which the letter would be received in the ordinary course of post.

109) This Agreement may be amended in writing at any time by agreement between the Secretary of State and the Academy Trust.

110) The service by the Secretary of State of a notice of termination under any clause of this Agreement shall not prejudice the ability of the Academy (if it wishes to do so) during the notice period to admit pupils in accordance with the provisions of clause 17 and Annex 2 to

this Agreement and to receive GAG and EAG in respect of them.

111) The Secretary of State and the Academy Trust recognise the difficulties in catering in this Agreement for all the circumstances which may arise in relation to the Academy and undertake in good faith to conduct such consultations as may from time to time be desirable in order to promote the interests of the Academy throughout the period of this Agreement.

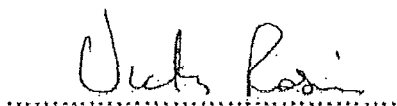
112) The Secretary of State acknowledges the principle that, at all times while this agreement continues, the Academy Trust should receive, from sources as mentioned in this agreement, funding to enable the Academy Trust to have the characteristics set out in clause 9 and meet the conditions and requirements set out in clause 10. By way of contribution to giving practical effect to this principle, the Secretary of State and the Academy Trust commit to consultation, discussion and negotiation with each other, in good faith, on all appropriate occasions, with a view to the resolution of any challenges that may arise while this agreement continues so as to enable the Academy Trust to operate effectively as an Academy.

This document is executed as a Deed on:

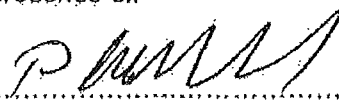
date

EXECUTED as a Deed of the Manchester Communication Academy,
Manchester


.....


.....

In the presence of: -

Name 
.....

Address MAVE, 320 FROD, EASTGATE

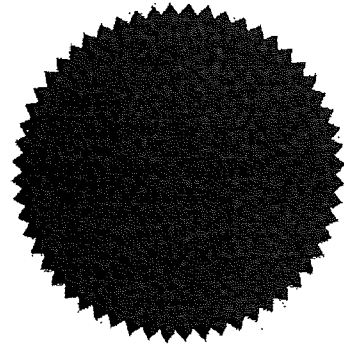
CASTLEFIELD, MANCHESTER
M3 4LZ

.....
.....
The Corporate Seal of the Secretary of State for Children, Schools and Families hereunto affixed was authenticated by-

B. Welch

BRETT WELCH

Authorised by the Secretary of State for Children, Schools and Families



ANNEX 2

THE ADMISSION OF PUPILS TO THE MANCHESTER COMMUNICATION ACADEMY

1. The Admission Policy adopted by the Manchester Communication Academy shall be written in accordance with the statutory code of practice on admissions.
2. Pupils will be admitted to the Manchester Communication Academy in accordance with the detailed admission arrangements described in the Admissions Policy Document. Changes to the Admissions Policy Document will require the approval of the Secretary of State.
3. The Academy will act in accordance with, and will ensure that the Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the statutory codes of practice (the School Admissions Code and the School Admission Appeals Code of Practice including the "in year fair access protocol") as they apply at any given time to maintained schools and Academies and with the law on admissions as it applies to maintained schools. Reference in the codes to admission authorities shall be deemed to be references to the governing body of the Academy. In particular, the Academy will take part in the Admissions Forum set up by Manchester City Council and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by Manchester City Council.

Arrangements for appeals panels

4. Parents will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Manchester Communication Academy. The Appeal Panel will be independent of the Academy. The arrangements for Appeals will be in line with the School Admission Appeals Code of Practice published by the Department for Children, Schools and Families as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties. The Academy should prepare guidance for parents about how the appeals process will work and provide parents with a named contact who can answer any enquiries parents may have about the process. The Academy may, if it chooses, enter into an agreement with the local authority for it to recruit, train and appoint appeal panel members, and to arrange for the process to be independently administered and clerked. If the Academy chooses to appoint its own Appeals Panel, it will have a responsibility to train appropriate personnel. Likewise, if the Appeals Panel is from the LA, the LA will undertake to train these.

II: ANNUAL PROCEDURES FOR DETERMINING ADMISSION ARRANGEMENTS

Consultation¹

5. The Manchester Communication Academy shall consult by 1 March each year on its proposed admission arrangements with relevant parties in line with the requirements of the School Admissions Code and relevant admissions legislation. (At the date of this Agreement, section 89 of the School Standards and Framework Act 1998 as amended, and regulations under that section.)

Determination and publication of admission arrangements

6. Following consultation, the Manchester Communication Academy will consider comments made by those consulted. Manchester Communication Academy will then determine its admission arrangements by 15 April of the relevant year and notify those consulted what has been determined within 14 days.

Publication of admission arrangements

7. The Manchester Communication Academy will publish its admission arrangements each year once these have been determined in accordance with the arrangements described in the Admissions Policy Document.

Representations about admission arrangements

8. Where any of those bodies that were consulted, or that should have been consulted, make representations to the Manchester Communication Academy about its admission arrangements, the Manchester Communication Academy will consider such representations before determining the admission arrangements. Where the Academy has determined its admission arrangements and notified all those bodies whom it has consulted and any of those bodies object to the Academy's admission arrangements they can make representations to the Secretary of State. These representations must be made by 30 April. The Secretary of State will consider the representation and in so doing will consult the Manchester Communication Academy. Where he judges it appropriate, the Secretary of State may direct the Manchester Communication Academy to amend its admission arrangements.

9. Those consulted have the right to ask the Manchester Communication Academy to change its proposed Published Admissions Number for any year. Where such a change is made, but agreement cannot be reached locally, they may ask the Secretary of State to direct the Manchester Communication Academy to change its proposed Published Admissions Number. The

Secretary of State will consult the Manchester Communication Academy and will then determine the Published Admissions Number.

10. In addition to his powers in paragraphs 8 and 9 above, the Secretary of State may direct changes to the Manchester Communication Academy's proposed admission arrangements and to the proposed Published Admissions Number.

Proposed changes to admission arrangements by the Manchester Communication Academy after arrangements have been published

11. Once the admission arrangements have been determined for a particular year and published, the Manchester Communication Academy will propose changes only if there is a major change of circumstances. In such cases, the Manchester Communication Academy must notify those consulted under paragraph 5 above of the proposed variation and must then apply to the Secretary of State setting out:

- a) the proposed changes;
- b) reasons for wishing to make such changes;
- c) any comments or objections from those entitled to object.

Need to secure Secretary of State's approval for changes to admission arrangements

12. The Secretary of State will consider applications from the Manchester Communication Academy to change its admission arrangements only when the Manchester Communication Academy has notified and consulted on the proposed changes as outlined at 5 above.

13. Where the Manchester Communication Academy has consulted on proposed changes the Manchester Communication Academy must secure the agreement of the Secretary of State before any such changes can be implemented. The Manchester Communication Academy must seek the Secretary of State's approval in writing, setting out the reasons for the proposed changes and passing to him any comments or objections from other admission authorities/other persons.

14. The Secretary of State can approve, modify or reject proposals from the Manchester Communication Academy to change its admission arrangements.

15. Records of applications and admissions shall be kept by the Manchester Communication Academy for a minimum period of ten years and shall be open for inspection by the Secretary of State.

**Manchester Academies Programme
MANCHESTER COMMUNICATION ACADEMY**

**ACADEMY ADMISSIONS POLICY DOCUMENT
Document 2 of 2**

Approved Admission Arrangements for Manchester Communication Academy

1. This document sets out the admission arrangements for the Manchester Communication Academy in accordance with Annex 2 to the Funding Agreement between the Manchester Communication Academy and the Secretary of State. Any changes to the arrangements set out in this document must be approved in advance by the Secretary of State. Obligations in this document are to be treated as if imposed by the Funding Agreement.

2. Notwithstanding these arrangements, the Secretary of State may direct the Manchester Communication Academy to admit a named pupil to the Manchester Communication Academy on application from a LA. Before doing so the Secretary of State will consult the Academy.

This annex may be amended in writing at any time by agreement between the Secretary of State and the Academy Trust.

I: ADMISSION ARRANGEMENTS APPROVED BY SECRETARY OF STATE

Arrangements for admission to 11-16 Provision

3. The admission arrangements for the Manchester Communication Academy for the year 2010/2011 and, subject to any changes approved or required by the Secretary of State, for subsequent years are:

a) The Manchester Communication Academy has an agreed admission number of 240 students. The Manchester Communication Academy will accordingly admit at least 240 students in the relevant age group each year if sufficient applications are received, and no more than 240 students, unless directed by appeal or allocated through the MCC In Year Fair Access Protocol, or as looked after child or by decision of the Academy Governing Body on the basis of exceptional social/medical need, or via the SEN statementing processes.

b) The Manchester Communication Academy may revise its Published Admission Number for any specific year and must consult those listed at paragraph 14 below before doing so. Students will not be admitted above the Published Admission Number unless directed by appeal, allocated through the MCC In Year Fair Access Protocol, or as a looked after child or by decision of the Academy Governing Body on the basis of exceptional social/medical need, or via the SEN statementing processes or if exceptional circumstances apply and such circumstances shall be reported

Page 1 of 5

to the Secretary of State.

Process of application

4. Applications for places at the Academy will be made in accordance with Manchester City Council's co-ordinated admission arrangements and will be made on the Common Application Form provided and administered by the relevant LA.

In accordance with statutory requirements, the offer of places at the Academy for all students will be made on 1 March. To ensure this target date is met, the Academy will follow the timetable for co-ordinated admissions set annually by the LA.

Consideration of applications

5. The Manchester Communication Academy will consider all applications for places. Where fewer than the published admission number for any relevant age group are received, the Manchester Communication Academy will offer places to all those who have applied.

Procedures where the Manchester Communication Academy is oversubscribed

6. Where the number of applications for admission is greater than the published admissions number, applications will be considered against the criteria set out below. After the admission of students with statements of Special Educational Needs where the Manchester Communication Academy is named on the statement, the criteria will be applied in the order in which they are set out below:

- a) Children who are looked after by a local authority;
- b) Children with exceptional medical/social needs¹
- c) Children who have a brother or sister attending the Academy when they take up their place (but not sixth form)²
- d) Children who attend a Manchester LA- maintained primary school prioritised according to the distance between their permanent home address and the Academy, measured in a straight line.^{3and4}

¹ Category B- exceptional social/medical needs will be determined by the Academy Governing Body and supported by professional written evidence

² Brothers or sisters must live at the same address as the applicant and will include stepsiblings, foster siblings and adopted siblings

³ This will only extend to students on roll at a Manchester Primary School on the closing date specified by the LA for co-ordinated admissions, for applications to be returned

⁴ Permanent home address -- where the child resides for the majority of her/his time

- e) Children who do not attend a Manchester LA maintained primary school prioritised according to the distance between their permanent home address⁵ and the Academy, measured in a straight line.

Operation of waiting lists

7. Subject to any provisions regarding waiting lists in the LA's co-ordinated admission scheme, the Academy will operate a waiting list. Where in any year the Manchester Communication Academy receives more applications for places than there are places available, a waiting list will operate after the admission date. This will be maintained by the Manchester Communication Academy and it will be open to any parent to ask for his or her child's name to be placed on the waiting list, following an unsuccessful application. The Academy may choose to ask the Local Authority to operate its waiting lists on their behalf.

8. Children's position on the waiting list will be determined solely in accordance with the oversubscription criteria set out in paragraphs 6a - e above. Where places become vacant they will be allocated to children on the waiting list in accordance with the oversubscription criteria. The offer of places must be made by the Academy and communicated by the LA, in accordance with its coordinated admissions scheme.

Arrangements for admitting students in years 8 -11, including replacements for any students who have left the Manchester Communication Academy during the course of the year

9. Subject to any provisions in the LA's co-ordinated admission arrangements relating to applications submitted for years other than the normal year of entry, the Academy will consider all such applications and if the year group applied for has a place available, admit the child unless one of the permitted reliefs apply. If more applications are received than there are places available, the oversubscription criteria in paragraphs 6a - e shall apply. Parents whose application is turned down are entitled to appeal.

10. The Manchester Communication Academy will participate in Manchester City Council's In Year Fair Access Protocol.

Arrangements for admission to post 16 provision

11. The Manchester Communication Academy will admit 60 pupils in year 12 minus those pupils entitled to transfer from the school's own year 11. If the number of pupils in year 13 falls below 60 at the beginning of the academic year, the academy may admit a correspondingly higher number into year 12.

The Manchester Communication Academy will publish minimum entry requirements for its Post 16 provision each autumn which will apply to the

⁵ Permanent home address – where the child resides for the majority of her/his time

following September's cohort (e.g. autumn 2008 for September 2009 entry). Both transferees from the Academy's own year 11 and external applicants will be expected to have met these minimum standards to be allowed to enter the Academy's sixth form provision.

For external applicants, in the case of oversubscription, and after the admission of pupils with a statement of special educational needs which names the Academy, priority will be given in the following order:

- a) Children who are looked after by a local authority;
- b) Children with Exceptional medical/social needs⁶
- c) children who attend an Academy in the Manchester City Council area or a Manchester LA- maintained secondary school prioritised according to the distance between their permanent home address and the Academy, measured in a straight line.
- d) Children who do not attend an Academy in the Manchester City Council area or Manchester LA maintained secondary school prioritised according to the distance between their permanent home address and the Academy, measured in a straight line.

Unsuccessful applicants have a right of appeal to an independent appeal panel. This right extends to both those refused progression from the Academy's year 11 and external applicants. The Academy will provide a written explanation and an offer of appeal

Arrangements for admission of students as the Manchester Communication Academy builds to its full capacity

12. The Manchester Communication Academy will open on 1 September 2010 with a Published Admission Number relating solely to students in Year 7 and, where relevant, Year 12.

13. Admission to Year groups without a Published Admission Number will be based upon the size of teaching groups already existing in the Manchester Communication Academy and the efficient use of resources as determined by the Academy Governing Body.

14. There will be a right of appeal to an Independent Appeal Panel for unsuccessful applicants.

II: ANNUAL PROCEDURES FOR DETERMINING ADMISSION

⁶ Category B- exceptional social/medical needs will be determined by the Academy Governing Body and supported by professional written evidence

ARRANGEMENTS

Consultation

15. The Manchester Communication Academy will consult the following by 1 March each year on its proposed admission arrangements:

- a) Manchester City Council;
- b) The admission forum for Manchester City Council;
- c) Any other admission authorities for primary and secondary schools located within the relevant area for consultation set by the LA;
- d) Any other governing body for primary and secondary schools (as far as not falling within paragraph c) located within the relevant area for consultation;
- e) Affected admission authorities in neighbouring LA areas.

Publication of admission arrangements

16. The Manchester Communication Academy will publish its admission arrangements each year once these have been determined by:

- a) Copies being sent to primary and secondary schools in Manchester City;
- b) copies being sent to the offices of LA in time for inclusion in the LA's statutory admissions literature
- c) copies being made available without charge on request from the Academy;
- d) Copies being sent to public libraries in the area of Manchester City for the purposes of being made available at such libraries for reference by parents and other persons.

17. The published arrangements will set out:

- a) The name and address of the Academy and contact details;
- b) A summary of the admissions policy, including oversubscription criteria;
- c) A statement of any religious affiliation;
- d) Numbers of places and applications for those places in the previous year; and
- e) Arrangements for hearing appeals.

Annex 3

Arrangements for pupils with SEN and disabilities at the Manchester Communication Academy

Duty to have regard to the Code of Practice and other guidance

1. The Academy shall have regard to the Special Educational Needs Code of Practice (2001) and any guidance issued by the Secretary of State relating to sections 316 and 316A of the Education Act 1996 and the Admission code of practice 2007. Any changes to be made to the provisions set out in this document must be approved in advance by the Secretary of State.

Duties in relation to pupils with SEN

2. The governors of the Academy shall designate a person, who may be the headteacher, the chair of governors or another governor as appropriate, who shall be the responsible person for the purposes of the following duties in relation to pupils with SEN.

3. The governors of the Academy shall:

- ensure that pupils with SEN are admitted on an equal basis in accordance with its admissions policy.
- use their best endeavours, in exercising their functions in relation to the school, to secure that, if any registered pupil has special educational needs, the special educational provision which the pupil's learning difficulty calls for is made;
- secure that, where the responsible person has been informed by the local authority that a registered pupil has special educational needs, those needs are made known to all staff who are likely to work with the pupil;
- secure that the staff in the school are aware of the importance of identifying, and providing for, those registered pupils who have special educational needs; and
- consult the local authority and the governing bodies of other schools and Academies in the area, to the extent that this is necessary for co-ordinating provision for pupils with SEN.

4. Where a child who has special educational needs is being educated in the Academy, those concerned with making special educational provision for the child shall secure, so far as is reasonably practicable and is compatible with:

- (a) the child receiving the special educational provision which his learning difficulty calls for,
- (b) the provision of efficient education for the children with whom he will be educated,
- (c) the efficient use of resources and
- (d) that the child engages in the activities of the school together with children who do not have SEN.

5. The Academy prospectus shall include details of the governing body's policy for pupils with SEN and in particular shall include the information specified in Schedule 1 to the Education (Special Educational Needs) (Information) Regulations 1999 as amended or re-enacted from time to time.

Academy Prospectus

6. It shall also include details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; and the facilities provided to assist access to the Academy by disabled pupils (disabled pupils meaning pupils who are disabled for the purposes of the Disability Discrimination Act 1995).

Admissions

7. Where a local authority proposes to name the Academy in a statement of SEN made in accordance with section 324 of the Education Act 1996, the Academy shall consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children; and where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Academy shall have regard to the relevant guidance issued by the Secretary of State to maintained schools.

8. In the event of any disagreement between the Academy and the local authority over the proposed naming of the Academy in a statement, the Academy may ask the Secretary of State to determine whether the Academy should be named. The Secretary of State's determination shall, subject only to any right of appeal which any parent /carer or guardian of the child may have to the Special Educational Needs and Disability Tribunal (SENDIST), be final.

9. If a parent/carers or guardian of a child in respect of whom a statement is maintained by the local authority appeals to SENDIST either against the naming of the Academy in the child's SEN statement or asking the Tribunal to name the Academy, then the decision of the Tribunal on any such appeal

shall be binding and shall, if different from that of the Secretary of State under paragraph 7 above, be substituted for the Secretary of State's decision.

10. Where the Academy has consented to be named in a child's statement of SEN, or the Secretary of State or SENDIST have determined that it should be named, the Academy shall admit the child notwithstanding any provision of Annex 2 Admission of this agreement.

Manchester Communication Academy

Exclusion Policy

July 2007

ANNEX 4

Serious incidents of misbehaviour leading to fixed period or permanent exclusion

1. In discharging its duty the Academy Trust will have regard and will ensure that the Independent Appeal Panel has regard to the Secretary of State's guidance on exclusions for maintained schools in accordance with any written directions from the Secretary of State on the interpretation of such guidance for the purpose of this annex.

2. At the date of this agreement, the Secretary of State's guidance on exclusions is called "Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units", which is published on the DfES website at:

<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance/>.

The title, contents and publication site of this guidance may be subject to change and the Academy Trust will have regard to the guidance as it stands at any given time.

Constitution and conduct of independent appeal panels

3. In addition to the obligations under paragraphs 1 and 2, the Academy Trust will be responsible for carrying out the functions of the Local Authority, as specified in the guidance, for the management of the appeal procedure. The Appeal panel must be impartial and constituted in accordance with the provisions of the guidance detailing the composition of the Appeal Panel. The Academy Trust will arrange suitable training for appeal panel members and clerks.

4. The appeal panel's decision is final and binding on the Academy Trust. Decisions of appeal panels are in principle amendable to judicial review on the application of a parent. A parent may not, however, appeal to the Commissioner for Local Administration (the Local Government Ombudsman) about maladministration because the Commissioner's remit is limited to considering the conduct of appeal panels constituted by Local Authorities.

Annex 5 Post 16 Statement of Principles

Each Academy to be designated as an 11-18 institution, with capacity for 120 registered Post 16 students.

- Post 16 provision within each Academy to be commissioned through the local commissioning process as for other sixth forms, sixth form colleges and FE colleges.
- Each Academy site to have Post 16 provision on-site from 2010, governed by the Academy Governing Body and managed by the Academy Principal.
- Academies may choose to employ staff directly for the delivery of Post 16 provision or may choose to work with a partner (for example, a local FE provider) in delivery.
- Capital funding for the Post 16 provision on each Academy site to be provided through Partnership for Schools.
- The curriculum offer at each site to reflect a focus on sector-relevant Diploma delivery (at Level 3, as soon as possible), complemented by appropriate A levels (or equivalent Level 2 qualifications if necessary).
- The curriculum offer to be integrated into the local Collegiate offer, as part of the coordinated 14-19 entitlement.
- Funding from the Commissioning Body (MCC) for Post 16 provision in Academies will be calculated in accordance with the same principles and processes as for post 16 provision in the City.
- Funding will be provided by DCSF to MCC as the Commissioning Body.
- The commissioning decisions of MCC will be directed by a Commissioning Board in association with the 14-19 Partnership. Such a commissioning process would see a system different to that set out in para 3.37 of the recent white paper 'Raising Expectations: Enabling the System to Deliver'.
- Each Academy Trust will have a place on the Commissioning Board.

Schedule 2

Part A: New Master Funding Agreement



Department
for Education

Academy and free school: master funding agreement

December 2014

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SUMMARY SHEET

Information about the Academy Trust:

Name of Academy Trust	Manchester Communication Academy
Registered Address	P.O. Box 532 Town Hall, Manchester, M60 2LA
School Address	Silchester Drive, Harpurhey Manchester M40 8NT
Company Number	06754335
Contact details for the Chair of Charity Trustees	Mike Blackburn Manchester Communication Academy, Silchester Drive, Harpurhey Manchester M40 8NT

Please confirm whether additional clauses have been included (e.g. PFI clauses which will be supplied by your project lead if needed)

Descriptor	Clause No.	Applied	Not used

1. INTRODUCTION

Introduction and definitions

- 1.1 This Agreement is between the Secretary of State for Education (the “**Secretary of State**”) and Manchester Communication Academy Trust (the “**Academy Trust**”), and is an academy agreement as defined by section 1 of the Academies Act 2010.
- 1.2 The Academy Trust is a company limited by guarantee incorporated in England and Wales with company number 06754335. The Academy Trust is a charity and its directors are the Charity Trustees of the Academy Trust.
- 1.3 In order for the Academy Trust to establish and run a number of Academies in England, according to the provisions of the Academies Act 2010, and in order for the Secretary of State to make payments to the Academy Trust, the Academy Trust must meet the requirements in this Agreement and in each **Supplemental Agreement** that has been entered into by the Academy Trust and the Secretary of State in respect of each Academy.
- 1.4 In this Agreement, and (except as expressly provided otherwise) in each Supplemental Agreement, the capitalised words and expressions listed below will have the following meanings:-

Definitions of types of Academies:

An “**Academy**” is a school or educational institution established and run in accordance with the Academies Act 2010, and where this Agreement refers collectively to “**Academies**” run by the Academy Trust, this may include any of the following types of school or educational institution:

A “**Free School**” means an Academy which is a new educational institution within the meaning of section 9(1)(a) of the Academies Act 2010.

A “**Mainstream Academy**” means an Academy or a Free School which meets the requirements set out in section 1A(1) of the Academies Act 2010.

An **“Alternative Provision Academy”** means an Academy or a Free School which meets the requirements set out in section 1C(1) of the Academies Act 2010.

A **“Special Academy”** means an Academy or a Free School which meets the criteria set out in section 1A(2) of the Academies Act 2010.

A **“Sponsored Academy”** will be (unless otherwise stated) a Mainstream Academy which is established pursuant to an Academy Order under section 4 of the Academies Act 2010, which will be designated as a Sponsored Academy within the Supplemental Agreement applicable to that Academy, and as such certain conditions may apply to it.

“Studio School” means a type of Free School, principally for pupils and students aged between 14 and 19, which places an emphasis on such pupils and students obtaining employability skills through project-based learning.

“University Technical College” means a type of Free School, principally for pupils and students aged between 14 and 19, which provides technical education with the emphasis on a particular industry or scientific sector.

A **“16-19 Academy”** means an Academy or a Free School which meets the requirements set out in section 1B(1) of the Academies Act 2010.

Other defined terms:

“16-19 Funding Guidance” means the guidance published by the EFA and amended from time to time, on behalf of the Secretary of State.

“Academies Financial Handbook” means the document with that title published by the EFA and amended from time to time, on behalf of the Secretary of State.

“Academy Financial Year” means the year from 1 September to 31 August, or a different period notified in writing by the Secretary of State.

“Articles” means the Academy Trust’s articles of association.

“Business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or any day which is a bank holiday with the meaning given to that expression in the Banking and Financial Dealings Act 1971.

“Charity Trustees” means the directors of the Academy Trust who are responsible for the general control and management of the administration of the Academy Trust.

“Chief Inspector” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills.

“Commissioner” means LAs and/or schools referring pupils to an Alternative Provision Academy for admission under the legal powers set out in the relevant Supplemental Agreement.

“Control” means the power of an organisation or individual (‘A’) to ensure that the affairs of a another organisation are conducted in accordance with A’s wishes, whether through share ownership or voting power, by agreement, because of powers conferred by articles of association or any other document, or otherwise; and **“Controls”** will be construed accordingly.

“DfE” and the expression **“Department”** means the Department for Education or any successor Department which has responsibility for schools”

“EFA” means the Education Funding Agency.

“Guidance” means guidance issued by or on behalf of the Secretary of State, as amended from time to time.

“Independent School Standards” means the independent school standards prescribed under section 157 of the Education Act 2002.

“LA” means a local authority.

“Local Governing Body” means the committee (if any) established by the Academy Trust in relation to an Academy or Academies, within the Academy Trust, in accordance with the Articles.

“Parents” means parents or guardians.

“Predecessor School” means the school which the Academy in question replaced, where applicable.

“Publicly Funded Assets” means (a) assets or property funded wholly or partly using payments made by or on behalf of the Secretary of State, and (b) publicly funded land as defined in paragraph 22(3) of Schedule 1 to the Academies Act 2010.

“Pupil Premium” means an amount equivalent to the pupil premium as defined in the School and Early Years Finance (England) Regulations 2013

“Pupil Referral Unit” means any school established in England and maintained by an LA which is specially organised to provide education for children falling within section 19(1) of the Education Act 1996.

Any reference to **“Secretary of State”** includes a reference to the EFA acting on the Secretary of State’s behalf.

“Secretary of State’s consent” means the Secretary of State’s specific, prior written consent, which will not be unreasonably withheld or delayed.

“SEN” means Special Educational Needs and the expressions **“special educational needs”** and **“special educational provision”** have the meaning set out in sections 20(1) and 21(2) of the Children and Families Act 2014.

“Start-up Period” has the meaning as defined in the relevant Supplemental Agreement.

“Supplemental Agreement” means an agreement supplemental to this Agreement for any Academy which the Academy Trust agrees to establish and maintain and the Secretary of State agrees to fund, which is substantially in the form of the supplemental funding agreement entered into by both parties at the time that this Agreement is signed.

“Teaching Staff” means teachers and the principal or head teacher employed at the Academy.

“Termination Notice” means a notice sent by the Secretary of State to the Academy Trust, terminating this Agreement and each Supplemental Agreement on the date specified in the notice.

- 1.5 The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament.
- 1.6 A reference in this Agreement to any party or body includes its successors.
- 1.7 Any words following the terms ‘include’, ‘including’ or ‘in particular’ are by way of illustration, not limitation.
- 1.8 A reference in this Agreement to land includes any buildings or structures on the land.
- 1.9 A reference in this Agreement to pupils includes students at a 16-19 Academy.
- 1.10 Where any legislation, legal requirement or published guidance is referred to, unless otherwise stated, the following terms should be interpreted as follows:
 - a) “school” refers to the relevant Mainstream Academy, Alternative Provision Academy, Special Academy or Studio School, and “educational institution” refers, where the context so admits, to a 16-19 Academy;
 - b) the “head teacher” may refer to the Academy’s head teacher or principal;
 - c) references to the “governing body” or “responsible authorities” will be taken to refer to the Academy Trust; and
 - d) references to registered pupils will be treated as references to registered pupils at the Academy.
- 1.11 References in this Agreement or any Supplemental Agreement to any named legislation, legal requirement or published guidance should be taken to include any amendment to or replacement of it.

1.12 If any questions arise about how this Agreement should be interpreted, the answer will be decided by the Secretary of State, after discussion with the Academy Trust.

General Obligations of the Academy Trust

1.13 In order for the Academy Trust to establish and run independent schools and/or educational institutions in England, according to the terms of the Academies Act 2010, and in order for the Secretary of State to make payments to the Academy Trust, the Academy Trust must meet the conditions and requirements set out in this Agreement, and in each Supplemental Agreement for an Academy for which payments are claimed. In particular, the Academy Trust must ensure the Academies it runs meet the applicable requirements as follows:

- a) for **Mainstream Academies**, those specified in Section 1A of the Academies Act 2010;
- b) for **Alternative Provision Academies**, those specified in Section 1C of the Academies Act 2010;
- c) for **16-19 Academies**, those specified in Section 1B of the Academies Act 2010;
- d) for **Special Academies**, those specified in section 1A(2) of the Academies Act 2010, and:
 - i. the Academy Trust must ensure special educational provision is made at each of the Special Academies for one or more categories of SEN. These categories may include, but are not limited to: Specific Learning Difficulties, Moderate Learning Difficulties, Severe Learning Difficulties, Profound and Multiple Learning Difficulties, Behaviour Emotional Social and Development Needs, Speech Language and Communication Needs, Autistic Spectrum Disorder, Visual Impairment, Hearing Impairment, Multi-Sensory Impairment, Physical Disability;

- ii. the Academy Trust may not refuse to admit a child whose statement of SEN names one of the Special Academies on the sole basis that some, or all, of the child's SEN do not feature in the categories referred to in clause 1.13(d)(i) of this agreement.
- iii. the Academy Trust must comply with all of the obligations imposed upon special academies by legislation, and with the obligations imposed upon the governing bodies of maintained special schools in Chapter 1 of Part 4 of the Education Act 1996.
- iv. the Academy Trust must ensure that each Special Academy's website includes details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; the facilities provided to assist access to the Academy by disabled pupils; and the plan prepared by the Academy Trust under paragraph 3 of Schedule 10 to the Equality Act 2010. Disabled pupils in this paragraph mean pupils who are disabled for the purposes of the Equality Act 2010.

1.14 To the extent that it is compatible with the Academy Trust fulfilling its charitable purpose of advancing education in the United Kingdom for the public benefit, the Academy Trust must ensure that each of its Academies is at the heart of its community, promoting community cohesion and sharing facilities with other schools and/or other educational institutions and the wider community.

1.15 The Academy Trust must conduct its Academies within the terms and requirements of:

- a) the Articles;
- b) any legislation or legal requirement that applies to academies, including the Independent School Standards and legislation about meeting the needs of pupils with SEN and disabilities;

c) the Academies Financial Handbook, as stated in clauses 4.6 to 4.8;
and

d) this Agreement, and any and all Supplemental Agreements.

1.16 The Academy Trust must, as soon as is reasonable, establish an appropriate mechanism for the receipt and management of donations for the purpose of its aims as specified in the Articles.

1.17 The Academy Trust must obtain the Secretary of State's consent before applying to have an Academy designated as a school with religious character. The Secretary of State may at his discretion refuse or consent to the Academy Trust making such an application.

1.18 Unless an Academy operated by the Academy Trust is designated as a school with a religious character under the Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003, it agrees to be bound by the prohibition against discrimination in section 85 of the Equality Act 2010.

1.19 The Academy Trust is not required to publish information under this Agreement, or any Supplemental Agreement, if to do so would breach its obligations under the Data Protection Act 1998.

1.20 The Academy Trust must ensure that its Academies meet the needs of individual pupils, including pupils with SEN and disabilities.

Governance

1.21 The Academy Trust will be governed by a board comprising the Charity Trustees of the Academy Trust (the "**Board of Charity Trustees**").

1.22 The Board of Charity Trustees must have regard to any Guidance on the governance of academy trusts.

1.23 The Academy Trust must ensure that it engages with the relevant Local Governing Body (if any) or representatives of each Academy, and that arrangements are in place for matters relating to the functioning of each

Academy to be brought to the attention of the Charity Trustees of the Academy Trust.

- 1.24 The Academy Trust must provide to the Secretary of State the names of all new or replacement members of the Academy Trust, stating the date of their appointment and, where applicable, the name of the member they replaced as soon as is practicable and in any event within 14 days of their appointment.
- 1.25 The Academy Trust must not appoint any new or replacement members until it has first informed them, and they have agreed, that their names will be shared with the Secretary of State to enable him to assess their suitability.
- 1.26 If the Academy Trust establishes and maintains a Free School, it must, in addition to its obligations under clauses 1.24 and 1.25:
 - a) provide to the Secretary of State the names of all new or replacement Charity Trustees of the Academy Trust, stating whether they have been appointed or elected, the date of their appointment or election and, where applicable, the name of the Charity Trustees they replaced as soon as is practicable and in any event within 14 days of their appointment or election; and
 - b) not appoint or elect any new or replacement Charity Trustees until it has first informed them, and they have agreed, that their names will be shared with the Secretary of State to enable him to assess their suitability.
- 1.27 The Academy Trust must not amend or remove the provisions in its Articles relating to the appointment or election or the resignation or removal of Charity Trustees or members ("the Governance Articles") without the Secretary of State's consent.
- 1.28 Before any change to the Governance Articles is proposed the Academy Trust must give notice to the Secretary of State of:
 - a) the proposed amendment or removal; and;

b) the reason for it.

1.29 If the Secretary of State consents to the proposed changes, the Academy Trust shall approve any changes to the Articles as soon as reasonably practicable and provide the Secretary of State with a copy of the amended Articles and the resolution(s) approving them.

2. RUNNING OF THE ACADEMIES

Length of school day and year

2.1 The length of the school day and year will be the responsibility of the Academy Trust and for the purpose of this paragraph "school" also means a **16 to 19 Academy**.

Teachers and staff

2.2 In complying with the Independent School Standards, the Academy Trust must require enhanced Disclosure and Barring Service ("DBS") certificates as appropriate for members of staff, supply staff, members of the Academy Trust, individual Charity Trustees and the chair of the Board of Charity Trustees.

2.3 The Academy Trust must promptly submit to the Secretary of State, on request, the information contained in any enhanced DBS certificate that it receives.

2.4 The Academy Trust must, where applicable, in respect of each of its Academies designate a member of staff at each Academy responsible for promoting the educational achievement of pupils at the Academy who are being looked after by an LA, and in doing so must comply with the law, regulations and guidance that apply to maintained schools.

2.5 Teachers' pay and conditions of service at the Academies are the responsibility of the Academy Trust.

2.6 The Academy Trust must ensure that all teachers employed in each Academy have access to the Teachers' Pension Scheme and, in so doing, must comply

with the requirements of the scheme and with Fair Deal for staff pensions guidance published by HM Treasury.

- 2.7 The Academy Trust must, in accordance with the Local Government Pension Scheme (Administration) Regulations 2008 and with Fair Deal for staff pensions guidance published by HM Treasury, ensure that all affected staff employed by the Academy Trust other than teachers have access to the Local Government Pension Scheme, unless an individual expressly chooses to opt out of the Scheme in accordance with the regulations.
- 2.8 Where a member of the Teaching Staff employed at an Academy applies for a teaching post at another academy, a maintained school or a further education institution, the Academy Trust must at the request of the board of governors or academy trust of that other educational institution:
- a) advise in writing whether or not, in the previous two years, there has been any formal capability considerations or proceedings for that teacher at the Academy or the Predecessor School;
 - b) give written details of the concerns which gave rise to any such consideration of that teacher's capability, the duration of the proceedings and their outcome.

School meals

- 2.9 Subject to clause 2.12, the Academy Trust must provide school lunches and free school lunches in accordance with the provisions of sections 512(3) and 512ZB(1) of the Education Act 1996 as if references in sections 512 and 512ZB to a local authority were to the Academy Trust and as if references to a school maintained by a local authority were to any of its Academies.
- 2.10 The Academy Trust must comply with school food standards legislation as if its Academies were maintained schools.
- 2.11 Where the Academy Trust provides milk to pupils, it must be provided free of charge to pupils who would be eligible for free milk if they were pupils at a maintained school.

2.12 Clauses 2.9 to 2.11 do not apply to 16-19 Academies. For **16-19 Academies**, the Academy Trust must comply with any Guidance in relation to free meals in the further education sector, as far as it applies to those Academies.

Pupil Premium

2.13 For all of its Academies eligible for Pupil Premium, and for each Financial Year, the Academy Trust must publish, on the Academy's website, information about:

- a) the amount of Pupil Premium allocation that it will receive during the Academy Financial Year;
- b) what it intends to spend the Pupil Premium allocation on;
- c) what it spent its Pupil Premium allocation on in the previous Academy Financial Year;
- d) the impact of the previous year's Pupil Premium allocation on educational attainment.

2.14 For all of its Academies eligible for Year 7 literacy and numeracy catch-up premium funding, and for each Academy Financial Year, the Academy Trust must publish, on the Academy's website, information about:

- a) the amount of Year 7 literacy and numeracy catch-up premium grant that it will receive during the Academy Financial Year;
- b) what it intends to spend its Year 7 literacy and numeracy catch-up premium grant on;
- c) what it spent its Year 7 literacy and numeracy catch-up premium grant on in the previous Academy Financial Year;
- d) the impact of the previous year's Year 7 literacy and numeracy catch-up premium grant on educational attainment, and how that effect was assessed.

Charging

- 2.15 For all its Academies except 16 to 19 Academies, the Academy Trust must comply with sections 402, 450-457 and 459-462 of the Education Act 1996 with regard to public examinations, charging, providing information, inviting voluntary contributions and recovering civil debts, as if its Academies were maintained schools.
- 2.16 There must be no charge for admission to or attendance at any of the Academies, and the Academies will only charge pupils where the law allows maintained schools to charge.
- 2.17 Clause 2.16 does not prevent the Academy Trust receiving funds from an LA or a charity in respect of the admission and attendance of a pupil with SEN to an Academy.
- 2.18 Notwithstanding clause 2.16, the Academy Trust may charge people who are not registered pupils at one of its Academies for education or use of facilities.
- 2.19 Where an Academy provides a pupil with board and lodging, the Academy Trust must not charge the parent of that pupil more than the cost to the Academy Trust of providing the board and lodging, except as required by the Fees, Charges and Levies guidance in HM Treasury's publication 'Managing Public Money'.

Exclusions

- 2.20 In respect of **Mainstream Academies, and Special Academies which admit pupils without statements of SEN and Studio Schools**, the Academy Trust must, if asked to by an LA, enter into an agreement which has the effect that where:
- a) the Academy admits a pupil who has been permanently excluded from a maintained school, the Academy itself or another academy with whom the LA has a similar agreement; or
 - b) the Academy Trust permanently excludes a pupil from the Academy,

the arrangements for payment will be the same as if the Academy were a maintained school, under Regulations made under section 47 of the Schools Standards and Framework Act 1998.

Curriculum

- 2.21 The curriculum is the responsibility of the Academy Trust.
- 2.22 The Academy Trust must ensure that the curriculum provided in each Academy to pupils up to the age of 16 is balanced and broadly based. In respect of **Mainstream** and **Special Academies**, the Academy Trust must ensure that the curriculum includes English, mathematics and science. In respect of **Alternative Provision Academies** the Academy Trust must ensure that the curriculum includes English and mathematics.
- 2.23 The Academy Trust must publish information in relation to the current curriculum provision at each Academy on that Academy's website, including:
- a) the content of the curriculum;
 - b) its approach to the curriculum;
 - c) if applicable, the GCSE options and other Key Stage 4 qualifications offered by each Academy and, if applicable, any other qualifications offered by each Academy;
 - d) the names of any phonics or reading schemes in operation for Key Stage 1 if applicable; and
 - e) how parents (including parents of prospective pupils) and Commissioners (if applicable) can obtain further information about that Academy's curriculum.
- 2.24 The Academy Trust must not allow any view or theory to be taught as evidence-based if it is contrary to established scientific or historical evidence and explanations. This clause applies to all subjects taught at an Academy.

- 2.25 The Academy Trust must provide for the teaching of evolution as a comprehensive, coherent and extensively evidenced theory. In respect of any **Alternative Provision Academies** and **16-19 Academies**, the Academy Trust must do this where relevant to the curriculum.
- 2.26 The Academy Trust must ensure the Academy actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.
- 2.26A The Academy Trust must ensure the Academy promotes principles that support equality of opportunity for all.
- 2.27 The Academy Trust must ensure that careers guidance is provided at each of its Academies, in accordance with the requirements on maintained schools in the Education Act 1997.

Assessment

- 2.28 The Academy Trust must:
- a) ensure that pupils and students at each of its Academies are entered for examinations, in line with the requirements on maintained schools in section 402 of the Education Act 1996;
 - b) comply with the relevant Guidance, as it applies to maintained schools, in respect of each **Mainstream Academy**, each **Special Academy** and each **Studio School** to ensure that pupils take part in assessments, and in teacher assessments of pupils' performance; and must do so for each **Alternative Provision Academy** unless there are exceptional reasons to do otherwise;
 - c) ensure that students at each **16 to 19 Academy** take part in assessments of students' performance appropriate to the qualifications offered;
 - d) report on assessments as the Secretary of State requires, or provide any information on assessments, on the same basis that maintained schools are required to provide the information;

- e) for all Key Stages, allow monitoring and moderation of the Academy's assessment arrangements as required by the Secretary of State.

2.29 Unless specifically approved in writing by the Secretary of State, the Academy Trust must not use GAG to offer any course of education or training which leads to a qualification, if that qualification is not approved by the Secretary of State for the purpose of section 96 of the Learning and Skills Act 2000.

2.30 Unless informed by the Secretary of State that alternative information must be published, the Academy Trust must ensure that the following information is published on the relevant Academy's website for each **Mainstream Academy**, for each **Alternative Provision Academy**, and where relevant for each **Special Academy**, and in respect of sub-paragraph b) where relevant for each **Studio School**:

- a) if applicable, the Academy's most recent Key Stage 2 results as published by the Secretary of State in the School Performance Tables:
 - i. "% achieving Level 4 or above in reading, writing and maths";
 - ii. "% making expected progress in reading", "% making expected progress in writing", and "% making expected progress in maths";
 - iii. in relation to reading, "% achieving Level 5 or above"; and
 - iv. in relation to writing, "% achieving Level 5 or above"; and
 - v. in relation to maths, "% achieving Level 5 or above";
- b) if applicable, the Academy's most recent Key Stage 4 results as published by the Secretary of State under the following column headings in the School Performance Tables:
 - i. "% achieving 5 + A* - C GCSEs (or equivalent) including English and maths GCSEs";
 - ii. "% achieving the English Baccalaureate"; and
 - iii. "% of pupils making expected progress";

- c) information about where and how parents (including parents of prospective pupils) can access the most recent report about the Academy published by the Chief Inspector; and
- d) information as to where and how parents (including parents of prospective pupils) can access the School Performance Tables published by the Secretary of State.

2.31 Not used

2.32 The Secretary of State may direct any Academy to participate in international education surveys, under the Education Act 1996, as if it were a maintained school.

3. GRANT FUNDING

Recurrent Expenditure Grants

- 3.1 The Secretary of State will pay grants towards Recurrent Expenditure, and may pay grants towards Capital Expenditure, for each Academy.
- 3.2 "**Recurrent Expenditure**" means any money spent on the establishment, conduct, administration and maintenance of an Academy which does not fall within Capital Expenditure.
- 3.3 In respect of Recurrent Expenditure, the Secretary of State will pay **General Annual Grant ("GAG")** and may additionally pay **Earmarked Annual Grant ("EAG")**. These are two separate and distinct grants.
- 3.4 Except with the Secretary of State's consent, the Academy Trust must not make commitments to spending which will have substantial implications for future grant. No decision by the Academy Trust will commit the Secretary of State to paying any particular amount of grant.

Capital Grant

- 3.5 The Secretary of State may pay a grant ("**Capital Grant**") to the Academy Trust for the purpose of spending on items of Capital Expenditure.

3.6 **"Capital Expenditure"** means expenditure on:

- a) acquiring land and buildings;
- b) erecting, enlarging, improving or demolishing any building including fixed plant, installation, wall, fence or other structure, or any playground or hard standing;
- c) installing electrical, mechanical or other services other than necessary repairs and maintenance due to normal wear and tear;
- d) buying vehicles;
- e) installing and equipping premises with furnishings and equipment, other than necessary repairs and maintenance due to normal wear and tear;
- f) installing and equipping premises with computers, networking for computers, operating software and ICT equipment, other than necessary updates or repairs and maintenance due to normal wear and tear;
- g) providing and equipping premises, including playing fields and other facilities for social activities and physical recreation other than necessary repairs and maintenance due to normal wear and tear;
- h) works of a permanent character other than the purchase or replacement of minor day-to-day items;
- i) any major repairs or replacements which are specified as capital expenditure in any grant letter relating to them;
- j) such other items (whether like or unlike any of the foregoing) of a substantial or enduring nature which the Secretary of State agrees are capital expenditure for the purposes of this Agreement;
- k) professional fees properly and reasonably incurred in connection with the provision of any of the above;
- l) VAT and other taxes payable on any of the above.

- 3.7 Any Capital Grant funding that may be made available to the Academy Trust will be notified to it by the Secretary of State.
- 3.8 The Academy Trust must spend Capital Grant only on items of Capital Expenditure approved by the Secretary of State and in accordance with conditions specified by the Secretary of State. Further, the Academy Trust must provide evidence that it has obtained all planning and other consents required for any proposed building and infrastructure development to be funded using Capital Grant.
- 3.9 In order to receive payments of Capital Grant, the Academy Trust must provide supporting invoices and certificates in the format specified by the Secretary of State.
- 3.10 The Academy Trust must provide an account of Capital Grant received and associated spending on Capital Expenditure using Capital Grant in the Academy Trust's financial statements and any financial reports or returns that the Secretary of State may require.
- 3.11 If in its use of Capital Grant the Academy Trust does not comply with this Agreement or any of the conditions specified by the Secretary of State, or the project does not accord with the original specification or has not been completed, the Secretary of State may at his discretion not make any further payments of Capital Grant and require the Academy Trust to repay all or part of the Capital Grant.

General Annual Grant (GAG)

- 3.12 The Secretary of State will pay GAG to the Academy Trust towards the normal running costs or capital expenditure of each of its Academies, including:
 - a) teachers' salaries and related costs (including pension contributions, full and part-time teaching staff and payments in respect of seconded teachers);
 - b) non-teaching staff salaries and related costs (including pension contributions);

- c) employees' expenses;
- d) buying, maintaining, repairing and replacing teaching and learning materials and other educational equipment, including books and stationery;
- e) buying, maintaining, repairing and replacing other assets including ICT equipment and software, sports equipment and laboratory equipment and materials;
- f) examination fees;
- g) repairs, servicing and maintenance of buildings (including redecoration, heating, plumbing, lighting etc.); maintenance of grounds (including boundary fences and walls); insurance; cleaning materials and contract cleaning; water and sewerage; fuel and light (including electricity and gas); rents; rates; purchase, maintenance, repairs and replacement of furniture and fittings;
- h) medical equipment and supplies;
- i) staff development (including in-service training);
- j) curriculum development;
- k) the costs of providing school meals for pupils (including the cost of providing free school lunches to pupils who are eligible to receive them), and any discretionary grants to pupils to meet the cost of pupil support, including support for pupils with SEN or disabilities;
- l) administration; and
- m) establishment expenses and other institutional costs.

3.13 GAG for each Academy Financial Year for each **Mainstream Academy**, **Special Academy** and **Studio School** will include:

- a) funding equivalent to that which would be received by a maintained school with similar characteristics, determined by the Secretary of State and taking account of the number of pupils at the Academy;
- b) funding to cover necessary functions which would be carried out by the relevant LA if the Academy were a maintained school;
- c) payment of any additional specific grants made available to maintained schools, where the Academy meets the criteria for those grants, and at the Secretary of State's discretion; and
- d) funding for any other costs to the Academy which the Secretary of State considers necessary.

3.14 The Academy Trust must use GAG only for maintaining, carrying on, managing and developing the Academies in accordance with this Agreement and the relevant Supplemental Agreement, except where the Secretary of State has given specific consent for the Academy Trust to use GAG for another charitable purpose.

3.15 In particular (but without limitation) the Academy Trust must not use GAG for:

- a) education and training for adults who are not pupils of the Academy, other than staff professional development;
- b) nursery provision for which parents are charged a fee;
- c) nursery provision to children outside of the relevant Academy's age range as stated in the applicable Supplemental Agreement;
- d) Children's Centres;
- e) any additional cost of providing sport and leisure facilities for a purpose not permitted in clause 3.14.

Earmarked Annual Grant (EAG)

3.16 The Secretary of State may pay EAG to the Academy Trust for specific purposes, agreed between the Secretary of State and the Academy Trust, and

as described in the relevant funding letter. The Academy Trust must spend EAG only in accordance with that letter.

- 3.17 Where the Academy Trust is seeking a specific EAG for any Academy Financial Year, it must send a letter outlining its proposals and the reasons for the request to the DfE.

Arrangements for paying GAG and EAG

- 3.18 Before each Academy Financial Year, the Secretary of State will notify the Academy Trust of the GAG and EAG amounts in respect of each Academy which, subject to parliamentary approval, the Secretary of State plans for that Academy Financial Year and how these have been calculated.
- 3.19 The amounts of GAG for an Academy Financial Year will be determined annually by the Secretary of State, and notified to the Academy Trust in a funding letter sent before the relevant Academy Financial Year begins (the “**Annual Letter of Funding**”).
- 3.20 Amounts of EAG will be notified to the Academy Trust wherever possible in the Annual Letter of Funding or as soon as is practicable afterwards.
- 3.21 The Annual Letter of Funding will, as well as stating the grant amounts, set out how these have been calculated. It will not include grants which cannot be calculated in time because there is not enough information, or for other administrative reasons. Any such grants will be notified as soon as practicable.
- 3.22 The Secretary of State will pay GAG in monthly instalments on or before first day of each month (“the relevant month”), to fund the salaries and other payroll costs of all monthly paid employees and all other costs payable during the relevant month. The detailed arrangements for payment will be set out in the Annual Letter of Funding, or an equivalent.
- 3.23 If GAG or EAG is miscalculated:

- a) because of a mistake by the Secretary of State, which leads to an underpayment to the Academy Trust, the Secretary of State will correct the underpayment in the same or subsequent Academy Financial Years;
- b) because the Academy Trust provided incorrect information, which leads to an underpayment to the Academy Trust, the Secretary of State may correct the underpayment in the same or subsequent Academy Financial Years;
- c) for any reason which results in an overpayment to the Academy Trust, the Secretary of State may recover any overpaid grant in the same or subsequent Academy Financial Years, having considered all the relevant circumstances and taking into account any representations from the Academy Trust.

Other relevant funding

3.24. The Academy Trust may receive additional funding from an LA under an agreement with that LA for the provision of support for pupils with SEN who require high levels of such support. The Academy Trust must ensure that all support required under that agreement is provided for those pupils.

4. FINANCIAL AND ACCOUNTING REQUIREMENTS

General

- 4.1 In order for the Secretary of State to provide grant funding to the Academy Trust, the Academy Trust must be fulfilling the financial and reporting requirements in this Agreement, and any Supplemental Agreements.
- 4.2 In its conduct and operation, the Academy Trust must apply financial and other controls which meet the requirements of regularity, propriety and value for money.
- 4.3 The Academy Trust must appoint an accounting officer and must notify the Secretary of State of that appointment. The Academy Trust must assign to the

accounting officer the responsibilities of the role set out in the Academies Financial Handbook and HM Treasury's publication 'Managing Public Money'.

- 4.4 The Academy Trust must abide by the requirements of, and have regard to the guidance for, charities and charity trustees issued by the Charity Commission and, in particular, the Charity Commission's guidance on 'Protecting Charities from Harm'. Any references in this document which require charity trustees to report to the Charity Commission should instead be interpreted as reporting to the body or person appointed as the principal regulator under the Charities Act 2011.
- 4.5 The Academy Trust must abide by the requirements of the current 16 to 19 Funding Guidance published by the Secretary of State, in respect of any provision for students who are above compulsory school age until the academic year in which they reach the age of 19.
- 4.5A If the Secretary of State pays any grant to or on behalf of the Academy Trust, in respect of any Free Schools that the Academy Trust establishes and maintains, which includes an amount to cover VAT, the Academy Trust shall, having paid the VAT, promptly submit a VAT reclaim application to Her Majesty's Revenue and Customs (HMRC). Any failure by the Academy Trust to submit a VAT reclaim application to HMRC, or to pursue the application diligently, or to repay any reclaimed amount to the Secretary of State as soon as reasonably practicable following receipt will be taken into account by the Secretary of State in:
- a) calculating and paying any subsequent grant to the Academy Trust; or
 - b) adjusting GAG payable to the Academy Trust in subsequent Academy Financial Years.

Application of the Academies Financial Handbook

- 4.6 In relation to the use of grant paid to the Academy Trust by the Secretary of State, the Academy Trust must follow the requirements of, and have regard to the guidance in, the Academies Financial Handbook.

- 4.7 The Academy Trust must have adequate insurance cover or opt in to the Department's arrangements as set out in the Academies Financial Handbook.
- 4.8 The Academy Trust must submit information about its finances to the Secretary of State in accordance with the Academies Financial Handbook, or as otherwise specified by the Secretary of State.

Budgeting for funds

- 4.9 The Academy Trust must balance its budget from each Academy Financial Year to the next. For the avoidance of doubt, this does not prevent the Academy Trust from:
- a) subject to clause 4.14, carrying a surplus from one Academy Financial Year to the next; or
 - b) carrying forward from previous Academy Financial Years sufficient cumulative surpluses on grants from the Secretary of State to meet an in-year deficit on such grants in a subsequent financial year, in accordance with clauses 4.14-4.16 and 3.L of the relevant Supplemental Agreement; or
 - c) incurring an in-year deficit on funds from sources other than grants from the Secretary of State in any Academy Financial Year, provided it does not affect the Academy Trust's responsibility to ensure that its Academies balance their respective overall budgets from each Academy Financial Year to the next.
- 4.10 The Academy Trust may spend or accumulate funds from private sources or public sources other than grants from the Secretary of State for the benefit of the Academy Trust as it sees fit. Any surplus from private or public sources other than grants from the Secretary of State must be separately identified in the Academy Trust's accounts.
- 4.11 For clarity, and in accordance with the intent of parity of funding with LA maintained schools, in circumstances where a Predecessor School had a deficit balance and the DfE has settled this with the relevant LA, that amount

will be recovered from the Academy Trust's GAG over a period not normally exceeding 3 years (unless the Secretary of State's in his discretion decides otherwise) after the Academy opened.

- 4.12 The Academy Trust's budget must be approved for each Academy Financial Year by the Board of Charity Trustees.
- 4.13 The approved budget must be submitted to the Secretary of State in a form, and by a date, to be notified by the Secretary of State.

Carrying forward of funds

- 4.14 At the end of any Academy Financial Year the Academy Trust may carry forward unspent GAG from previous Academy Financial Years without limit (unless a limit is specified in the Academies Financial Handbook, or otherwise as specified in writing by the Secretary of State, in which case that limit will apply).
- 4.15 The Academy Trust must use any GAG carried forward only for purposes of GAG as set out in this agreement, or otherwise as specified in the Academies Financial Handbook or in writing by the Secretary of State.
- 4.16 Any additional grant provided for an Academy's Start-Up Period may be carried forward, without limitation or deduction, until the Start-Up Period ends.
- 4.17 Any unspent grant not allowed to be carried forward under clauses 4.14-4.16 and 3.L of the relevant Supplemental Agreement may be taken into account in the payment of subsequent grant.

Annual accounts and audit

- 4.18 The Academy Trust must prepare and file with Companies House the annual reports and accounts required by the Companies Act 2006.
- 4.19 In addition, the Academy Trust must prepare its annual reports and accounts for each Academy Financial Year:

- a) in accordance with the Charity Commission's 'Accounting and Reporting by Charities: Statement of Recommended Practice', as if the Academy Trust was a registered charity; and
 - b) otherwise as the Secretary of State directs.
- 4.20 The Academy Trust's accounts must be audited annually by independent auditors appointed in line with the Academies Financial Handbook.
- 4.21 The accounts must carry an audit report stating whether, in the opinion of the auditors, the accounts show a true and fair view of the Academy Trust's affairs. The accounts must also be supported by such other audit reports, relating to the use of grants and other matters, as the Secretary of State directs.
- 4.22 The Academy Trust's annual report must include the names of all members of the Academy Trust who served during the year.
- 4.23 The Academy Trust's annual reports and accounts, and the auditor's reports, must be submitted to the Secretary of State by 31 December each Academy Financial Year, or as otherwise specified by the Secretary of State. The Academy Trust must publish on its website its annual reports and accounts, current memorandum of association, Articles and Funding Agreement and the names of its Charity Trustees and members. The Secretary of State may also publish the Academy Trust's annual reports and accounts, and the audit report, as he sees fit.

Keeping financial records

- 4.24 The Academy Trust must keep proper accounting records. Statements of income and expenditure, statements of cash flow and balance sheets must be produced in such form and frequency as the Secretary of State directs.

Access to financial records

- 4.25 The books of accounts and all relevant records, files and reports of the Academy Trust, including those relating to financial controls, must be open at

all reasonable times to officials of the DfE and the National Audit Office, and to their agents and contractors, for inspection or carrying out value for money studies. The Academy Trust must give those officials and contractors reasonable assistance with their enquiries. For the purposes of this clause 'relevant' means in any way relevant to the provision and use of grants provided by the Secretary of State under this Agreement.

- 4.26 The Secretary of State may, at his expense, instruct auditors to report to him on the adequacy and effectiveness of the Academy Trust's accounting systems and internal controls to standards determined by the Secretary of State, and to make recommendations for improving the Academy Trust's financial management.

Acquiring and disposing of Publicly Funded Assets

- 4.27 In relation to Publicly Funded Assets, the Academy Trust must not, without the Secretary of State's consent:

- a) acquire or dispose of freehold land;
- b) take up or grant a leasehold of land;

dispose of any other class of capital assets except as permitted in the Academies Financial Handbook, and subject to Part 3 of Schedule 1 to the Academies Act 2010.

- 4.28 The Academy Trust must give 30 days' notice to the Secretary of State, whether or not the circumstances require his approval, of its intention to take any of the actions in clause 4.27.

Retention of proceeds from the disposal of capital assets

- 4.29 Except as permitted in the Academies Financial Handbook, if the Academy Trust sells capital assets which were acquired or enhanced wholly or partly using payments made by or on behalf of HM Government the Academy Trust must pay to the Secretary of State, at his request, an amount of the sale

proceeds equivalent to the proportion of the original cost of the acquisition or enhancement which was met by or on behalf of HM Government.

- 4.30 If the Academy Trust sells a capital asset which was transferred to it for no or nominal consideration from an LA, a Predecessor School or a Predecessor School's foundation, the Academy Trust must, if required by the Secretary of State, pay all or part of the sale proceeds to the LA or to the Secretary of State, taking into account the amount of the proceeds to be reinvested by the Academy Trust.

Transactions outside the usual planned range

- 4.31 In relation to Publicly Funded Assets, the Academy Trust must not, without the Secretary of State's consent:

- a) give any guarantees, indemnities or letters of comfort, except such as are given in normal contractual relations;
- b) write off any debts or liabilities owed to it; or
- c) offer to make any special payments as defined in HM Treasury's publication 'Managing Public Money' (including ex gratia payments, staff severance payments and compensation payments)

above any values specified in the Academies Financial Handbook.

- 4.32 The Academy Trust must give the Secretary of State 30 days' notice, whether or not the circumstances require his consent, of its intention to do any of the actions in clause 4.31.
- 4.33 The Academy Trust must promptly notify the Secretary of State of any loss arising from suspected theft or fraud in line with the requirements in the Academies Financial Handbook, or otherwise specified by the Secretary of State.

Borrowing

- 4.34 Except as permitted in the Academies Financial Handbook, the Academy Trust must not borrow against Publicly Funded Assets, or so as to put Publicly Funded Assets at risk, without the Secretary of State's consent.

5. COMPLAINTS

- 5.1 With regards to a **Mainstream Academy**, a **Special Academy** an **Alternative Provision Academy** or a **16-19 Academy**, if a complaint is made about matters arising wholly or partly before the Academy opened, and all or part of that complaint was investigated by the Local Government Ombudsman under Part III of the Local Government Act 1974 ("**Part III**"), or could have been investigated under Part III if the Predecessor School/Pupil Referral Unit had remained a maintained school/Pupil Referral Unit, the Academy Trust:
- a) must abide by the provisions of Part III as if the Academy were a maintained school/Pupil Referral Unit;
 - b) agrees that the Secretary of State will have the power to investigate the subject of the complaint as if it had taken place after the Academy opened; and
 - c) must act in accordance with any recommendation from the Secretary of State as if that recommendation had been made under Part III and the Academy were a maintained school/Pupil Referral Unit.
- 5.2 With regards to a **Mainstream Academy**, a **Special Academy** or a **16-19 Academy**, if the Secretary of State could have given an order or a direction under section 496 or 497 of the Education Act 1996 to the governing body of the Predecessor School and that order or direction related to matters occurring within the 12 months immediately before the Academy opened, the Academy Trust:
- a) agrees that the Secretary of State may give orders or directions to the Academy Trust as though the Academy were a maintained school and

sections 496 and 497 applied to the governing body of that maintained school; and

- b) must act in accordance with any such order or direction from the Secretary of State.

5.3 If at the time of the opening of any **Mainstream Academy, Special Academy, Alternative Provision Academy or 16-19 Academy** the investigation of a complaint made to the governing body of the Predecessor School/Pupil Referral Unit has not yet been completed, the Academy Trust must continue to investigate that complaint in accordance with the complaints procedures established by that governing body.

5.4 If a complaint is made to the Academy Trust about matters arising in whole or in part during the 12 months prior to the opening of any **Mainstream Academy, any Special Academy any Alternative Provision Academy or any 16-19 Academy** the Academy Trust agrees to investigate that complaint as if the matter complained of had taken place after the Academy opened.

6. TERMINATION

6.1 This Agreement will commence on the date of delivery and continue until terminated in accordance with clauses 6.2-6.7, or until all Supplemental Agreements have terminated.

Termination by either party

6.2 The Secretary of State may serve a Termination Notice if any of the following events occur, or if he considers that there is a serious risk that any of them may occur:

- a) the Academy Trust calls a formal or informal meeting of its creditors or enters into any formal or informal composition or arrangement with its creditors; or
- b) the Academy Trust proposes a voluntary arrangement within Section 1 of the Insolvency Act 1986 (as amended); or

- c) the Academy Trust is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 provided that, for the purposes of this clause, Section 123 (1)(a) of the Insolvency Act 1986 will have effect as if £10,000 was substituted for £750. The Academy Trust will not be deemed unable to pay its debts for the purposes of this clause if any such demand as is mentioned in the said Section is being contested in good faith by the Academy Trust; or
- d) the Academy Trust has a receiver and manager (except those appointed by the Charity Commission under the Charities Act 2011), administrator or administrative receiver appointed over all or part of its undertakings, assets or income; or
- e) any distraint, execution or other process is levied or enforced on any of the Academy Trust's property and is not paid out, withdrawn or discharged within 15 business days; or
- f) the Academy Trust has passed a resolution for its winding up; or
- g) an order is made for the winding up or administration of the Academy Trust.

6.3 The Academy Trust must promptly notify the Secretary of State, with an explanation of the circumstances, after receiving any petition which may result in an order for its winding up or administration.

6.4 If

- a) any Charity Trustee or member of the Academy Trust refuses to consent to any checks required under this Agreement, or as otherwise requested by the Secretary of State; or
- b) the Secretary of State determines that any Charity Trustee or member of the Academy Trust is unsuitable,

the Secretary of State may:

- i. direct the Academy Trust to ensure that the Charity Trustee or member resigns or is removed within 42 days, failing which the Secretary of State may serve a Termination Notice; or
- ii. serve a Termination Notice.

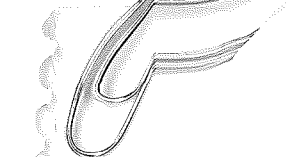
6.5 For the purposes of clause 6.4 a Charity Trustee or member of the Academy Trust will be "unsuitable" if that Charity Trustee or member:

- a) has been convicted of an offence;
- b) has been given a caution in respect of an offence;
- c) is subject to a relevant finding in respect of an offence; or
- d) has engaged in relevant conduct,

as a result of which, the Secretary of State considers that that Charity Trustee or member is unsuitable to take part in the management of the Academies.

6.6 For the purposes of clause 6.5:

- a) a Charity Trustee or member of the Academy Trust will be subject to a "relevant finding" in respect of an offence if:
 - i. that Charity Trustee or member has been found not guilty of the offence by reason of insanity;
 - ii. that Charity Trustee or member has been found to be under a disability and to have done the act charged against them in respect of the offence; or
 - iii. a court outside the United Kingdom has made a finding equivalent to that described in paragraphs (i) and (ii) above.
- b) "relevant conduct" is conduct by a Charity Trustee or member of the Academy Trust which is:

- 
- i. aimed at undermining the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or
 - ii. found to be in breach of professional standards by a professional body; or
 - iii. so inappropriate that, in the opinion of the Secretary of State, it makes that Charity Trustee or member unsuitable to take part in the management of the Academy.

Change of Control of the Academy Trust

- 6.7 The Secretary of State may at any time, subject to clause 6.8, serve a Termination Notice if there is a change:
- a) in the Control of the Academy Trust; or
 - b) in the Control of a legal entity that Controls the Academy Trust.
- 6.8 Where a person ('P') is a member or director of a body corporate (as a corporation sole or otherwise) by virtue of an office, no change of Control arises merely by P's successor becoming a member or director in P's place.
- 6.9 The Academy Trust must promptly notify the Secretary of State if there is a proposed or actual change of Control of the Academy Trust, or of a legal entity that Controls the Academy Trust.
- 6.10 When notifying the Secretary of State further to clause 6.9, the Academy Trust must seek his agreement that, if he is satisfied with the change of Control, he will not exercise his right to terminate this Agreement further to clause 6.7.

7. OTHER CONTRACTUAL ARRANGEMENTS

Information

- 7.1 The Academy Trust must promptly provide to the Secretary of State any information about the Academy Trust, or any of its Academies, which he regards as necessary to fulfil his role and responsibilities.
- 7.2 The Secretary of State will give the Academy Trust any information it reasonably requires of him for the running of its Academies.

Access by the Secretary of State's Officers

- 7.3 The Academy Trust must allow DfE officials to enter any of its Academies at any reasonable time. All records, files and reports relating to the running of each Academy must be available to them at any reasonable time. Two DfE officials may attend and speak at any meetings of each Academy's Local Governing Body, of the Academy Trust's Board of Charity Trustees or any other meetings of the Charity Trustees of the Academy Trust, but will withdraw from any discussion of an Academy's or the Academy Trust's relationship with the Secretary of State or any discussion of bids for funding to the Secretary of State.
- 7.4 The following documents must be provided to the Secretary of State or any person nominated by the Secretary of State on request:
- a) the agenda for every meeting of the Board of Charity Trustees, any Local Governing Body or any committee to which the Board of Charity Trustees delegates any of its functions;
 - b) the draft minutes of every such meeting, if they have been approved by the chairman of that meeting;
 - c) the signed minutes of every such meeting; and
 - d) any report, document or other paper considered at any such meeting.

7.5 The Academy Trust may exclude from items provided under clause 7.4 any content relating to:

- a) a named teacher or other person employed, or proposed to be employed, at any Academy;
- b) a named pupil or student at, or candidate for admission to, any Academy; and
- c) any matter which the Academy Trust reasonably believes should remain confidential.

Notices

7.6 A notice or communication given to a party in connection with this Agreement or any Supplemental Agreement:

- a) must be in writing (excluding email, except where agreed in advance) and in English;
- b) must be delivered by hand or sent by pre-paid first-class post or other next working day delivery service;
- c) will be deemed to have been received:
 - i. if delivered by hand, at the time when a delivery receipt is signed or when the notice is left at the address in paragraph (d), or
 - ii. if posted, at 9.00am on the second working day after posting; and
- d) must be sent to the party for the attention of the contact and at the address listed as follows (or to a different contact or address previously notified to the sending party, the change taking effect five working days after deemed receipt of the notice):

Name of party	Position of contact	Address
Secretary of State	Head of Academies	Department for

	Division	Education, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT
Manchester Communication Academy Trust	Chief Executive Officer	Silchester Drive, Harpurhey, Manchester M40 8NT

Contractual

- 7.7 This Academy Trust cannot assign this Agreement.
- 7.8 Failure to exercise, or delay in exercising, any right or remedy of the Secretary of State under this Agreement (including the right to terminate this Agreement), or a single or partial exercise of such a right or remedy, is not a waiver of, and does not prevent or restrict any initial or further exercise of, that or any other right or remedy.
- 7.9 Termination of this Agreement will not affect the accrued rights, remedies, obligations or liabilities of the parties to this Agreement existing at termination.
- 7.10 This Agreement may be executed in any number of counterparts, each of which when executed and delivered will constitute a duplicate original, but all of which will together constitute the same agreement.
- 7.11 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the law of England and Wales, and submitted to the exclusive jurisdiction of the courts of England and Wales.

This Agreement was executed as a Deed on

2016

Executed on behalf of the **Academy Trust** by:

.....
Director

In the presence of:

.....
Witness
Name:
Address:

The Corporate Seal of

THE SECRETARY OF STATE FOR EDUCATION

affixed to this deed is authenticated by:

.....
Duly Authorised



Department
for Education

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Part B: New Supplemental Funding Agreement



Department
for Education

Mainstream academy and free school: supplemental funding agreement

September 2015

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SUMMARY SHEET

Information about the Academy:

Name of Academy Trust	Manchester Communication Academy
Company number	06754335
Date of Master Funding Agreement	
Name of academy	Manchester Communication Academy
Opening date	On or around 6 September 2010
Type of academy (indicate whether academy or free school)	Academy
Religious designation	None
Wholly or partly selective	No
Name of predecessor school (where applicable)	Not applicable
Capacity number	1,200
Age range	11-16
Number of sixth form places	None
Number of boarding places	None
SEN unit / Resource provision	None
Land arrangements (Version 1-7 or other)	Version 2
Address and title number of Land	Land at Queens Road/Rochdale Road Manchester – GM715201, GM715202, GM715203, MAN20224, MAN20547, GM715199, MAN45099 AND MAN64830

Please confirm which clause variations have been applied or marked as 'Not used'

Clause No.	Descriptor	Applied	Not used
1.I	Only applies to free schools and new provision academies		X
2.A.1	Clause applies where an academy was previously a VC or foundation school designated with a religious character		X
2.C, 2.D	Only applies where the academy has an SEN unit		X
2.E	Only applies where there was a predecessor independent school		X
2.G	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies		X
2.M	Clause applies only to academies and free schools designated with a religious character		X
2.N	Clause applies only to academies that were formerly wholly selective grammar schools		X
2.O	Clause applies only to academies that were formerly partially selective grammar schools		X
2.T	Clause applies to free schools and new provision academies designated with a religious character		X
2.W	Clause only applies where the academy is designated with a religious character		X
2.X	Clause only applies where the academy has not been designated with a religious character	X	
2.Y	Clause applies where an academy was previously a VC school or foundation school designated with a religious character		X
2.Yc)	Sub-clause applies if the academy is designated with a denominational religious character – CE etc. rather than 'Christian'		X

Clause No.	Descriptor	Applied	Not used
3.A – 3.F	Option 1 applies to converter and sponsored academies: if used delete option 2	X	
3.A – 3.F	Option 2 applies to free schools and new provision academies: if used delete option 1		X
3.H	Clause relating to Start-up only applies in some cases (does not apply to academy converters)		X
3.J	Clause only applies to full sponsored and intermediate sponsored academies with approved Academy Action Plans		X
3.K	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies	X	
5.G.1	Clause applies only to a boarding academy/free school.		X
5.I	Clause only applies to sponsored academies	X	
5.K	Clause applies to free schools and may be applied to new provision academies		X
5.L	Clause applies to free schools and may be applied to new provision academies		X
5.M	Clause applies to free schools and may be applied to new provision academies		X
5.N	Clause applies to free schools and may be applied to new provision academies		X
5.O	Clause applies to free schools and may be applied to new provision academies		X
6.H	Clause only applies to schools which are designated with a Church of England or Roman Catholic character		X

Please identify any other variations from the model that apply to this academy (e.g. clauses relating to PFI, or any required because the multi academy trust includes academies designated with different religious characters, or a

mixture of those designated with a religious character, and those which are not):

Additional clauses will be supplied by your project lead if needed.

Descriptor	Clause No.	Applied	Not used
<p>Note: The Academy opened on or around 6 September 2010; this funding agreement reflects that the Academy Trust converted to multi academy trust status (from single academy trust status) on the date it is dated. Accordingly, this funding agreement includes amendments against the pro forma to reflect the change from single academy trust to multi academy trust status.</p>			

1. ESTABLISHING THE ACADEMY

- 1.A This Agreement made between the Secretary of State for Education and Manchester Communication Academy is supplemental to the master funding agreement made between the same parties and dated
(the "**Master Agreement**").

Definitions and interpretation

- 1.B Except as expressly provided in this Agreement words and expressions defined in the Master Agreement will have those same meanings in this Agreement.

- 1.C The following capitalised words and expressions will have the following meanings:

"The **Academy**" means the Manchester Communication Academy.

"**Land**" means the land at Queens Road/Rochdale Road Manchester, being the land registered with title numbers GM715201, GM715202, GM715203, MAN20224, MAN20547, GM715199, MAN45099 AND MAN64830 and demised by the Lease.

"**Lease**" means the lease or other occupational agreement between the Academy Trust and a third party (the "**Landlord**") under which the Academy Trust derives title to the Land.

"**Property Notice**" means any order, notice, proposal, demand or other requirement issued by any competent authority (including the Landlord) which materially affects the Academy Trust's ability to use the Land for the purposes of the Academy.

"**Coasting**" has the meaning given in regulations made under section 60B of the Education and Inspections Act 2006.

"**SEN**" means Special Educational Needs and the expressions "**special educational needs**" and "**special educational provision**" have the meaning set out in sections 20(1) and 21(2) of the Children and Families Act 2014.

"**Termination Notice**" means a notice sent by the Secretary of State to the Academy

Trust, terminating this Agreement on the date specified in the notice.

“Termination Warning Notice” means a notice sent by the Secretary of State to the Academy Trust, stating his intention to terminate this Agreement.

1.D The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament.

1.E Reference in this Agreement to clauses and annexes will, unless otherwise stated, be to clauses and annexes to this Agreement.

The Academy

1.F The Academy is a Mainstream Academy as defined in clause 1.4 of the Master Agreement.

1.G The Academy Trust will establish and maintain the Academy in accordance with the Master Agreement and this Agreement.

1.H The Academy Trust opened the Academy on or around 6 September 2010.

1.I Not used

2. RUNNING OF THE ACADEMY

Teachers and staff

2.A Subject to clause 2.4 of the Master Agreement, 7.A of this Agreement and section 67 of the Children and Families Act 2014, the Academy Trust may, in accordance with any relevant Guidance, employ anyone it believes is suitably qualified or is otherwise eligible to plan and prepare lessons and courses for pupils, teach pupils, and assess and report on pupils' development, progress and attainment.

2.A.1 Not used

Pupils

2.B The planned capacity of the Academy is 1200 in the age range 11-16. The

Academy will be an all ability inclusive school.

SEN unit

2.C Not used

2.D Not used

Charging

2.E Not used

Admissions

2.F Subject to clauses 2.K– 2.L the Academy Trust will act in accordance with, and will ensure that its Independent Appeal Panel is trained to act in accordance with, the School Admissions Code and School Admission Appeals Code published by the DfE (the “Codes”) and all relevant admissions law as they apply to foundation and voluntary aided schools, and with equalities law. Reference in the Codes or legislation to “admission authorities” will be deemed to be references to the Academy Trust.

2.G Not used

2.H The Academy Trust must participate in the local Fair Access Protocol. The Academy Trust must participate in the coordinated admission arrangements operated by the LA in whose area the Academy is situated. If the Academy is a free school, the Academy Trust is not required to participate in coordination for its first intake of pupils.

2.I The Academy Trust may determine admission arrangements (subject to consultation in line with the Codes) that give priority for admission to children attracting the Pupil Premium, including the service premium (the “pupil premium admission criterion”), but not above looked-after children and previously looked-after children.

2.J Where the Academy Trust applies the pupil premium admission criterion, it must provide information in its admission arrangements about eligibility for the

premiums.

2.K For the purposes of applying the pupil premium admission criterion only, sections 1.9(f) and 2.4(a) of the School Admissions Code do not apply insofar as they prevent admission authorities from giving priority to children according to the financial or occupational status of parents or using supplementary forms that ask for:

- a) any personal details about their financial status; or
- b) whether parents are serving in the UK armed forces or were serving in the UK armed forces, and are exercising parental care and responsibility for the child in question.

2.L The Secretary of State may:

- a) direct the Academy Trust to admit a named pupil to the Academy:
 - i. following an application from an LA including complying with a school attendance order as defined in section 437 of the Education Act 1996. Before doing so the Secretary of State will consult the Academy Trust; or
 - ii. where in relation to a specific child or children the Academy Trust has failed to act in accordance with the Codes or this Agreement or has otherwise acted unlawfully; or
- b) direct the Academy Trust to amend its admission arrangements where they do not comply with the Codes or this Agreement, or are otherwise unlawful.

2.M Not used

2.N Not used

2.O Not used

2.P The Academy Trust must ensure that parents and 'relevant children' (as described in the **Codes**) have the right to appeal to an Independent Appeal

Panel if they are dissatisfied with an admission decision of the Academy Trust. The arrangements for appeals must comply with the Codes as they apply to foundation and voluntary aided schools. The determination of the appeal panel is binding on all parties.

- 2.Q Subject to clause 2.R, the meaning of “**relevant area**” for the purposes of consultation requirements in relation to admission arrangements is that determined by the relevant LA for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.
- 2.R If the Academy does not consider the relevant area determined by the LA for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August before the academic year in question for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consult the Academy Trust and the LA in whose area the Academy is situated in reaching a decision.
- 2.S The Office of the Schools Adjudicator (“**OSA**”) will consider objections to the Academy’s admission arrangements (except objections against the agreed variations from the Codes specified at clause 2.K, over which it has no jurisdiction). The Academy Trust must therefore make it clear, when determining the Academy’s admission arrangements, that objections should be submitted to the OSA. The OSA’s determination of an objection is binding on the Academy and the Academy Trust must make appropriate changes to its admission arrangements as quickly as possible.
- 2.T Not used

Curriculum

- 2.U The Academy Trust must provide for the teaching of religious education and a daily act of collective worship at the Academy.
- 2.V The Academy Trust must comply with section 71(1)-(6) and (8) of the School

Standards and Framework Act 1998 as if the Academy were a community, foundation or voluntary school, and as if references to “religious education” and “religious worship” in that section were references to the religious education and religious worship provided by the Academy in accordance with clause 2.X.

2.W Not used

2.X Subject to clause 2.V, **where the academy has not been designated with a religious character** (in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010):

- a) provision must be made for religious education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998;
- b) the Academy must comply with section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a community, foundation or voluntary school which does not have a religious character, except that paragraph 4 of that Schedule does not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule.

2.Y Not used

2.Z The Academy Trust must have regard to any Guidance, further to section 403 of the Education Act 1996, on sex and relationship education to ensure that children at the Academy are protected from inappropriate teaching materials and that they learn the nature of marriage and its importance for family life and for bringing up children. The Academy Trust must also have regard to the requirements in section 405 of the Education Act 1996, as if the Academy were a maintained school.

2.AA The Academy Trust must prevent political indoctrination, and secure the balanced treatment of political issues, in line with the requirements for maintained schools set out in the Education Act 1996, and have regard to any Guidance.

3. **GRANT FUNDING**

Calculation of GAG

3A-3D. Not used

3.E The Secretary of State will calculate GAG based on the pupil count at the Academy.

3.F The basis of the pupil count for determining GAG will be:

- a) for pupils in Year 11 and below, the Schools Census which is used to fund maintained schools for the financial year overlapping with the Academy Financial Year in question; and
- b) for pupils in Year 12 and above, the formula which is in use at the time for maintained schools.

3.G The Secretary of State may, at his discretion, adjust the basis of the pupil count to take account of any diseconomies of scale which may affect the Academy if it is operating below the planned capacity in clause 2.B. If such an adjustment is made in any Academy Financial Year, this will not change the basis of the pupil count for calculating the following Academy Financial Year's GAG. If the Secretary of State has indicated that additional grant may be payable in such circumstances, the Academy Trust will bid for this additional grant based on need and providing appropriate supporting evidence. The Secretary of State may accept or refuse the bid at his discretion.

3.H Not used

3.I The Secretary of State recognises that if a Termination Notice or a Termination Warning Notice is served, or the Master Agreement is otherwise terminated, the intake of new pupils during the notice period may decline and therefore

payments based on the number of pupils attending the Academy may be insufficient to meet the Academy's needs. In these circumstances the Secretary of State may pay a larger GAG in the notice period, to enable the Academy to operate effectively.

Other relevant funding

3.J Not used

3.K Not used

Carrying forward of funds

3.L Any additional grant made in accordance with clause 3.I, for a period after the Secretary of State has served a Termination Notice or a Termination Warning Notice under this Agreement, or otherwise terminates the Master Agreement, may be carried forward without limitation or deduction until the circumstances set out in clause 3.I cease to apply or the Academy closes.

4. LAND

Restrictions on Land transfer

4.A The Academy Trust must:

- a) within 28 days of the signing of this Agreement in circumstances where the Land is transferred to the Academy Trust prior to the date of this Agreement, or otherwise within 28 days of the transfer of the Land to the Academy Trust, apply to the Land Registry using Form RX1 for the following restriction (the "Restriction") to be entered in the proprietorship register for the Land:

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the Secretary of State for Education, of Sanctuary Buildings, Great Smith Street, London SW1P 3BT;

- b) take any further steps reasonably required to ensure that the

Restriction is entered on the proprietorship register;

- c) promptly confirm to the Secretary of State when the Restriction has been registered;
- d) if it has not registered the Restriction, permit the Secretary of State to do so in its place; and
- e) not, without the Secretary of State's consent, apply to disapply, modify, cancel or remove the Restriction, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Academy Trust.

Obligations of the Academy Trust

- 4.B The Academy Trust must keep the Land clean and tidy and make good any damage or deterioration to the Land. The Academy Trust must not do anything to lessen the value or marketability of the Land without the Secretary of State's consent.
- 4.C The Academy Trust must comply with the Lease and promptly enforce its rights against the Landlord.
- 4.D The Academy Trust must not, without the Secretary of State's consent:
 - a) terminate, vary, surrender, renew, dispose of or agree any revised rent under the Lease;
 - b) grant any consent or licence; or
 - c) create or allow any encumbrance; or
 - d) part with or share possession or occupation; or
 - e) enter into any onerous or restrictive obligations,in respect of all or part of the Land.

Option

4.E The Academy Trust grants and the Secretary of State accepts an option (the “**Option**”) to acquire the Land at nil consideration. The Secretary of State may exercise the Option in writing on termination of this Agreement. If the Option is exercised, completion will take place 28 days after the exercise date in accordance with the Law Society’s Standard Conditions of Sale for Commercial Property in force at that date.

Option Notice

4.F The Academy Trust:

- a) must, within 14 days after acquiring the Land or, if later, after signing this Agreement, apply to the Land Registry on Form AN1 (including a copy of this Agreement) for a notice of the Option (the “**Option Notice**”) to be entered in the register, taking any further steps required to have the Option Notice registered and promptly confirming to the Secretary of State when this has been done;
- b) if it has not registered the Option Notice, agrees that the Secretary of State may apply to register it using Form UN1;
- c) must not, without the Secretary of State’s consent, apply to disapply, modify or remove the Option Notice, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Academy Trust, and
- d) must, in the case of previously unregistered land, within 14 days after acquiring the Land or, if later, after signing this Agreement, apply to register a Class C(iv) land charge in the Land Charges Registry, and send the Secretary of State a copy of the relevant entry within 7 days after the registration has been completed. If the Secretary of State considers that the Academy Trust has not complied with this clause, he may apply to secure the registration.

Property Notices

4.G If the Academy Trust receives a Property Notice, it must:

- a) send a copy of it to the Secretary of State within 14 days, stating how the Academy Trust intends to respond to it;
- b) promptly give the Secretary of State all the information he asks for about it;
- c) allow the Secretary of State to take all necessary action, with or instead of the Academy Trust, to comply with it, and
- d) use its best endeavours to help the Secretary of State in connection with it.

Breach of Lease

4.H If the Academy Trust is, or if it is reasonably foreseeable that it will be, in material breach of the Lease, the Academy Trust must immediately give written notice to the Secretary of State stating what the breach is and what action the Academy Trust has taken or proposes to take to remedy it, including timescales where appropriate.

4.I After notifying the Secretary of State under clause 4.H, the Academy Trust must:

- a) promptly give the Secretary of State all the information he asks for about the breach;
- b) allow the Secretary of State to take all necessary action, with or instead of the Academy Trust, to remedy or prevent the breach, and
- c) use its best endeavours to help the Secretary of State to remedy or prevent the breach.

Sharing the Land

4.J Where:

- a) the Secretary of State identifies basic or parental need for additional places in the area in which the Academy is situated; and

- b) the Secretary of State then considers that not all the Land is needed for the operation of the Academy at planned capacity,

the Secretary of State must consult with the Academy Trust to determine whether part of the Land could be demised or sublet to another Academy Trust, as the Secretary of State considers appropriate, for the purpose of that Academy Trust establishing and maintaining an educational institution on the Land.

- 4.K To the extent the Academy Trust and the Secretary of State agree to part of the Land being demised or sublet in accordance with clause 4.J, the Academy Trust must use its best endeavours to procure either the approval of the Landlord or any necessary amendments to the Lease in order to enable it to share occupation of the Land with the incoming Academy Trust and to provide the incoming Academy Trust with security of tenure over the Land occupied by it, and shall enter into any legal arrangements which the Secretary of State requires for this purpose. The Secretary of State shall meet the necessary and reasonable costs incurred by the Academy Trust in connection with this clause.

- 4.L For the purposes of clause 4.J:

- a) a **basic need** will arise when the forecast demand for pupil places in the area where the Academy is situated is greater than the existing capacity to provide them;
- b) a **parental need** will arise when the DfE is actually aware of an additional demand for pupil places in the area where the Academy is situated, following representations from parents in that area; and
- c) **planned capacity** has the meaning given in clause 2.B.

5. TERMINATION

Termination by either party

- 5.A Either party may give at least seven Academy Financial Years' notice to

terminate this Agreement. Such termination would take effect on 31 August of the relevant year.

Termination Warning Notice

5.B The Secretary of State may serve a Termination Warning Notice where he considers that:

- a) the Academy Trust has breached the provisions of this Agreement or the Master Agreement; or
- b) the standards of performance of pupils at the Academy are unacceptably low; or
- c) there has been a serious breakdown in the way the Academy is managed or governed; or
- d) the safety of pupils or staff is threatened, including due to breakdown of discipline; or
- e) the Academy has not improved sufficiently following the service of a Coasting Notice.

5.B.1 The Secretary of State will serve a Coasting Notice where the Academy is found to be coasting. A Coasting Notice will specify:

- a) that the Academy Trust must submit a plan to the Secretary of State setting out the actions to be taken to improve the school sufficiently; and
- b) the date by which the plan must be submitted.

5.C A Termination Warning Notice served under clause 5.B will specify:

- a) the action the Academy Trust must take;
- b) the date by which the action must be completed; and
- c) the date by which the Academy Trust must make any representations,

or confirm that it agrees to undertake the specified action.

- 5.D The Secretary of State will consider any representations from the Academy Trust which he receives by the date specified in the Termination Warning Notice. The Secretary of State may amend the Termination Warning Notice to specify further action which the Academy Trust must take, and the date by which it must be completed.
- 5.E If the Secretary of State considers that the Academy Trust has not responded to the Termination Warning Notice as specified under clause 5.C(c), or has not completed the action required in the Termination Warning Notice as specified under clauses 5.C(a) and (b) (and any further action specified under clause 5.D) he may serve a Termination Notice.

Termination by the Secretary of State after inspection

- 5.F If the Chief Inspector gives notice to the Academy Trust that:
- a) special measures are required to be taken in relation to the Academy;
or
 - b) the Academy requires significant improvement

the Secretary of State may serve a Termination Warning Notice, specifying the date by which the Academy Trust must make any representations.

- 5.G In deciding whether to give notice of his intention to terminate under clause 5.F, the Secretary of State will have due regard to the overall performance of the Academy Trust.

5.G.1 Not used

- 5.H If the Secretary of State has served a Termination Warning Notice under clause 5.F and:
- a) has not received any representations from the Academy Trust by the date specified in the notice; or
 - b) having considered the representations made by the Academy Trust

remains satisfied that this Agreement should be terminated;

he may serve a Termination Notice.

- 5.I If the Chief Inspector gives a notice referred to in clause 5.F to the Academy Trust within two years after the Academy opened, the Secretary of State may only serve a Termination Warning Notice under clause 5.F if:
- a) the Chief Inspector has held a monitoring inspection under section 8 of the Education Act 2005 later than two years after the Academy opened; and
 - b) the Chief Inspector considers that the Academy is not making enough progress towards the removal of the designation referred to in his notice.

Nothing in this clause prevents or prejudices the Secretary of State exercising any other rights arising from or under this Agreement (including, for the avoidance of doubt, any rights under clauses 5.B to 5.E).

Termination by the Secretary of State

- 5.J If the Secretary of State has determined that the Academy will be removed from the Register of Independent Schools and no appeal against that determination is pending, he may serve a Termination Notice.
- 5.K Not used
- 5.L Not used.
- 5.M Not used
- 5.N Not used
- 5.O Not used

Funding and admission during notice period

- 5.P If the Secretary of State serves a Termination Notice under clause 5.A, the

Academy Trust may continue during the notice period to admit pupils to the Academy, and to receive GAG and EAG, in accordance with this Agreement.

- 5.Q If the Secretary of State serves a Termination Warning Notice or a Termination Notice otherwise than under clause 5.A, the Academy Trust may continue during the notice period to admit pupils to the Academy (unless the Secretary of State specifies otherwise), and to receive GAG and EAG, in accordance with this Agreement.

Notice of intention to terminate by Academy Trust

- 5.R The Secretary of State will, before the start of each Academy Financial Year, provide the Academy Trust with a final funding allocation indicating the level of GAG and EAG to be provided in the next Academy Financial Year (the **“Funding Allocation”**).
- 5.S If the Academy Trust is of the opinion that, after receipt of the Funding Allocation for the next Academy Financial Year (the **“Critical Year”**) and after taking into account all other resources likely to be available to the Academy, including other funds that are likely to be available to the Academy from other academies operated by the Academy Trust (**“All Other Resources”**), it is likely that the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent (and for this reason only) then the Academy Trust may give written notice of its intention to terminate this Agreement at the end of the Critical Year.
- 5.T Any notice given by the Academy Trust under clause 5.S must be provided to the Secretary of State within six weeks of the Secretary of State issuing the Funding Allocation. The notice given by the Academy Trust under clause 5.S must specify:
- a) the grounds upon which the Academy Trust’s opinion is based, including:
 - i. evidence of those grounds;
 - ii. any professional accounting advice the Academy Trust has

received;

- iii. a detailed statement of steps which the Academy Trust proposes to take to ensure that the running costs of the Academy are reduced such that costs are less than the Funding Allocation and All Other Resources, and the period of time within which such steps will be taken; and
 - b) the shortfall in the Critical Year between the Funding Allocation and All Other Resources expected to be available to the Academy Trust to run the Academy and the projected expenditure on the Academy; and
 - c) a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").
- 5.U Both parties will use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and use their best endeavours to agree a practical solution to the problem.
- 5.V If no agreement is reached by 30 April (or another date if agreed between the parties) as to whether the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent, then that question will be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination will be final and binding on both parties. The Expert will be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**").
- 5.W The Expert will be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert will be appointed by the President of the Institute of Chartered Accountants in England and Wales. The Expert's fees will be borne equally between the parties.

- 5.X The Expert will be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist will be appointed by the Chairman of the Specialist Schools and Academies Trust (or any successor or equivalent body). The educational specialist's fees will be borne equally between the parties.
- 5.Y If the Expert determines that the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent, and the Secretary of State will not have agreed to provide sufficient additional funding to cover the Shortfall, then the Academy Trust will be entitled to terminate this Agreement, by notice expiring on 31 August of the Critical Year. Any such notice will be given within 21 days after (a) the Expert's determination will have been given to the parties or (b), if later, the Secretary of State will have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

Effect of termination

- 5.Z If this Agreement is terminated, the Academy will cease to be an Academy within the meaning of sections 1 and 1A of the Academies Act 2010.
- 5.AA Subject to clauses 5.BB and 5.CC, if the Secretary of State terminates this Agreement under clause 5.A, he will indemnify the Academy Trust. If the Secretary of State terminates this Agreement otherwise than under clause 5.A, he may at his discretion indemnify or compensate the Academy Trust.
- 5.BB The amount of any such indemnity or compensation will be determined by the Secretary of State, having regard to representations made to him by the Academy Trust, and will be paid as and when the Secretary of State considers appropriate.
- 5.CC The categories of expenditure incurred by the Academy Trust in consequence of termination, for which the Secretary of State may indemnify the Academy Trust under clauses 5.AA, may include:

- a) staff compensation and redundancy payments;
- b) compensation payments in respect of broken contracts;
- c) expenses of disposing of assets or adapting them for other purposes;
- d) legal and other professional fees; and
- e) dissolution expenses.

5.DD If this Agreement is terminated, and the Academy Trust owns capital assets which have been partly or wholly funded by HM Government, the Academy Trust must, as soon as possible after the termination date:

- a) transfer a proportion of those capital assets, equal to the proportion of the original financial contribution made by HM Government, to a nominee of the Secretary of State to use for educational purposes; or
- b) if the Secretary of State directs that a transfer under clause 5.DD(a) is not required, pay to the Secretary of State at the termination date (or, by agreement with the Secretary of State, at the date of their subsequent disposal) a sum equivalent to the proportion of the original financial contribution made by HM Government.

5.EE The Secretary of State may:

- a) Waive all or part of the repayment due under sub-clause 5.DD(b) if the Academy Trust obtains his permission to invest the sale proceeds for its charitable purposes; or
- b) direct the Academy Trust to pay all or part of the sale proceeds to the relevant LA.

6. OTHER CONTRACTUAL ARRANGEMENTS

Annexes

6.A Any annexes to this Agreement form part of and are incorporated into this Agreement.

The Master Agreement

6.B Except as expressly provided in this Agreement, all provisions of the Master Agreement have full force and effect.

General

- 6.C The Academy Trust cannot assign this Agreement.
- 6.D Failure to exercise, or a delay in exercising, any right or remedy of the Secretary of State under this Agreement (including the right to terminate this Agreement), or a single or partial exercise of such a right or remedy, is not a waiver of, and does not prevent or restrict any initial or further exercise of, that or any other right or remedy.
- 6.E Termination of this Agreement will not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.
- 6.F This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all of which will together constitute the same agreement.
- 6.G This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales, and submitted to the exclusive jurisdiction of the courts of England and Wales.
- 6.H Not used

This Agreement was executed as a Deed on

2016

Executed on behalf of the **Academy Trust** by:

.....

Director

In the presence of:

.....

Witness

Name:

Address:

The Corporate Seal of

THE SECRETARY OF STATE FOR EDUCATION

affixed to this deed is authenticated by:

.....

Duly Authorised

ANNEXES

7. PUPILS WITH SPECIAL EDUCATION NEEDS (SEN) AND DISABILITIES

“**Statement of SEN**” means a statement made under section 324 of the Education Act 1996.

“**EHC plan**” means an Education, Health and Care plan made under sections 37(2) of the Children and Families Act 2014.

7.A Except as set out in clause 8 below, the Children and Families Act 2014 imposes duties directly on Academies in respect of pupils with special educational needs, including the admission of pupils with EHC plans. If an Academy Trust considers that a LA should not have named the Academy in an EHC plan, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Secretary of State's determination will be final, subject to any right of appeal which a parent of the child may have to the First Tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.

7.B Not used

7.C Not used

7.D Not used.

8. ADMISSION OF PUPILS WITH SEN AND DISABILITIES

8.A The Academy Trust must for each of its Academies, subject to its right of appeal to the Secretary of State, admit all pupils with a statement of SEN naming the Academy.

8.B Where an LA proposes to name one of the Academies in a statement of SEN, it must give the Academy Trust written notice of this, stating why it considers that Academy to be suitable for the pupil in question. Within 15 days of receipt of the LA's notice, the Academy Trust must consent to being named, except

where admitting the child would be incompatible with the provision of efficient education for other children, and no reasonable steps could secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children or the efficient use of resources, the Academy Trust must have regard to the relevant Guidance issued to maintained schools.

- 8.C If the Academy Trust decides that admitting the child would be incompatible with the provision of efficient education or the efficient use of resources, it must, within the 15 days, notify the LA in writing, giving its reasons for its decision.
- 8.D The Academy Trust must then seek to establish from the LA whether or not it agrees with this determination. If the LA does not agree with the Academy Trust's response, and names the Academy in the child's statement of SEN, the Academy Trust must admit the child to the school as specified in the statement or otherwise by the LA.
- 8.E If in such case, the Academy Trust considers that the LA should not have named the Academy in the statement, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Secretary of State's determination will be final, subject only to any right of appeal which a parent of the child may have to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.
- 8.F If a parent of a child for whom the LA maintains a statement appeals to the First-tier Tribunal (Special Educational Needs and Disability), either for or against the naming of the Academy in the child's statement, then the Tribunal's decision will be binding, even if it is different from that of the Secretary of State.
- 8.G Where it has been finally determined that the Academy be named in a child's statement of SEN, the Academy Trust must admit the child to the Academy, notwithstanding any other admissions requirements in this Agreement.

8.H Clauses 8.A to 8.G only apply insofar as the relevant provisions of the Children and Families Act 2014 relating to SEN and disability do not apply to Academies and Free Schools.



Department
for Education

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