

BRADFORD ACADEMY TRUST

DEED OF VARIATION OF FUNDING AGREEMENT

.....*26 October*.....**2018**

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**");

- and -

(2) **Bradford Academy Trust**, a charitable company incorporated in England and Wales with registered company number 05508735 whose registered address is at Teasdale Street, Bradford, West Yorkshire, BD4 7QJ (the "**Company**").

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

INTRODUCTION

- A. The Parties have entered into a master funding agreement on 10 August 2005, a copy of which is contained in Schedule 1, (the "**Existing MFA**").
- B. The Parties have agreed to amend and re-state the terms of the Existing MFA on the terms set out in this Deed.

LEGAL AGREEMENT

- 1. Words, expressions and interpretations used in this Deed shall, unless the context expressly requires otherwise, have the meaning given to them in, and shall be interpreted in accordance with, the Amended Master Funding Agreement (as defined in clause 2 below).
- 2. The Secretary of State and the Company agree that with effect from the date of this Deed, the Existing MFA shall be amended and re-stated in the form of the Master Funding Agreement set out in Schedule 2 (the "**Amended Master Funding Agreement**"). For the avoidance of doubt, the Amended Master Funding Agreement does not terminate or suspend the Existing MFA but amends and re-states it.

GOVERNING LAW AND JURISDICTION

- 3. This Deed, and any dispute or claim arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England and Wales.
- 4. 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

- 5. 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:-



K Mithrandal

Duly authorised by the Secretary of State for Education

Date 26/10/18

EXECUTED as a deed by the
Bradford Academy Trust acting
by:

R Arnold

Director

Print name RICHARD ARNOLD

Date 6 October 2018

Witnessed by *N. A. H. C.*

Full name NIGEL ANCOCK

Address 30 E FINGHAM ROAD

Occupation DECORATOR

Schedule 1

Existing MFA

BRADFORD ACADEMY

FUNDING AGREEMENT

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BRADFORD ACADEMY

FUNDING AGREEMENT

July 2005

BRADFORD ACADEMY

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 Education and Skills and Bradford Academy hereafter "the Academy Trust".

[Where the academy is one of a number funded by the same organisation, the Secretary of State may enter into a funding agreement with that organisation. This will be defined in the funding agreement as the "Company"]

- 2) The Academy Trust is a charitable company incorporated in England and Wales, limited by guarantee with registered no 5508735.
- 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" - clause 4 of Annex 2;
 - c) "annual letter of funding" - clause 61;
 - d) "GAG" - clauses 50-57;
 - e) "capital expenditure" - clause 36;
 - f) "the Academy" - clause 7;
 - g) "the Academy Trust " - clause 1;
 - h) "EAG" - clauses 58-59;
 - i) "Financial Handbook" - clause 68;
 - j) "financial year" - clause 62;
 - k) "Governing Body" - clause 10;
 - l) "recurrent expenditure" - clause 35;
 - m) "School Development Plan" - clause 13-15;
 - n) "start up period" - clause 55a;
 - o) "the company" - clause 2;
 - p) "the Memorandum and Articles" - Annex 1
- 4) In this Agreement the following words and expressions shall have the following meanings:-

"LEA" 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.

"Persons" includes a body of persons corporate or incorporate.

5) Questions arising on the interpretation of the arrangements in this funding agreement shall be resolved by the Secretary of State after consultation with the Academy.

6) 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

7) 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 Bradford Academy ("the Academy") and having such characteristics as are referred to in clauses 8 - 9, 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 are also imposed upon the Academy Trust.

CHARACTERISTICS OF AN ACADEMY

8) 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

- 9) 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 consistent with admissions law, and the DfES Codes of Practice, for 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

- 10) 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.
- 11) 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

- 12) The Academy shall be conducted in accordance with:
- a) the memorandum and articles of the company (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;
 - b) all provisions by or under statute which confer rights or impose obligations on Academies;

- c) the terms of this Agreement.

Development Plan and target setting

- 13) 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.
- 14) 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.
- 15) The Academy shall consult the Secretary of State and the LEA 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 LEA. The Academy shall set its targets in accordance with the timetable for target setting which applies to maintained schools.

Pupils

- 16) 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.

Teachers and other staff

- 17) The Academy Trust shall employ as teachers persons who meet the health standards set out in the Education (Health Standards)(England) Regulations 2003 (SI 2003/3139) and who are also qualified teachers within the meaning of the Education (School Teachers' Qualifications) (England) Regulations 2003 (SI 2003/1662) in each case as amended or re-enacted from time to time. It shall be open to the Academy to employ persons (otherwise than as teachers) with other qualifications and experience.

- 18) 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.
- 19) The Governing Body shall ensure that all employees other than teachers have access to the Local Government Pension Scheme.
- 20) 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.

Curriculum, curriculum development and delivery and RE and collective worship

- 21) The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced with an emphasis on Citizenship and Enterprise. With the core subjects of the National Curriculum must be taught to all pupils in years 7 - 11 except where, in the opinion of the principal, it is inappropriate for an individual pupil or groups of pupils to be taught one or more of those subjects.
- 22) The Academy shall make provision for the teaching of Religious Education and for a daily act of collective worship.
- 23) Subject to clause 25, 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.
- 24) Subject to clause 25, 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.
- 25) 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 23 and 24 respectively.
- 26) 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

- 27) The Academy shall register with the Qualifications and Curriculum Authority for the purposes of arranging for all eligible pupils to take part in the national curriculum assessment system at the end of the Key Stage 3 programmes of studies. This includes arranging for pupils to take the English, Maths and Science tests and for teacher assessments of pupils' performance in those subjects.
- 28) 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.

School meals

- 29) 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 30 charges may be levied for lunches.
- 30) 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.

Charging

- 31) 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; and
 - 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

- 32) 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.

33) 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.

GRANTS TO BE PAID BY THE SECRETARY OF STATE

General

34) The Secretary of State shall pay grants under this Agreement towards capital and recurrent expenditure. Except with the Secretary of State's prior agreement, 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 Trust shall commit the Secretary of State to paying any particular amount of grant.

35) "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 36. 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).

CAPITAL GRANT

36) "Capital expenditure" means expenditure on:

- a. the acquisition of land and buildings;
- b. the erection, enlargement, improvement or demolition of any building including fixed plant, installation, wall, fence or other structure, or any playground or hard standing;
- c. the installation of electrical, mechanical or other services;

- d. the purchase of vehicles and other self-propelled mechanical equipment;
- e. the installation and equipping of premises with furnishings and equipment, other than necessary replacements, repairs and maintenance due to normal wear and tear;
- f. the installation and equipping of premises with computers, networking for computers, operating software and information and communication technology equipment, other than necessary updates or necessary replacements, repairs and maintenance due to normal wear and tear;
- g. the provision and equipping of premises, including playing fields and other facilities for social activities and physical recreation;
- 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 constituting capital expenditure in any grant letter relating to them;
- j. such other items (whether of a like or dissimilar nature to any of the foregoing) of a substantial or enduring nature as the Secretary of State may agree shall constitute capital expenditure for the purposes of the Agreement;
- k. all 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.

"Capital grant" means grant paid under the Agreement in respect of capital expenditure.

37) The Academy Trust has agreed with the Secretary of State the Capital Cost Spreadsheet attached as Annex 5 to the Agreement. The Capital Cost Spreadsheet shows the limit of the capital costs which the parties have agreed the Academy Trust may incur in order to establish the Academy. Annex 5 includes capital costs incurred prior to the execution of the Agreement and capital costs to be incurred after execution of the Agreement and before the Academy opens. The Academy opens on the first day that its pupils attend school at the Academy.

38) Annex 6A of the Agreement shows the capital expenditure incurred before execution of the Agreement. The Academy Trust has agreed with the Secretary of State the Capital Cash Flow Programme attached as Annex 6B to the Agreement which shows the projected cashflow of capital expenditure by the Academy Trust after execution of the Agreement.

39) Both parties recognise that as the project develops it may be necessary to revise costs in the Capital Cost Spreadsheet (Annex 5) and to move costs between spreadsheet elements in order to ensure that the project remains within its approved budget. Where the Academy Trust wishes to make such adjustments of over

£10,000, it must submit the requested adjustment with the reasons for it to the Secretary of State for approval.

- 40) Where the Academy Trust foresees a significant change in the timing of capital expenditure, that is a change to the figures in Annex 6B of over £100,000, a revised Capital Cash Flow Programme must be submitted to the Secretary of State for approval. The Academy Trust must ensure that no pattern of spending is allowed to develop which cannot be contained within the approved capital expenditure limits. The Secretary of State must be informed immediately if any danger of any of the capital costs set out in Annex 5 being exceeded is foreseen so that steps can be taken to rectify the situation and ensure that the project remains within its capital cash limit.

Capital Expenditure Necessary to Establish the Academy

- 41) The Secretary of State and the Academy Trust hereby agree that the Academy will be constructed/refurbished in accordance with the architect's drawings and specification on materials set out at Annex 6D of the Agreement and that:
- a. the amount of capital expenditure necessary to establish the Academy is £ 20,471,117 ("the Cash Limit"). The Cash Limit includes capital expenditure incurred for the purposes of or in connection with the establishment of the Academy prior to the date of this agreement as described in Annexes 6A and 6B;
 - b. The Secretary of State will bear £19,471,117 of the cash limit and the Academy Trust will bear £1,000,000 of the cash limit. The £1,000,000 from the Academy Trust will be provided by Toc H, with the agreement that the Diocese will continue to use their best endeavours to provide additional monies towards the Capital Costs up to a further £1,000,000
 - c. the arrangements (including timing) for payments for these costs are set out in clause 44 and Annex 6B of the Agreement and as contained in the Side Agreement dated 7 February 2005. Payment by the Secretary of State will be dependent on his approval of the matters set out in Annex 7 to the Agreement;
 - d. if the costs finally incurred for the purposes set out in clause 41(a) above are less than the cash limit, the costs borne by the Secretary of State shall be reduced accordingly and the Academy Trust shall pay the same amount as indicated in clause 41(b);
 - e. if at any stage it appears that the costs incurred for the purposes set out in clause 41(a) are likely to exceed the cash limit, the parties to the Agreement shall urgently consider how to reduce those costs, if necessary by amending the specification of the Academy;
 - f. if the costs incurred for the purposes set out in clause 41(a) exceed the cash limit these additional costs shall be the responsibility of the Academy Trust except that the Secretary of State shall contribute up to 80% of any

agreed necessary additional costs the need for which could not reasonably have been foreseen at the time the cash limit was set;

- g. if the parties agree that additional capital expenditure to establish the Academy, other than that specified in clause 41(a) may be incurred then the parties shall divide such additional costs between them in such proportions as may be agreed between them. No such additional expenditure is to be incurred without prior agreement in writing between the parties.

Other Capital Expenditure

42) Any capital expenditure during the life of this Agreement beyond the cash limit referred to in clause 41(a) on which grant payments are sought from the Secretary of State will require the specific agreement of the Secretary of State. Such consent shall not be unreasonably withheld. Unless the Academy Trust undertakes to meet such capital costs entirely itself such approved costs as are incurred will be shared in a proportion to be agreed between the Secretary of State and the Academy Trust in relation to, and having regard to the nature of, each such capital project. Notwithstanding the preceding sentence, the proportion contributed by the Secretary of State will not be expected to exceed the proportion mentioned in clause 41(f) save that any capital expenditure required in order to meet the requirements of legislation enacted or made after the date of this Agreement shall be funded at least to the percentage referred to in clause 41(f) by the Secretary of State.

Conditions on Capital Grant

- 43) Any payment of capital grant under the Agreement is subject to the fulfilment of the following conditions:
- a. such grants are used to provide accommodation constructed and equipped to standards agreed by the Secretary of State as described in Annex 7, or to defray other expenditure approved by the Secretary of State;
 - b. the payment of such grants is subject to the Academy Trust certifying and providing evidence that all planning and other consents necessary for the development and all related infrastructure to be completed have been obtained or put in place.

Arrangements for Payment of Capital Grant

44) Capital grant will be paid monthly by the Secretary of State to the Academy Trust. Each month the Academy Trust must submit a claim for grant to the Secretary of State in the notified format with supporting invoices and certificates as requested by the Secretary of State from time to time. Capital grant will be paid within 21 days from the day on which a claim for grant is received if the claim is in the proper format, supported by the appropriate documentation and the conditions on its payment set out at clause 43 are complied with. If a dispute arises as to whether a grant claim is acceptable or not both parties undertake to attempt to resolve it in good faith.

Implementation Grant

- 45) The Secretary of State shall pay grant (known as "implementation grant") towards the establishment of the Academy. Implementation grant covers the recurrent expenditure that the parties agree is necessary to establish and open the Academy.
- 46) The Academy Trust shall prepare and submit to the Secretary of State for approval an Implementation Budget showing recurrent costs to be incurred before the Academy opens and for which grant is sought. The approved Implementation Budget Cashflow is attached as Annex 6C to the Agreement and shows the limits of the recurrent expenditure and the projected cashflow which the parties have agreed the Academy Trust is permitted to incur in order to establish the Academy.
- 47) Both parties recognise that as the project develops it may be necessary to revise individual costs in the Implementation Budget and to move costs between budget headings in order to ensure that the project remains within its approved budget. Where the Academy Trust wishes to make such an adjustment of over £10,000, the reason for the change and a revised Implementation Budget must be submitted to the Secretary of State for approval.

Arrangements for Payment of Implementation Grant

- 48) The Secretary of State will pay implementation grant in accordance with the approved Implementation Budget. Payments will be made by monthly instalments. The Academy Trust shall submit to the Secretary of State by the 10th of each month a grant claim in a form specified by the Secretary of State. If the grant claim is acceptable the Secretary of State undertakes to pay the amount due by the 25th of the month. If a dispute arises over whether a grant claim or part of it is acceptable, both parties undertake to attempt to resolve the dispute in good faith.
- 49) Any amount of approved implementation grant in respect of which the expenditure has not been incurred by the Academy Trust, by the date on which the Academy opens, will lapse and no implementation grant will be payable in respect of that part of the approved implementation budget. Any amount of implementation grant which has been paid but remains unexpended on relevant expenditure by the date on which the Academy opens will, without prejudice to any other mode of recovery, be taken into account in determining the total amount of grant to be paid to the Academy after it has opened. Any amount of implementation grant which is found to have been used on ineligible expenditure will, without prejudice to any other mode of recovery, be taken into account in determining the total amount of grant to be paid to the Academy.

General Annual Grant

- 50) General Annual Grant will be paid by the Secretary of State to the Academy Trust in order to cover the 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.

51) Subject to clauses 54 to 56, GAG for each financial year of the Academy Trust will be the total of the following areas of funding;

- a. Formula Funding: Funding comparable to the level of funding which would be provided through the funding formula of the LEA 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. LEA Holdback: Funding representing a proportion of the LEA Education Budget money which the LEA would be able to retain, from the non-delegated elements of the Schools Block and the relevant items in the LEA Block, if the Academy were a maintained school. The proportion

which this funding will represent will be based on the elements of the LEA'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;

52) The GAG for the Academy will also include the following areas of funding for as long as they are necessary and equivalent funding is provided to maintained schools:

- a. LGPS contributions: Whilst it is necessary for the Academy to incur extra costs in order to be a member of the LGPS scheme due to having a small number of employees partaking in the scheme, the Secretary of State will pay an extra amount of grant in respect of these costs each financial year. Both parties acknowledge that new ways of working are being explored to lessen these costs and if these are successful this element of GAG will reduce or cease accordingly;
- b. School Standards Grant: Whilst this direct grant for maintained schools (Direct Grant to Schools) is paid by DfES, the Academy will receive an equivalent amount as part of its GAG each financial year;
- c. Teachers Threshold Payments: Whilst maintained schools receive a separate grant from DfES in respect of teachers threshold payments, the Academy will receive funding on the same basis as maintained schools for all of its teachers which are entitled to threshold payments.
- d. Relevant New Grants for Maintained Schools: Where the Secretary of State starts to pay new grants (which are not standards fund grants) for specific programmes in maintained schools which are relevant to Academies, the Academy will receive funding on a similar basis.

53) The basis of the pupil number count for the purposes of determining the Academy's GAG will be the Governing Body's estimate in November for numbers on roll in the following September. The basis of the GAG calculation, including any annual re-pricing which may be necessary, will be set out in the annual letter of funding except that the level of Teachers Threshold Payments will not be included in the letter and will depend on the information provided by the Academy in that financial year regarding how many teachers are entitled to the payments and at what level.

54) The Secretary of State reserves the right to make in year adjustments to the level of GAG payable to the Academy Trust in the following circumstances:

- a. pupil numbers are 10% or more below estimates;
- b. pupil numbers are 5% or more above estimates;
- c. additional grants relevant to the Academy are made by the Secretary of State to maintained schools.

The Academy Trust should notify the Secretary of State if at any stage in the year pupil numbers vary from the estimates by the amounts set out in clause 54(a) or (b). The Secretary of State will base his assessment of the variation of pupil numbers on information provided by the Academy Trust and data from the school census' in September and January each year. The adjustments to the level of GAG may be in respect of any element of the GAG.

55)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 51 and 52, in order to enable the Academy to operate effectively. The Academy will make a bid to the Secretary of State for this addition to GAG, based upon need and providing appropriate supporting evidence;
- b. in relation to Academies which open with pupils transferred from one or more LEA-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.

56)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 51 and 52 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.

57)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 51 and 52, in order to enable the Academy to operate effectively.

Earmarked Annual Grant

- 58) 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 of the grant set out in the relevant funding letter.
- 59) 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

- 60) 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.
- 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 Teacher Threshold Payments whilst that grant is paid as a separate payment that will be notified later in the year on a date to be agreed. Amounts of EAG will be notified to the Company according to an agreed programme.
- 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) (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 LEAs 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 LEA 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 LEAs and schools will permit LEAs 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 Trustees 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 plan 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 both of propriety and 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 may be 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 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;

- d) that the Academy prepares and files with the Companies Registry such annual accounts as are required by the Companies Act 1985;
- 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;
- h) The Governing Body shall secure that the Academy's accounts are audited annually by independent auditors appointed under arrangements approved by the Secretary of State.

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 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) With the exception of grant covered by clause 74 c) below the Academy will be permitted to carry forward savings from GAG from one year to the next:
- a) equivalent to 2% of the total GAG received in the preceding year, which it may use for any of the purposes for which GAG is paid including all expenditure permitted under sub-clause (b) below;
 - b) equivalent to a further 10% of the total GAG received in that year, or such higher figure as may from time to time be agreed, which it may use on the upkeep and improvement of premises including the costs of equipment and routine repairs and maintenance and on capital expenditure.
 - c) Any additional grant provided over and above that set out in clause 51 and 52 and made in accordance with clause 55 and 56, may be carried forward without limitation or deduction until the start up period or the circumstances set out in clauses 55 and 56 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 to 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 run an overdraft beyond such amount (to cover irregularities in cash flow) as may from time to time be both approved by the

Academy Trust in General Meeting and in writing by the Secretary of State, such approval by the Secretary of State not to be unreasonably delayed or withheld, and subject to any conditions he may reasonably impose. The Academy Trust shall not borrow except with the written consent of the Secretary of State against future years' current grant, or by using as collateral assets purchased wholly or partly out of monies provided by the Secretary of State. The Academy Trust shall not borrow against land and buildings transferred to it for less than the market price from an LEA or trustees of a voluntary aided school. Provided always that nothing in this clause shall prevent the Academy Trust from borrowing (whether by way of overdraft or otherwise) prior to the opening of the Academy nor from borrowing where such borrowing is made necessary by the failure of the Secretary of State to make in a timely fashion payments (whether of GAG or EAG or otherwise) agreed to be made by him under this Agreement.

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 LEA; 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 at market value. 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.

- 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 current 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 8 or that the conditions and requirements set out in clauses 9 - 33 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 8 or is not meeting the conditions and requirements of clauses 9 - 33 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 8 or does not and will not meet the conditions and requirements set out in clauses 9 - 33 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 90 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 has ceased to operate as a Academy (except where such cessation occurs temporarily by reason of an event of Force Majeure).

"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 8, or is no longer meeting the conditions and requirements set out in clauses 9 - 33 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 having regard to 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 41-42 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 Education 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 Education Authority.

- 102) If any land or premises of the Academy were acquired from a Local Education 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 Education 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 numbers of applications for places and the number and characteristics of pupils accepted for admission;
- h) numbers 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 DfES 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 DfES 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 DfES.

107) There may be excluded from any item required to be made available and sent to the DfES 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 Bradford Academy Trust, Bradford Diocesan Board of Finance, Windsor House, Cornwall Road, Harrogate, HG1 2PW 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 Education and Skills, 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 16 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.

This document is executed as a Deed on: 10th August 2005 date

EXECUTED as a Deed of Bradford Academy, Lister Avenue - Bradford

Toc H

Type Sponsor 1 name



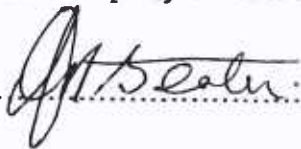
Bradford Diocesan Board of Finance

Type Sponsor 2 name (if applicable)



In the presence of: - [Project Manager's or other witness's Signature]

Name.....



Address.....18 NORTH BRIGHTON ROAD

.....BRIDGEMAN

.....E4 12 8YA

The Corporate Seal of the Secretary of State for Education and Skills hereunto affixed was authenticated by -

Authorised by the Secretary of State for Education and Skills



(F. D. W. CLARKE)



SIDE AGREEMENT BETWEEN THE SECRETARY OF STATE FOR EDUCATION AND SKILLS AND BRADFORD ACADEMY TRUST

Introduction

1. The parties to this agreement are the Secretary of State for Education and Skills ("the Secretary of State") and Bradford Academy Trust ("the Academy Trust") which is a charitable company incorporated in England and Wales with registered number [insert charity number].
2. This agreement is supplemental to the funding agreement executed by the Secretary of State and the Academy Trust in [10th August 2005] ("the funding agreement") for the establishment of an Academy, in accordance with section 482 of the Education Act 1996 as varied by an agreement of 15 July 2005. In the event of the termination of the funding agreement the terms of this agreement will no longer be binding on either party.
3. This agreement is a side letter to the funding agreement and shall be read in conjunction with and as supplemental to the funding agreement. In all other respects the terms of the funding agreement shall continue without amendment.
4. Words and phrases defined in the funding agreement shall have the same meaning as in this agreement.

Legal agreement

5. The Secretary of State agrees to make payments to the Academy Trust in accordance with the conditions and requirements set out in this agreement, and the Academy Trust agrees to a reduction in General Annual Grant.

Payments to be made by the Secretary of State

6. By virtue of the Funding Agreement the Secretary of State agreed to contribute a total of £19,471,117 towards the capital expenditure required to establish the Academy (being the school to be established by the Academy Trust), on condition that the Academy Trust contributed a total of £1 million towards the capital expenditure required to establish the Academy. The £1 million of sponsorship monies will be provided by Toc H with the agreement that the Diocese of Bradford will continue to use their best endeavours (until 2010) to provide additional monies and no more than up to a further £1 million towards the capital expenditure required to establish the Academy. The contribution made by the Secretary of State will be reduced by the amount of any monies raised by the Diocese of Bradford. The arrangements for the payment of such costs being described in Annex 6b of the Funding Agreement.
7. The Secretary of State recognises that the Academy Trust is not able to pay its full contribution during the period when capital costs will be incurred by the Academy Trust, and accordingly agrees to pay an additional contribution of £500,000 less any additional monies provided by the Diocese of Bradford to the Academy Trust. Such additional monies provided by the Diocese of Bradford to be notified to the Secretary of State as soon as practicable after they have been received by the Academy Trust and no later than 5 working days after receipt. Such additional contribution paid by the Secretary of State shall be offset by a subsequent reduction in the General Annual Grant ("GAG") paid by the Secretary of State to the Academy Trust. The expression "General Annual Grant" in this agreement shall

have the same meaning as that found at clauses 50 to 57 of the Funding Agreement

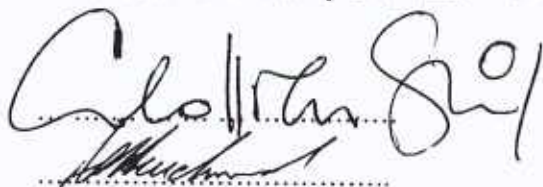
The amounts to be paid by the Secretary of State in accordance with clauses 6 and 7 are to be "in line with Annexes 6b of the Funding Agreement"

Reduction in General Annual Grant

8. The Secretary of State, in accordance with clause 7, will reduce the General Annual Grant payable to the Academy Trust by £ 500,000 less the amount paid by the Diocese of Bradford in accordance with clause 7 above, in two equal reductions during the academic years 2007/8 and the academic years 2008/9. The Academy Trust will be notified of the reduction in the annual letter of funding provided for in the funding agreement between the Secretary of State and the Academy Trust.

EXECUTED AS A DEED by the parties on ^{10th August 2005} ~~15 July 2005~~ AS.

Executed as a deed but not delivered until the date hereof by Bradford Academy Trust acting by Geoffrey Smith and Anthony Hesselwood



**THE CORPORATE SEAL OF
THE SECRETARY OF STATE
FOR EDUCATION AND SKILLS**

Hereunto affixed was authenticated by:

Authorised by the Secretary of State for Education and Skills.



(F.D.W. CLARKE



THE COMPANIES ACTS 1985 AND 1989

A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION OF BRADFORD ACADEMY TRUST

1. The Company's name is **BRADFORD ACADEMY TRUST** (and in this document it is called "the Trust").
2. The Trust's registered office is to be situated in England and Wales.
3. The Trust's objects ("**the Objects**") are to advance for the public benefit education in the United Kingdom, in particular but without prejudice to the generality of the foregoing by establishing, maintaining, carrying on, managing and developing a school offering a broad curriculum with a strong emphasis on, but in no way limited to Citizenship and Enterprise within which the religious education and religious worship shall be in accordance with the doctrines and practice of the Church of England and the values of Toc H.
4. In furtherance of the Objects but not further or otherwise the Trust may exercise the following powers:-
 - (a) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and to operate bank accounts in the name of the Trust;
 - (b) to raise funds and to invite and receive contributions provided that in raising funds the Trust shall not undertake any substantial permanent trading activities and shall conform to any relevant statutory regulations;
 - (c) to acquire, alter, improve and (subject to such consents as may be required by law) to charge or otherwise dispose of property;
 - (d) subject to clause 5(g) below to employ such staff, as are necessary for the proper pursuit of the Objects and to make all reasonable and necessary provision for the payments of pensions and superannuation to staff and their dependants: Provided that such staff shall not be governors, save for the head teacher of the Academy and staff or teacher governors elected in accordance with the Academy's Articles of Association;
 - (e) to establish or support, whether financially or otherwise, any charitable trusts, associations or institutions formed for all or any of the Objects;
 - (f) to co-operate with other charities, other independent and maintained schools, voluntary bodies and statutory authorities operating in furtherance of the Objects and to exchange information and advice with them;
 - (g) to pay out of funds of the Trust the costs, charges and expenses of and incidental to the formation and registration of the Trust;
 - (h) to establish, maintain, carry on, manage and develop the Academy at Lister Avenue, Bradford, BD4 7QT
 - (i) to offer scholarships, exhibitions, prizes and awards to pupils and former pupils, and otherwise to encourage and assist pupils and former pupils;

- (j) to provide educational facilities and services to students of all ages and the wider community for the public benefit;
- (k) to carry out research into the development and application of new techniques in education in particular in relation to the Academy's area of curricular specialisation and to its approach to curriculum development and delivery and to publish the results of such research, and to develop means of benefiting from application of the experience of industry, commerce, other schools and the voluntary sector to the education of pupils in Academies;
- (l) subject to such consents as may be required by law to borrow and raise money for the furtherance of the Objects in such manner and on such security as the Trust may think fit;
- (m) to invest the moneys of the Trust not immediately required for the furtherance of its Objects in or upon such investments, securities or property as may be thought fit, to hold the same as investments and to sell, exchange, carry and dispose of the same, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law;
- (n) to provide indemnity insurance to cover the liability of governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to the Trust: Provided that any such insurance shall not extend to any claim arising from any act or omission which the governors knew to be a breach of trust or breach of duty or which was committed by the governors in reckless disregard of whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against the governors in their capacity as governors;
- (o) to establish subsidiary companies to carry on any trade or business for the purpose of raising funds for the Academy;
- (p) to do all such other lawful things as are necessary for or are incidental to or conducive to the achievement of the Objects.

5. The income and property of the Trust shall be applied solely towards the promotion of the Objects and no part shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to members of the Trust, and no governor shall be appointed to any office of the Trust paid by salary or fees or receive any remuneration or other benefit in money or money's worth from the Trust. Provided that nothing in this document shall prevent the payment in good faith by the Trust:-

- a) of the usual professional charges for business done by any governor who is a solicitor, accountant or other person engaged in a profession, or by any partner of his or hers, when instructed by the Trust to act in a professional capacity on its behalf: Provided that at no time shall a majority of the governors benefit under this provision and that a governor shall withdraw from any meeting at which his or her appointment or remuneration, or that of his or her partner, is under discussion;
- (b) of reasonable and proper remuneration for any services rendered to the Trust by any member, officer or servant of the Trust who is not a governor;
- (c) of interest on money lent by any member of the Trust or governor at a reasonable and proper rate per annum not exceeding 2 per cent less than the published base lending rate of a clearing bank to be selected by the governors;

- (d) of fees, remuneration or other benefit in money or money's worth to any company of which a governor may also be a member holding not more than 1/100th part of the issued capital of that company;
 - (e) of reasonable and proper rent (as determined by an independent valuer appointed by the Trust) for premises demised or let by any member of the Trust or a governor;
 - (f) to any governor of reasonable out-of-pocket expenses;
 - (g) of reasonable and proper remuneration to any governor of the Academy who is employed by the Trust at the Academy established or continued by the Trust: Provided that at no time shall a majority of the governors benefit under this provision and that a governor shall withdraw from any meeting at which his or her appointment, remuneration or terms or conditions specific to him or her at the Academy are under discussion;
 - (h) of any premium in respect of any indemnity insurance to cover the liability of the governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default or breach of trust or breach of duty of which they may be guilty in relation to the Trust: Provided that any such insurance shall not extend to any claim arising from any act or omission which governors knew to be a breach of trust or breach of duty or which was committed by the governors in reckless disregard to whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against governors in their capacity as directors of the Trust.
6. The liability of the members of the Trust is limited.
7. Every member of the Trust undertakes to contribute such amount as may be required (not exceeding £10) to the Trust's assets if it should be wound up while he or she is a member or within one year after he or she ceases to be a member, for payment of the Trust's debts and liabilities before he or she ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.
8. If the Trust is wound up or dissolved and after all its debts and liabilities (including any under section 483 of the Education Act 1996) have been satisfied there remains any property it shall not be paid to or distributed among the members of the Trust (except to a member that is itself a charity and which meets the following conditions within this clause) but shall be given or transferred to some other charity or charities having objects similar to the Objects which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the Trust by clause 4 above, chosen by the members of the Trust at or before the time of dissolution and if that cannot be done then to some other charitable object.
9. No alteration or addition shall be made to or in the provisions of the Memorandum or Articles of Association which would have the effect (a) that the Trust would cease to be a company to which section 30 of the Companies Act 1985 applies; or (b) that the Trust would cease to be a charity.

WE, the persons whose names and addresses are written below wish to be formed into a company under this Memorandum of Association.

Signatures, Names and Addresses of Subscribers

Signature: - Toc H

Name: -

Address THE STABLE BLOCK, THE Firs
HIGH STREET, WITCHURCH
BUCKINGHAMSHIRE, HP22 4JU

Dated

9/7/05

Signature: - Bradford Diocesan Board of Finance

Name

Address

ANTHONY PETER HESSELWOOD
KADISH HOUSE
ELMSLEY STREET
STEETON
KESHUET

Dated

Witness to the above Signature Toc H

Signature

Name

Address

Diane M. Claxton
The Stable Block, The Firs
High Street, Witchurch
Bucks, HP22 4JU

Dated

09/07/05

Witness to the above Signature

Bradford Diocesan Board of Finance

Signature

Name

Address

K. Heeburn
KATHRYN HEBURN
5 ELDON PLACE
BRADFORD
BD1 3AU

Dated

THE COMPANIES ACTS 1985 AND 1989

A COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION
OF
BRADFORD ACADEMY TRUST
March 2005

THE COMPANIES ACTS 1985 AND 1989
A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL
ARTICLES OF ASSOCIATION OF **BRADFORD ACADEMY TRUST**

INTERPRETATION

1. In these Articles:-

"the Act"	means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force;
"the Academy"	means Bradford Academy as referred to in clause 3 of the memorandum and established by the Trust;
"the Trust"	means the company intended to be regulated by these articles;
"the articles"	means these articles of association of the Trust;
"the Bradford Diocesan Board of Finance"	means the company registered at Companies House under company number 00174695 whose registered office is at Kadugli House, Elmsley Street, Steeton, Keighley BD20 6SE
"clear days"	in relation to the period of a notice means the period excluding the day when the notice is given or deemed to be given and the day of which it is given or on which it is to take effect;
"clerk"	means the secretary of the Trust or any other person appointed to perform the duties of the secretary of the Trust, including a joint, assistant or deputy secretary; the secretary shall be known as the 'clerk' under article 73;
"executed"	includes any mode of execution;
"the memorandum"	means the memorandum of association of the Trust;
"the governors"	means the directors of the Trust (and "governor" has a corresponding meaning);
"appointed governor"	means a sponsor, LEA, co-opted or additional governor appointed under these articles;
"elected governor"	means a parent, teacher or staff governor elected under these articles;

"the Governing Body"	means the governors;
"principal"	means the head teacher of the Academy;
"the LEA"	means Bradford Local Education Authority
"member"	means a member of the Trust and someone who as such is bound by the undertaking contained in clause 7 of the memorandum;
"Principal Sponsors"	means ToCH and The Bradford Diocesan Board of Finance, joint subscribers to the memorandum and articles;
"the seal"	means the common seal of the Trust if it has one;
"Secretary of State"	means the Secretary of State for Education and Skills;
"teacher"	means a teacher employed under a contract of employment or a contract for services or otherwise engaged to provide his services as a teacher;
"ToC H"	means the company incorporated by Royal Charter and registered at Companies House under company number RC000619 whose registered office is at The Stable Block, Firs, High Street, Whitechurch, Aylesbury, Buckinghamshire HP22 4JU;
"the United Kingdom"	means Great Britain and Northern Ireland.

Words importing the masculine gender only shall include the feminine gender. Words importing the singular number only shall include the plural number, and vice versa.

Subject as aforesaid, words or expressions contained in these articles shall, unless the context requires otherwise, bear the same meaning as in the Act.

OBJECTS

2. The Trust is established for the objects expressed in the memorandum.

MEMBERS

3. The members of the Trust shall comprise:
 - (a) ToCH as a Principal Sponsor;
 - (b) 1 person appointed by ToCH as a Principal Sponsor;
 - (c) The Bradford Diocesan Board of Finance, as a Principal Sponsor
 - (d) 1 person appointed by The Bradford Diocesan Board of Finance, as a Principal Sponsor;
 - (e) 1 person appointed by the Secretary of State;

(f) the chair of the Governing Body;

(g) any person appointed under article 6.

4. Each of the persons entitled to appoint members in article 3 shall have the right from time to time by written notice delivered to the Trust's registered office to remove any member appointed by them and to appoint a replacement member to fill a vacancy whether resulting from such removal or otherwise.

5. If any of the persons entitled to appoint members in article 3 die or become legally incapacitated their right to appoint members under these articles shall vest in the remaining members.

6. The members may agree unanimously in writing to appoint such additional members as they think fit and may unanimously in writing agree to remove any such additional members.

7. Every person nominated to be a member of the Trust shall either sign a written consent to become a member or sign the register of members on becoming a member.

8. The other members may in their absolute discretion permit any member to resign provided that after such resignation the number of members is not less than 3. A member shall cease to be one immediately on the receipt by the Trust of a notice in writing signed by the person or persons entitled to remove him under articles 4 or 6 provided that no such notice shall take effect when the number of members is less than three unless it contains or is accompanied by the appointment of a replacement member.

GENERAL MEETINGS

9. The Trust shall hold an Annual General Meeting each year in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one Annual General Meeting of the Trust and that of the next. Provided that so long as the Trust holds its first Annual General Meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The Annual General Meeting shall be held at such time and place as the governors shall appoint. All general meetings other than Annual General Meetings shall be called Extraordinary General Meetings.

10. The governors may call general meetings and, on the requisition of members pursuant to the provisions of the Act, shall forthwith proceed to convene an Extraordinary General Meeting for a date not later than eight weeks after the receipt of the requisition. If there are not within the United Kingdom sufficient governors to call a general meeting, any governor or any member of the Trust may call a general meeting.

NOTICE OF GENERAL MEETINGS

11. An Annual General Meeting and an Extraordinary General Meeting called for the passing of a special resolution appointing a person as a governor shall be called by at least twenty-one clear days' notice. All other Extraordinary General Meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed

(a) in the case of an Annual General Meeting, by all the members entitled to attend and vote; and

- (b) in the case of any other meeting by a majority in number of members having a right to attend and vote, being a majority together holding not less than 95 per cent of the total voting rights at the meetings of all the members.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an Annual General Meeting, shall specify the meeting as such.

The notice shall be given to all the members, to the governors and auditors.

12. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

PROCEEDINGS AT GENERAL MEETINGS

13. No business shall be transacted at any meeting unless a quorum is present. A member counts towards the quorum by being present either in person or by proxy. Two persons entitled to vote upon the business to be transacted, each being a member or a duly authorised representative of a member organisation, or one tenth of the total number of such persons for the time being, whichever is the greater, shall constitute a quorum.

14. If a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the governors may determine.

15. The chairman, if any, of the governors or in his absence some other governor nominated by the governors shall preside as chairman of the meeting, but if neither the chairman nor such other governor (if any) be present within fifteen minutes after the time appointed for the holding the meeting and willing to act the governors present shall elect one of their number to be chairman and, if there is only one governor present and willing to act, he shall be the chairman.

16. If no governor is willing to act as chairman, or if no governor is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.

17. A governor shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting.

18. The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

19. A resolution put to the vote of the meeting shall be decided on a show of hands unless before, or on the declaration of the result of the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:-

- (a) by the chairman; or

- (b) by at least two members having the right to vote at the meeting ; or
- (c) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.

20. Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

21. The demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the chairman. The withdrawal of a demand for a poll shall not invalidate the result of a show of hands declared before the demand for the poll was made.

22. A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the results. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

23. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to any other vote he may have.

24. A poll demanded on the election of the chairman or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken either immediately or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent continuance of a meeting for the transaction of any business other than the question on which the poll is demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

25. No notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In other cases at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

26. A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more members.

VOTES OF MEMBERS

27. Subject to article 23, on the show of hands every member present in person shall have one vote. On a poll every member present in person or by proxy shall have one vote.

28. A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorised in that behalf appointed by that court, and any such receiver, curator bonis or other person may, on a poll, vote by proxy. Evidence to the satisfaction of the governors of the authority of the person claiming to exercise the right to vote shall be deposited at the office, or at such other place as is specified in accordance with the articles

for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.

29. No member shall be entitled to vote at any general meeting unless all moneys then payable by him to the Trust have been paid.

30. No objections shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.

31. An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointer and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the governors may approve) -

"I/We,, of, being a member/members of the above named trust, hereby appoint of, or failing him, of as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Trust to be held on200[], and at any adjournment thereof.

Signed on 200[]"

32. Where it is desired to afford members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the governors may approve)-

"I/We,, of, being a member/members of the above-named trust, hereby appoint of, or failing him of, as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Trust, to be held on 200[], and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 *for * against

Resolution No. 2 *for * against.

* Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed on 200[]"

33. The instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified by a notary or in some other way approved by the governors may -

- (a) be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Trust in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or

(b) in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll;

(c) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the clerk or to any governor;

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

34. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Trust at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote given or the poll demanded or (or in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

35. Any organisation which is a member of the Trust may by resolution of its board of governors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Trust, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the Trust.

GOVERNORS

36. The number of governors shall be not less than three but (unless otherwise determined by ordinary resolution) shall not be subject to any maximum.

37. Subject to article 39 the Trust shall have the following governors:

- a. 3 sponsor governors appointed by ToCH;
- b. 3 sponsor governors appointed by The Bradford Diocesan Board of Finance;
- c. 2 sponsor governors appointed jointly by the Principal Sponsors;
- d. 1 governor, appointed by the LEA;
- e. the Principal, ex officio;
- f. 2 parent governors, elected in accordance with Articles 43 to 46;
- g. 2 staff governors, elected in accordance with Articles 48 to 53;
- h. 2 community governors, appointed by Governors who are not themselves so appointed.

The Trust may also have the following governors:

- i. any co-opted governor appointed under article 47;
- j. any additional governor appointed under article 56.

If the Principal Sponsors fail to agree joint appointees as Governors under Article 37 c, the places shall remain vacant for a maximum of 3 months, after which time, Governors appointed under Articles 37 a and 37 b shall appoint an additional Governor under Article 37 c by a two thirds majority of those Governors entitled to vote and present and voting. A Governor appointed in this way shall be regarded for the purposes of removal as a Governor appointed jointly by the Principal Sponsors.

38. The first governors shall be those persons named in the statement delivered pursuant to section 10(2) of the Act, who shall be deemed to have been appointed under article 37 and shall be deemed to be sponsor governors. Future sponsor governors shall be appointed under article 39.

39. Future governors required by article 37 shall be appointed or elected, as the case may be, under these articles. Where it is not possible for such a governor to be appointed or elected due to the fact that the Academy is not yet established then the relevant article or part thereof shall not apply.

APPOINTMENT AND ELECTION OF GOVERNORS

40. The Principal Sponsors shall appoint the sponsor governors.

41. The LEA may appoint the LEA governor.

42. The principal shall be a member of the governing body who shall be treated for all purposes as being an ex officio governor.

43. The elected parent governor(s) shall be elected by parents of registered pupils at the Academy. A parent governor must be such a parent at the time when he is elected. The number of parent governors required shall be made up by parent governors appointed by the Governing Body if the number of parents standing for election is less than the number of vacancies.

44. The Governing Body shall make all necessary arrangements for, and determine all other matters relating to, an election of parent governors, including any question of whether a person is a parent of a registered pupil at the Academy. Any election of parent governors which is contested shall be held by secret ballot.

45. The arrangements made for the election of a parent governor shall provide for every person who is entitled to vote in the election to have an opportunity to do so by post or, if he prefers, by having his ballot paper returned to the Trust by a registered pupil at the Academy.

46. Where a vacancy for a parent governor is required to be filled by election, the Governing Body shall take such steps as are reasonably practical to secure that every person who is known to them to be a parent of a registered pupil at the Academy is informed of the vacancy and that it is required to be filled by election, informed that he is entitled to stand as a candidate, and vote at the election, and given an opportunity to do so.

46(a) In appointing a parent governor the Governing Body shall appoint a person who is the parent of a registered pupil at the Academy; or where it is not reasonably practical to do so, a person who is the parent of a child of compulsory school age.

47. The Governing Body may appoint up to 3 co-opted governors. A 'co-opted governor' appointed under this is a person who is appointed to be a governor by being co-opted by governors who have not themselves been so appointed. When making appointments under

this clause, the governors shall try to ensure that the Governing Body reflects a balance of interests including representation from members of the local business community.

48. The staff governors shall be elected by the staff of the Academy, in accordance with provisions made from time to time by the Governing Body, once the Academy is operating and employing staff.

49. One staff governor shall be a teacher employed at the Academy. Such a staff governor must be a teacher employed by the Trust at the Academy at the time of election.

50. The second staff governor shall be elected by persons employed, by the Trust under a contract of employment or a contract of services, to work at the Academy otherwise than as teachers. The staff governor must be so employed at the time of election.

51. The Governing Body shall determine, for the purposes of an election of staff governors elected under Articles 49 and 50, any question of whether a person is employed under a contract of employment or a contract for services at the Academy.

52. If a staff governor elected under Articles 49 and 50 ceases to be employed at the Academy then (s)he shall automatically cease to be a governor.

53. The Governing Body shall make all necessary arrangements for, and determine all other matters relating to, the election of staff governors. Any election of a staff governor which is contested shall be held by secret ballot.

APPOINTMENT OF ADDITIONAL GOVERNORS

54. The Secretary of State may give a warning notice to the Governing Body where—

(a) he is satisfied—

that the standards of performance of pupils at the Academy are unacceptably low and are likely to remain so unless the Secretary of State exercises his powers under article 56, or

that there has been a serious breakdown in the way the Academy is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or

that the safety of pupils or staff of the Academy is threatened (whether by a breakdown of discipline or otherwise); and

(b) the Secretary of State has previously informed the Governing Body of the matters on which that conclusion is based; and

(c) those matters have not been remedied to the Secretary of State's satisfaction within a reasonable period.

55. For the purposes of article 54 a 'warning notice' is a notice in writing by the Secretary of State setting out—

(a) the matters referred to in Article 54(a);

(b) the action which he requires the Governing Body to take in order to remedy those matters; and

- (c) the period within which that action is to be taken by the Governing Body ('the compliance period').

56. The Secretary of State may appoint additional governors as he thinks fit if the Secretary of State has:

- (a) given the Governing Body a warning notice in accordance with article 54; and
- (b) the Governing Body has failed to comply, or secure compliance, with the notice to the Secretary of State's satisfaction within the compliance period; and
- (c) the Secretary of State has given reasonable notice in writing to the Governing Body that he proposes to exercise his powers under this article.

TERM OF OFFICE

57. The term of office for any governor shall be 4 years, save that this time limit shall not apply the Principal. Subject to remaining eligible to be a particular type of governor any governor may be re-appointed or re-elected.

RESIGNATION AND REMOVAL

58. A governor shall cease to hold office if he resigns his office by notice to the Trust (but only if at least three governors will remain in office when the notice of resignation is to take effect).

59. A governor shall cease to hold office if he is removed by the person or persons who appointed him. This article does not apply in respect of any elected governor; or a parent governor who has been appointed rather than elected.

60. Where a governor resigns his office or is removed from office, the governor or, where he is removed from office, those removing him, shall give written notice thereof to the clerk.

DISQUALIFICATION OF GOVERNORS

61. No person shall be qualified to be a governor unless he is aged 18 or over at the date of his election or appointment. No pupil of the Academy shall be a governor.

62. A governor shall cease to hold office if he becomes incapable by reason of mental disorder, illness or injury of managing or administering his own affairs.

63. A governor shall cease to hold office if he is absent without the permission of the governing body from all their meetings held within a period of six months and the governors resolve that his office be vacated.

64. A person shall be disqualified from holding or continuing to hold office as a governor if—

- (a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced; or
- (b) he is the subject of a bankruptcy restrictions order or an interim order.

65. A person shall be disqualified from holding or continuing to hold office as a governor at any time when he is subject to a disqualification order or a disqualification undertaking

under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).

66. A governor shall cease to hold office if he ceases to be a governor by virtue of any provision in the Act or is disqualified from acting as a trustee by virtue of section 72 of the Charities Act 1993 (or any statutory re-enactment or modification of that provision).

67. A person shall be disqualified from holding or continuing to hold office as a governor if he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated.

68. A person is disqualified from holding or from continuing to hold office as a governor at any time when he is disqualified from working with children under sections 28 and 29 of the Criminal Justice and Court Services Act 2000.

69. A person shall be disqualified from holding or continuing to hold office as a governor if he is a person in respect of whom a direction has been made under section 142 of the Education Act 2002.

70. A person shall be disqualified from holding or continuing to hold office as a governor where he has, at any time, been convicted of any criminal offence, excluding any that have been spent under the Rehabilitation of Offenders Act 1974 as amended, and excluding any offence for which the maximum sentence is a fine or a lesser sentence except where a person has been convicted of any offence which falls under section 72 of the Charities Act 1993.

70 (a) A person shall be disqualified from holding or continuing to hold office as a governor at any time when he refuses a request by the Clerk to the Governing Body, following a referral from either the Chair of Governors or the Principal, to make an application under section 113 of the Police Act 1997, as amended for a criminal records certificate. That application will be at an enhanced disclosure level. A referral by the Chair of Governors or the Principal shall be made where the person is in their opinion giving cause for concern or where his duties involve regularly caring for, training, supervising, or being in sole charge of persons under 18. In the event that the certificate discloses any information which would in the opinion of either the Chair of Governors or the Principal confirm their unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final.

71. Where, by virtue of these articles a person becomes disqualified from holding, or continuing to hold office as a governor; and he is, or is proposed, to become such a governor, he shall upon becoming so disqualified give written notice of that fact to the clerk.

72. Articles 61 to 71 also apply to any member of any committee of the governors who is not a governor.

CLERK TO THE GOVERNING BODY

73. Subject to the provisions of the Act, the secretary shall be appointed by the governors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be appointed by them. The secretary shall be known as "the clerk". The clerk shall not be a governor or the Principal. Notwithstanding this article, the Governing Body may, where the clerk fails to attend a meeting of theirs,

appoint any one of their number to act as clerk for the purposes of that meeting.

CHAIRMAN AND VICE-CHAIRMAN OF THE GOVERNING BODY

74. The governors shall each school year, at their first meeting in that year, elect a chairman and a vice-chairman from among their number. A governor who is employed to work at the Academy shall not be eligible for election as chairman or vice-chairman.

75. Subject to article 76, the chairman or vice-chairman shall hold office as such until his successor has been elected in accordance with that article.

76. The chairman or vice-chairman may at any time resign his office by giving notice in writing to the clerk. The chairman or vice-chairman shall cease to hold office if—

(a) he ceases to be a governor;

(b) he is employed to work at the Academy;

(c) he is removed from office in accordance with these articles; or

(d) in the case of the vice-chairman, he is elected in accordance with these articles to fill a vacancy in the office of chairman.

77. Where by reason of any of the matters referred to in article 76, a vacancy arises in the office of chairman or vice-chairman, the governors shall at their next meeting elect one of their number to fill that vacancy.

78. Where the chairman is absent from any meeting or there is at the time a vacancy in the office of the chairman, the vice-chairman shall act as the chairman for the purposes of the meeting.

79. Where in the circumstances referred to in article 78 the vice-chairman is also absent from the meeting or there is at the time a vacancy in the office of vice-chairman, the governors shall elect one of their number to act as a chairman for the purposes of that meeting, provided that the governor elected shall not be a person who is employed to work at the Academy.

80. The clerk shall act as chairman during that part of any meeting at which the chairman is elected, but for these purposes article 23 shall not apply.

81. Any election of the chairman or vice-chairman which is contested shall be held by secret ballot.

82. The governors may remove the chairman or vice-chairman from office in accordance with this article:

(a) a resolution to remove the chairman or vice-chairman from office which is passed at a meeting of the Governing Body shall not have effect unless—

it is confirmed by a resolution passed at a second meeting of the Governing Body held not less than fourteen days after the first meeting; and

the matter of the chairman's or vice-chairman's removal from office is specified as an item of business on the agenda for each of those meetings.

- (b) Before the Governing Body resolve at the relevant meeting on whether to confirm the resolution to remove the chairman or vice-chairman from office, the governor or governors proposing his removal shall at that meeting state their reasons for doing so and the chairman or vice-chairman shall be given an opportunity to make a statement in response.

POWERS OF GOVERNORS

83. Subject to provisions of the Act, the memorandum and the articles and to any directions given by special resolution, the business of the Trust shall be managed by the governors who may exercise all the powers of the Trust. No alteration of the memorandum or the articles and no such direction shall invalidate any prior act of the governors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this article shall not be limited by any special power given to the governors by the articles and a meeting of governors at which a quorum is present may exercise all the powers exercisable by the governors.

84. In addition to all powers hereby expressly conferred upon them and without detracting from the generality of their powers under the articles the governors shall have the following powers, namely:

to expend the funds of the Trust in such manner as they shall consider most beneficial for the achievement of the Objects and to invest in the name of the Trust such part of the funds as they may see fit and to direct the sale or transposition of any such investments and to expend the proceeds of any such sale in furtherance of the Objects;

to enter into contracts on behalf of the Trust.

85. The governors shall exercise their 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 Principal.

86. Any bank account in which any part of the assets of the Trust is deposited shall be operated by the governors and shall indicate the name of the Trust. All cheques and orders for the payment of money from such account shall be signed by at least two signatories authorised by the governors in respect of their activities as governors.

GOVERNORS' EXPENSES

87. The governors may at the discretion of the Governing Body be paid all reasonable and proper out of pocket travelling, hotel and other expenses, excluding foreign travel, properly incurred by them in connection with their attendance at meetings of governors or committees of governors or general meetings or otherwise in connection with the discharge of their duties, but shall otherwise be paid no remuneration.

88. Except to the extent permitted by clause 5 of the memorandum and subject to articles 113 to 115, no governor shall take or hold any interest in property belonging to the Trust or receive remuneration or be interested otherwise than as a governor in any contract to which the Trust is a party.

THE MINUTES

89. The minutes of the proceedings of a meeting of the Governing Body shall be drawn up and entered into a book kept for the purpose by the person acting as clerk for the

purposes of the meeting; and shall be signed (subject to the approval of the Governing Body) at the same or next subsequent meeting by the person acting as chairman thereof. The minutes shall include a record of:

- (a) all appointments of officers made by the governors; and
- (b) all proceedings at meetings of the Trust and of the governors and of committees of governors including the names of the governors present at each such meeting.

DELEGATION

90. Subject to these articles the governors may delegate to any committee, any governor holding an executive office, or to the Principal, such of their powers or functions as they consider desirable to be exercised by them. Any such delegation may be made subject to any conditions the governors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered.

91. Where any function of the governors has been delegated under article 90 or is otherwise exercised by any committee, any governor holding an executive office, the Principal or any member, the person or committee to whom the function has been delegated, or who has otherwise exercised the function, shall report to the governors in respect of any action taken or decision made with respect to the exercise of that function at the meeting of the governors immediately following the taking of the action or the making of the decision.

92. The governors may establish any committee to exercise, subject to these articles, powers and functions of the governors. The constitution, membership and proceedings of any committee of the governors shall be determined by the governors. The establishment, terms of reference, constitution and membership of any committee of the governors shall be reviewed at least once in every twelve months. The membership of any committee of the governors may include persons who are not governors, provided that a majority of members of any such committee shall be governors. The governors may determine that some or all of the members of a committee who are not governors shall be entitled to vote in any proceedings of the committee. No vote on any matter shall be taken at a meeting of a committee of the governors unless the majority of members of the committee present are governors.

PRINCIPAL

93. The governors shall appoint the Principal of the Academy. Subject to these articles, the Principal shall be responsible for the internal organisation, management and control of the Academy, the implementation of all policies approved of by the governors and for the direction of the teaching and curriculum. For these purposes the governors shall delegate those powers and functions required by the Principal.

MEETINGS OF THE GOVERNING BODY

94. Subject to these articles, the governors may regulate their proceedings as they think fit.

95. The Governing Body shall hold at least one meeting in every school term. Meetings of the Governing Body shall be convened by the clerk. In exercising his functions under this article the clerk shall comply with any direction—

(a) given by the Governing body; or

(b) given by the chairman of the Governing Body or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman of the Governing Body, so far as such direction is not inconsistent with any direction given as mentioned in (a).

96 Any three governors may by notice in writing given to the clerk, requisition a meeting of the Governing Body; and it shall be the duty of the clerk to convene such a meeting as soon as is reasonably practicable

97 Each governor shall be given at least fourteen clear days before the date of a meeting –

notice in writing thereof signed by the clerk, and sent to each governor at the address provided by each governor from time to time; and

a copy of the agenda for the meeting;

provided that where the chairman or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman, so determines on the ground that there are matters demanding urgent consideration it shall be sufficient if the written notice of a meeting, and the copy of the agenda therefore are given within such shorter period as he directs.

98 The convening of a meeting and the proceedings conducted thereat shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda therefore

99 A resolution to rescind or vary a resolution carried at a previous meeting of the Governing Body shall not be proposed at a meeting of the Governing Body unless the consideration of the rescission or variation of the previous resolution is a specific item of business on the agenda for that meeting

100 A meeting of the Governing Body shall be terminated forthwith if—

a) the Governing Body so resolve; or

b) the number of governors present ceases to constitute a quorum for a meeting of the Governing Body in accordance with article 103, subject to article 105.

101 Where in accordance with article 100 a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the clerk as soon as is reasonably practicable but in any event within seven days of the date on which the meeting was originally to be held or was so terminated.

102 Where the Governing Body resolve in accordance with article 100 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Governing Body shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the clerk to convene a meeting accordingly.

103 Subject to article 105 the quorum for a meeting of the Governing Body, and any vote on any matter thereat, shall be any three governors, or, where greater, any one third (rounded up to a whole number) of the total number of governors holding office at the date of the meeting).

104. The governors may act notwithstanding any vacancies in their number, but, if the numbers of governors is less than the number fixed as the quorum, the continuing governors may act only for the purpose of filling vacancies or of calling a general meeting.

105. The quorum for the purposes of—

- (a) appointing a parent governor;
- (b) any vote on the removal of a member of the Governing Body in accordance with article 60;
- (c) any vote on the removal of the chairman of the Governing Body in accordance with articles 60 and 82

shall be any two-thirds (rounded up to a whole number) of the persons who are at the time governors entitled to vote on those respective matters.

106. Subject to these articles, every question to be decided at a meeting of the Governing Body shall be determined by a majority of the votes of the members present and voting on the question.

107. Subject to articles 103 to 105, where there is an equal division of votes the chairman or, as the case may be, the person who is acting as chairman for the purposes of the meeting, shall have a second or casting vote.

108. The proceedings of the Governing Body shall not be invalidated by—

- (a) any vacancy among their number, or
- (b) any defect in the election, appointment or nomination of any governor.

109. A resolution in writing, signed by all the governors entitled to receive notice of a meeting of governors or of a committee of governors, shall be valid and effective as if it had been passed at a meeting of governors (or as the case may be) a committee of governors duly convened and held. Such a resolution may consist of several documents in the same form, each signed by one or more of the governors.

110. Subject to this article, the Governing Body shall ensure that a copy of—

- (a) the agenda for every meeting of the Governing Body;
- (b) the draft minutes of every such meeting, if they have been approved by the person acting as 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,

are, as soon as is reasonably practicable, made available at the Academy to persons wishing to inspect them.

111. There may be excluded from any item required to be made available in pursuance of article 110, 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.

112. Any governor shall be able to participate in meetings of the Governing Body by telephone provided that he has given notice of his intention to do so detailing the telephone number on which he can be reached at the time of the meeting at least 48 hours before the meeting.

113. The Academy shall not enter into any contract or arrangement where a member of the governing body has a duty or pecuniary interest (direct or indirect), which conflicts or may conflict with it. Any governor who has any such duty or pecuniary interest shall disclose that fact to the Governing Body as soon as he becomes aware of it.

114. Without limitation to the generality of article 113, a governor shall be treated as having a pecuniary interest in a contract or proposed contract or other arrangement with the Academy if:

- (a) he is a director or a member holding more than 1/100th of the issued share capital of a company with which the contract or arrangement was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration; or
- (b) he is a partner in a partnership or member of an unincorporated association or any other body with whom the contract or arrangement was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration or
- (c) he, or a partner of his, is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration.

115. For the purposes of articles 113 and 114, an interest of a person who is, within the meaning of section 346 of the Act, connected with a governor shall be treated as an interest of the governor. This shall include:

- (a) that governor's spouse, child or stepchild; or
- (b) a body corporate with which the governor is associated (i.e. if that governor and persons connected with him together are interested in shares comprising at least one fifth of the share capital of the company or are entitled to exercise more than one fifth of the voting power at any general meeting of that company); or
- (c) a person acting in his capacity as trustee of any trust the beneficiaries of which include:
 - the governor, his spouse or any children or stepchildren of his; or
 - a body corporate with which he is associated; or
- (d) a person acting in his capacity as a partner of that governor or of any person who, by virtue of paragraphs (a), (b) or (c) above, is connected with that governor.

PATRONS AND HONORARY OFFICERS

116. The governors may from time to time appoint any person whether or not a member of the Trust to be a patron of the Trust or to hold any honorary office and may determine for what period he is to hold such office.

SIGNATORIES

117. The governors may determine who shall sign any instrument binding the governors and unless otherwise so determined it shall be signed by a governor and by the clerk or by a second governor.

ACCOUNTS

118. Accounts shall be prepared in accordance to the provisions of Part VII of the Act.

ANNUAL REPORT

119. The governors shall comply with their obligations 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 Commissioners.

ANNUAL RETURN

120. The governors shall comply with their obligations under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual return and its transmission to the Commissioners.

NOTICES

121. Any notice to be given to or by any person pursuant to the articles shall be in writing except that a notice calling a meeting of the governors need not be in writing.

122. A notice may be given by the Trust to a member either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address. A member whose registered address is not within the United Kingdom and who gives to the Trust an address, within the United Kingdom at which notices may be given to him shall be entitled to have notices given to him at that address, but otherwise no such member shall be entitled to receive any notice from the Trust.

123. A member present in person at any meeting shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called.

124. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted.

INDEMNITY

125. Subject to the provisions of the Act every governor or other officer or governor or auditor of the Trust shall be indemnified out of the assets of the Trust against any liability incurred by him in that capacity in defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Trust.

RULES

126. The governors may from time to time make such rules or bye laws as they may deem necessary or expedient or convenient for the proper conduct and management of the Trust and for purposes of prescribing classes of and conditions of membership, and in particular but without prejudice to the generality of the foregoing, they may by such rules or bye laws regulate:

- (a) the admission and classification of members of the Trust (including the admission of organisations to membership) and the rights and privileges of such members, and the conditions of membership and the terms on which members may resign or have their membership terminated and the entrance fees, subscriptions and other fees or payments to be made by members;
- (b) the conduct of members of the Trust in relation to one another, and to the Trust's servants;
- (c) the setting aside of the whole or any part or parts of the Trust's premises at any particular time or times or for any particular purpose or purposes;
- (d) the procedure at general meetings and meetings of the governors and committees of the governors and meetings of the governing body in so far as such procedure is not regulated by the articles;
- (e) generally, all such matters as are commonly the subject matter of company rules.

127. The Trust in general meeting shall have power to alter, add or to repeal the rules or bye laws and the governors shall adopt such means as they think sufficient to bring to the notice of members of the Trust all such rules or bye laws, which shall be binding on all members of the Trust. Provided that no rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in, the memorandum or the articles.

We, the persons whose names and addresses are written below wish to be formed into a company under these Articles of Association.

Signatures, Names and Addresses of Subscribers

Signature Toc H

Name

Address THE STABLE BLOCK, THE Firs
HIGH STREET, WHITCHURCH
BUCKINGHAMSHIRE, HP22 4JU

Dated 09/07/05

Signature Bradford Diocesan Board of Finance

Name

Address

Dated

ANTHONY PETER WESSELWOOD
KADUGH HOUSE
ELMSLEY STREET
STEETON
KEIGHLEY

Witness to the above Signature Toc H

Signature

Name

Address THE Stable Block, The Firs
High Street, Buckinghamshire HP22 4JU
Whitchurch.

Dated 09/07/05

Witness to the above Signature Bradford Diocesan Board of Finance

Signature

Name

Address

Dated

K. Hepburn
KATHRYN HEPBURN
5 ELDON PLACE
BRADFORD
BD1 3AU

Schedule 2

Amended Master Funding Agreement



Department
for Education

Mainstream academy and free school: single funding agreement

March 2018 v7

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SUMMARY

Information about the Academy:

Name of Academy Trust	Bradford Academy Trust
Company number	05508735
Name of academy	Bradford Academy
Opening date	1 September 2007
Type of academy (indicate whether academy or free school)	Sponsor led academy
Religious designation	Church of England
Wholly or partly selective	N/A
Name of predecessor school (where applicable)	Bradford Cathedral Community College
Capacity	1891
Age range	2-19
Number of sixth form places	230
Number of boarding places	N/A
SEN unit / Resource provision	ASD – Autistic Spectrum Disorder and PD – Physical disability General SEN provision
Land arrangements (Version 1-8 or other)	Version 1 and 3
Address and title number of Land	Teasdale Street, Bradford, West Yorkshire, BD4 7QJ. Title number: WYK884942 (held by the Academy Trust); Title number: WYK672587 (held by Leeds Diocesan Board of Finance)

Name of Academy Trust	Bradford Academy Trust
Contact details for the Chair of Board of Charity Trustees	Manoj Joshi, c/o Bradford Academy, Teasdale Street, Bradford, West Yorkshire, BD4 7QJ

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

Clause No	Descriptor	Applied	Not used
1.19	Only applies to free schools and new provision academies		✓
2.9.A	Clause applies where an academy was previously a VC or foundation school designated with a religious character		✓
2.12, 2.13	Only applies where the academy has an SEN unit	✓	
2.23	Only applies where there was a predecessor independent school		✓
2.24	Only applies where the academy provides boarding		✓
2.26	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies	✓	
2.32	Clause applies only to academies and free schools designated with a religious character	✓	
2.33	Clause applies only to academies that were formerly wholly selective grammar schools		✓
2.34	Clause applies only to academies that were formerly partially selective grammar schools		✓
2.39	Clause applies to free schools and new provision academies designated with a religious character		✓
2.50	Clause only applies where the academy is designated with a religious character	✓	
2.51	Clause only applies where the academy has not been designated with a religious character		✓
2.52	Clause applies where an academy was previously a VC school or foundation school designated with a religious character		✓
2.52c)	Sub-clause applies if the academy is designated with a denominational religious character – CE etc. rather than 'Christian'		✓
3.16 – 3.21	Option 1 applies to converter and sponsored academies: if used delete option 2	✓	

Clause No	Descriptor	Applied	Not used
3.16 – 3.21	Option 2 applies to free schools and new provision academies: if used delete option 1		✓
3.23	Clause does not apply to academy converters		✓
3.33	Clause only applies to full sponsored and intermediate sponsored academies with approved Academy Action Plans		✓
3.34	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies	✓	
4.5	Clause applies where the academy has 16-19 provision	✓	
4.5A	Clause only applies to free schools		✓
4.11	Clause to be included where relevant circumstances apply – and only in relation to academy converters		✓
4.16	Clause only applies where a Start-Up period applies to the academy		✓
6.1 – 6.4	Clauses do not apply to free schools and new provision academies	✓	
7.6A	Clause applies only to a boarding academy/free school		✓
7.8	Clause only applies to sponsored academies	✓	
7.15	Clause applies to free schools and may be applied to new provision academies		✓
7.16	Clause applies to free schools and may be applied to new provision academies		✓
7.17	Clause applies to free schools and may be applied to new provision academies		✓
7.18	Clause applies to free schools and may be applied to new provision academies		✓
7.19	Clause applies to free schools and may be applied to new provision academies		✓
8.12	Clause only applies to schools which are designated with a Church of England or Roman Catholic character	✓	

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
Option 2 applies to free schools and new provision academies: if used delete option 1	3.A – 3.F	✓	

1 ESTABLISHING THE ACADEMY

Introduction to this agreement

- 1.1. This Agreement is between the Secretary of State for Education (the “**Secretary of State**”) and Bradford 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 05508735. 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 an independent school in England, according to the provisions of the Academies Act 2010, to be known as Bradford Academy (the “**Academy**”), 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.
- 1.4. In this Agreement these capitalised words and expressions will have the following meanings:

“**Academies Financial Handbook**” means the document with that title published by the ESFA 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.

“Coasting” has the meaning given by regulations under subsection (3) of section 60B of the Education and Inspections Act 2006 in relation to a school to which that section applies.

“Control” means the power of an organisation or individual (‘A’) to ensure that the affairs of 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”

“ESFA” means the Education and Skills 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.

“Parents” means parents or guardians.

“Predecessor School” means the school which the Academy has 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.

Any reference to **“Secretary of State”** includes a reference to the ESFA 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.

“Site Trustees” means the trustees who hold part of the Academy’s Land and provide it to the Academy Trust for use and occupation by the Academy;

“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 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.

- 1.5. 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. References to this Agreement include any and all annexes.
- 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) the “school” refers to the Academy;
 - b) the “head teacher” may refer to the Academy’s head teacher or principal;
 - c) the Academy Trust will be deemed to be the “responsible authorities”; and

- d) references to registered pupils will be treated as references to registered pupils at the Academy.
- 1.11. References in this 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. The Academy Trust must ensure that the Academy meets the requirements in section 1A of the Academies 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 the Academy is at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community.
- 1.15. The Academy Trust must conduct the Academy 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 4.6–4.8; and
 - d) this Agreement.
- 1.16. The Academy Trust must, as soon as is reasonable, establish an appropriate mechanism for receiving and managing 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 for the Academy to be 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. Not used.
- 1.20. The Academy Trust is not required to publish information under this Agreement if to do so would breach its obligations under the General Data Protection Regulation (EU) 2016/679 and the Data Protection Act 2018.

Academy opening date

- 1.21. The Academy Trust opened on 1 September 2007.

Governance

- 1.22. The Academy will be governed by a board comprising the Charity Trustees of the Academy Trust (the "**Board of Charity Trustees**").
- 1.23. The Board of Charity Trustees must have regard to any Guidance on the governance of Academy Trusts.
- 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. 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.
- 1.27. 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.
- 1.28. 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 ACADEMY

Length of school day and year

- 2.1. The length of the school day and year is the responsibility of the Academy Trust.

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. Subject to clause 2.5 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.

- 2.5. The Academy Trust must designate a staff member at the Academy as responsible for promoting the educational achievement of registered pupils at the Academy who are being looked after by an LA, or are no longer looked after by an LA because of an adoption, special guardianship or child arrangements order, or because they have been adopted from 'state care' outside England and Wales, and in doing so must comply with the law, regulations and guidance that apply to maintained schools. The Academy Trust must ensure the designated person undertakes appropriate training and has regard to any guidance issued by the Secretary of State..
- 2.6. Teachers' pay and conditions of service are the responsibility of the Academy Trust.
- 2.7. The Academy Trust must ensure that all teachers employed at the Academy have access to the Teachers' Pension Scheme and, in so doing, must comply with the requirements of this scheme and with Fair Deal for staff pensions guidance published by HM Treasury.
- 2.8. The Academy Trust must ensure that all affected staff employed in the Academy other than teachers have access to the Local Government Pension Scheme in line with that Scheme's main regulations being the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. Access to the Scheme must also be in accordance with HM Treasury's published guidance on New Fair Deal which sets out how pensions issues are to be dealt with when staff are compulsorily transferred from the public sector to independent providers. These requirements don't apply if an individual chooses to opt out of the Scheme in line with the relevant legal provisions.
- 2.9. Where a member of the Teaching Staff employed at the 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 have 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.

2.9A Not used.

Pupils

- 2.10. The capacity of the Academy is 1,891 in the age range 2-19, including nursery provision of 26 places, 2 year old provision of 24 places and a sixth form of 230 places. The Academy will be an all ability inclusive school.
- 2.11. The Academy Trust must ensure that the Academy meets the needs of individual pupils, including pupils with SEN and disabilities.

SEN unit

- 2.12. The Academy must operate designated places reserved for pupils with SEN (SEN Unit or Resourced Provision) with up to 22 planned places for pupils with Autistic Spectrum Disorder, Physical Disabilities and general SEN provision in the age range 4-19.
- 2.13. The Secretary of State may at any time determine that the SEN Unit or Resourced Provision should cease to operate. In making such a determination, the Secretary of State will:
- a) consider the views of the Academy and relevant LAs (in their strategic role in the commissioning of SEN provision); and
 - b) consider how his determination will affect the LAs' ability to secure suitable SEN provision for children in the area.

School meals

- 2.14. 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 the local authority were to the Academy.
- 2.15. The Academy Trust must comply with school food standards legislation as if it were a maintained school.
- 2.16. 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.

Pupil Premium

- 2.17. For each Academy 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 its Pupil Premium allocation on;
 - c) what it spent its Pupil Premium allocation on in the previous Academy Financial Year; and
 - d) the impact of the previous year's Pupil Premium allocation on educational attainment.
- 2.18. For each Academy Financial Year the Academy Trust must, where applicable, 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; and

- 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

- 2.19. 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 the Academy were a maintained school.
- 2.20. There must be no charge for admission to or attendance at the Academy and the Academy will only charge pupils where the law allows maintained schools to charge.
- 2.21. Clause 2.20 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 the Academy.
- 2.22. Notwithstanding clause 2.20, the Academy Trust may charge people who are not registered pupils at the Academy for education provided or use of facilities.
- 2.23. Not used.
- 2.24. Not used.

Admissions

- 2.25. Subject to clauses 2.30 and 2.31 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.

- 2.26. Pupils on roll in a Predecessor School which was a maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at that Predecessor School must be admitted to the Academy.
- 2.27. 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.
- 2.28. Not used
- 2.29. Not used
- 2.30. Not used
- 2.31. 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.
- 2.32. The Academy is an Academy designated with a Church of England religious character. The relevant religious authority (i.e. the diocese, or foundation faith body) is the Leeds Diocesan Board of Education.
- 2.33. Not used.

- 2.34. Not used.
- 2.35. The Academy Trust must make arrangements to ensure an independent appeals panel is established for the Academy and its clerk and members are trained to act in accordance with the Codes. The Academy Trust must ensure that parents and 'relevant children' (as described in the Codes) are informed of their 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.
- 2.36. Subject to clause 2.37, 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.
- 2.37. 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.
- 2.38. The Office of the Schools Adjudicator ("OSA") will consider objections to the Academy's admission arrangements (except objections against any agreed derogations from the provisions of the Codes specified in this funding agreement, 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 to give effect to the Adjudicator's decision within two months of the decision (or by 28

February following the decision, whichever is sooner), unless an alternative timescale is specified by the Adjudicator.

2.39. Not used.

Exclusions

2.40. If asked to by an LA, the Academy Trust must enter into an agreement with that LA that 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 which 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 School Standards and Framework Act 1998.

Curriculum

2.41. The curriculum is the responsibility of the Academy Trust.

2.42. The Academy Trust must ensure that the curriculum provided to pupils up to the age of 16 is balanced and broadly based, and includes English, mathematics, science and (subject to the provisions in clause 2.49) religious education.

2.43. The Academy Trust must publish on the Academy's website information about its curriculum, including:

a) the content of the curriculum;

b) its approach to the curriculum;

c) where applicable, the names of any phonics or reading schemes in operation for Key Stage 1;

- d) where applicable, the GCSE options and other Key Stage 4 qualifications, or other future qualifications specified by the Secretary of State, offered by the Academy; and
 - e) how parents (including parents of prospective pupils) can obtain more information about the Academy's curriculum.
- 2.44. 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 the Academy.
- 2.45. The Academy Trust must provide for the teaching of evolution as a comprehensive, coherent and extensively evidenced theory.
- 2.46. 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.
- 2.47. 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.
- 2.47A The Academy Trust must ensure the Academy promotes principles that support equality of opportunity for all.
- 2.48. The Academy Trust must provide for the teaching of religious education and a daily act of collective worship at the Academy.
- 2.49. 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 2.50.

2.50. Subject to clause 2.49, **where the academy is 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 tenets of the Academy's specified religion or religious denomination. This is subject to paragraph 4 of Schedule 19 to the School Standards and Framework Act 1998, which applies as if the Academy were a voluntary aided school with a religious character;
- b) the Academy Trust must comply with section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school with a religious character or a voluntary school, and as if references to "the required collective worship" were references to collective worship in accordance with the tenets and practices of the Academy's specified religion or religious denomination;
- c) the Academy Trust must ensure that the quality of religious education given to pupils at the Academy and the contents of the Academy's collective worship given in accordance with the tenets and practices of its specific religion or religious denomination are inspected. The inspection must be conducted by a person chosen by the Academy Trust, and the Academy Trust must ensure that the inspection complies with the statutory provisions and regulations which would apply if the Academy were a foundation or voluntary school designated as having a religious character.

2.51. Not used.

2.52. Not used.

2.53. 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.

- 2.54. The Academy Trust must ensure that careers guidance is provided at the Academy, in accordance with the requirements on maintained schools in the Education Act 1997.

Assessment

- 2.55. The Academy Trust must:

- a) ensure that pupils 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, to ensure that pupils at the Academy take part in assessments, and in teacher assessments of pupils' performance;
- c) 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;
- d) for all Key Stages, allow monitoring and moderation of the Academy's assessment arrangements as required by the Secretary of State.

- 2.56. 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.

- 2.57. 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 Academy's website:

- a) where applicable, the Academy's most recent Key Stage 2 results as published by the Secretary of State in the School Performance Tables, broken down as follows:

- 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”;
 - iv. in relation to writing, “% achieving Level 5 or above”; and
 - v. in relation to maths, “% achieving Level 5 or above”;
- b) where applicable, the Academy’s most recent Key Stage 4 results as published by the Secretary of State in the School Performance Tables, broken down as follows:
- 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 about where and how parents (including parents of prospective pupils) can access the School Performance Tables published by the Secretary of State.

2.58. The Secretary of State may direct the 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 the Academy.

- 3.2. **“Recurrent Expenditure”** means any money spent on the establishment, conduct, administration and maintenance of the 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 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 any 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; and
- 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 other 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 to cover the Academy's normal running costs or capital expenditure, 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 and lighting); 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 the Academy will include:

- a) subject to clause 3.21(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 Academy in accordance with this 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, 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 and governance training and development;

- b) nursery provision for which parents are charged a fee;
- c) nursery provision to children outside the Academy's age range in clause 2.10;
- d) Children's Centres; or
- e) any additional cost of providing sport and leisure facilities for a purpose not permitted in clause 3.14.

Calculation of GAG

3.16 – 3.19. Not used.

3.20. The Secretary of State will calculate GAG based on the pupil count at the Academy. In order to calculate GAG for the Academy Financial Year in which the Academy opens, the pupil count will be determined on the same basis as that used by the relevant LA for determining the budget of the maintained Predecessor School.

3.21. Not used.

3.A Subject to clause 3.C, the basis of the pupil number count for the purposes of determining GAG for an Academy Financial Year will be the Academy Trust's most recent estimate provided in accordance with clause 3.B.

3.B The Secretary of State will, in advance of each Academy Financial Year for the Academy, request that the Academy Trust provides an estimate of the number of pupils on roll in the following September for the purposes of determining GAG for an Academy Financial Year. The Academy Trust must provide the requested estimate to the Secretary of State as soon as reasonably practicable.

3.C From 1 September 2020 the basis of the pupil number count for the purpose of determining GAG will no longer be the estimate provided in accordance with clause 3.B, but in that and all following Academy Financial Years will be determined in accordance with clause 3.F.

3.D For any Academy Financial Year in which GAG for the Academy has been

calculated in accordance with clauses 3.A and 3.B, an adjustment may be made to the following Academy Financial Year's formula funding element of GAG for the Academy to recognise any variation from that estimate. The Secretary of State may for this purpose use the Census for the relevant month (determined at the Secretary of State's discretion) for the Academy Financial Year in question as a means of determining pupil numbers.

For the Academy Financial year ending 31 August 2018 the variance threshold will be - 10% or more below or 5% or more above estimate

For the Academy Financial year ending 31 August 2019 the variance threshold will be - 6% or more below or 3% or more above estimate

For the Academy Financial year ending 31 August 2020 the variance threshold will be - 4% or more below or 2% or more above estimate

3.E Not used

3.F From 1 September 2020 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

3.22. 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 2.10. 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.

3.23. Not used.

3.24. The Secretary of State recognises that if a Termination Notice or a Termination Warning Notice is served, 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.

Earmarked Annual Grant (EAG)

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

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

Arrangements for paying GAG and EAG

3.27. Before each Academy Financial Year, the Secretary of State will notify the Academy Trust of the GAG and EAG amounts which, subject to parliamentary approval, the Secretary of State plans for that Academy Financial Year and how they have been calculated.

3.28. The amount of GAG for an Academy Financial Year will be decided 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**").

3.29. 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.

- 3.30. The Annual Letter of Funding will, as well as stating the grant amounts, set out how they 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.
- 3.31. The Secretary of State will pay GAG in monthly instalments on or before the 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.
- 3.32. 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

- 3.33. Not used.
- 3.34. The Secretary of State may pay the Academy Trust's costs in connection with the transfer of employees from a Predecessor School under the Transfer of Undertakings (Protection of Employment) Regulations 2006. Such payment will be agreed on a case-by-case basis. The Academy Trust must not budget

for such a payment unless the Secretary of State confirms in writing that it will be paid.

- 3.35. 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.
- 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 obligations 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 prescribed as the principal regulator under the Charities Act 2011.
- 4.5. The Academy Trust must comply with the 16 to 19 Funding Guidance published by the Secretary of State, in respect of its provision for pupils above compulsory school age until the academic year in which they reach the age of 19.

4.5A Not used.

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 4.14-4.17; 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 the Academy balances its overall budget 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. 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. Not used.
- 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 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 the 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. Not used.
- 4.17. Any additional grant made in accordance with clause 3.24, for a period after the Secretary of State has served a Termination Notice or a Termination Warning Notice, may be carried forward without limitation or deduction until the circumstances set out in clause 3.24 cease to apply, or the Academy closes.
- 4.18. Any unspent grant not allowed to be carried forward under clauses 4.14-4.17 may be taken into account in the payment of subsequent grant.

Annual accounts and audit

- 4.19. The Academy Trust must prepare and file with Companies House the annual reports and accounts required by the Companies Act 2006.
- 4.20. 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 were a registered charity; and
 - b) additionally as the Secretary of State directs.
- 4.21. The Academy Trust's accounts must be audited annually by independent auditors appointed in line with the Academies Financial Handbook.
- 4.22. The accounts must carry an audit report stating whether, in the auditors' opinion, the accounts show a true and fair view of the Academy Trust's affairs. The accounts must also be accompanied by such other audit reports, relating to the use of grants and other matters, as the Secretary of State directs.
- 4.23. The Academy Trust's annual report must include the names of all members of the Academy Trust who served during the year.
- 4.24. 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.
- 4.25. 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

- 4.26. 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

- 4.27. 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 assessments. 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.

- 4.28. 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

- 4.29. 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 lease of land;
- c) dispose of any other class of capital asset,

except as expressly permitted in the Academies Financial Handbook, and subject to Part 3 of Schedule 1 to the Academies Act 2010.

- 4.30. The Academy Trust must give the Secretary of State 30 days' notice of its intention to take any of the actions in clause 4.29 (a) – (c) regardless of whether the Secretary of State's consent is required.

Retaining proceeds from the disposal of capital assets

- 4.31. 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.
- 4.32. If the Academy Trust sells a capital asset which was transferred to it for no or nominal consideration from an LA, the Predecessor School or the 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

- 4.33. 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; or
 - 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)
- if the value of those transactions would be above any threshold specified in the Academies Financial Handbook.
- 4.34. The Academy Trust must give the Secretary of State 30 days' notice (or such shorter period as the Secretary of State may agree) of its intention to take any of the actions in clause 4.33 (a) – (c) regardless of whether the Secretary of State's consent is required.

- 4.35. 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

- 4.36. 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. LAND CLAUSES

Land held by the Academy Trust

For the purpose of clauses 5.1 – 5.9:

“Land” means the freehold land held by the Academy Trust at Teasdale Street, Bradford, West Yorkshire, BD4 7QJ, being the land registered with title number WYK884942, which is to be the permanent site of the Academy.

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

Restrictions on Land transfer

- 5.1. 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

5.2. 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.

5.3. The Academy Trust must not, without the Secretary of State's consent:

- a) grant any consent or licence; or
- b) create or allow any encumbrance; or
- c) part with or share possession or occupation; or
- d) enter into any onerous or restrictive obligations,

in respect of all or part of the Land.

Option

- 5.4. The Academy Trust grants and the Secretary of State accepts an option (the “**Option**”) to acquire all or part of 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

- 5.5. 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

5.6. 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.

Sharing the Land

5.7 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 leased 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.

5.8 To the extent the Academy Trust and the Secretary of State agree to part of the Land being demised or leased in accordance with clause 5.7, the Academy Trust must use its best endeavours to procure all necessary consents 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.

5.9 For the purposes of clause 5.7:

- 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 2.10.

Land held by the Leeds Diocesan Board of Finance

5.10 The parties' rights and obligations in respect of the land held by the Leeds Diocesan Board of Finance and registered with title number WYK672587 are set out in the Church Supplemental Agreement dated _____ and made between (1) the Secretary of State; (2) the Academy Trust; (3) Leeds Diocesan Board of Finance; and (4) Leeds Diocesan Board of Education. For the purposes of this clause 5.10, Land has the meaning given to "Land" in the Church Supplemental Agreement.

6. COMPLAINTS

6.1. 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 had remained a maintained school, the Academy Trust:

- a) must abide by the provisions of Part III as if the Academy were a maintained school;
- 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
- 6.2. If the Secretary of State could have given an order or a direction under sections 496 or 497 of the Education Act 1996 to the governing body of the Predecessor School relating 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
- 6.3. If a complaint made to the governing body of the Predecessor School has not been fully investigated when the Academy opens, the Academy Trust must continue to investigate that complaint in accordance with the complaints procedures established by that governing body.
- 6.4. If a complaint is made to the Academy Trust about matters arising wholly or partly during the 12 months before the Academy opened, the Academy Trust agrees to investigate that complaint as if the matter complained of had taken place after the Academy opened

7. TERMINATION

Termination by either party

- 7.1. 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

- 7.2. 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
- 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 by a breakdown of discipline; or
- e) the Academy is coasting provided he has notified the Academy Trust that it is coasting.

7.3. A Termination Warning Notice served under clause 7.2 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.

7.4. 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.

7.5. If the Secretary of State considers that the Academy Trust has not responded to the Termination Warning Notice as specified under clause 7.3(c), or has not completed the action required in the Termination Warning Notice under clauses 7.3(a) and (b) (and any further action specified under clause 7.4) he may serve a Termination Notice.

Termination by the Secretary of State after inspection

7.6. 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.

7.6A Not used.

7.7. If the Secretary of State has served a Termination Warning Notice under clause 7.6 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.

7.8. If the Chief Inspector gives a notice referred to in clause 7.6 to the Academy Trust within two years after the Academy opened, the Secretary of State may only serve a Termination Warning Notice under clause 7.6 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 7.2 to 7.5).

Termination by the Secretary of State

- 7.9. If the Secretary of State has determined that the Academy will be removed from the Register of Independent Schools and no appeal against the determination is pending, he may serve a Termination Notice.
- 7.10. The Secretary of State may serve a Termination Notice if any of the following events occurs, 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; or
 - c) the Academy Trust cannot pay its debts within the meaning of section 123 of the Insolvency Act 1986 with, for the purposes of this clause, section 123 (1)(a) of this Act having an effect as if £10,000 were substituted for £750. The Academy Trust will not be considered unable to pay its debts for the purposes of this clause if it is contesting any such demand in good faith ; 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.

7.11. 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.

7.12. 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.

7.13. For the purposes of clause 7.12 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 Academy.

7.14. For the purposes of clause 7.13:

- 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.

7.15. Not used.

7.16. Not used.

7.17. Not used.

7.18. Not used.

7.19. Not used.

Change of Control

7.20. The Secretary of State may at any time, subject to clause 7.21, 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.
- 7.21. 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.
- 7.22. 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.
- 7.23. When notifying the Secretary of State under clause 7.22, 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 under clause 7.20.

Funding and admission during notice period

- 7.24. If the Secretary of State serves a Termination Notice under clause 7.1, 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.
- 7.25. If the Secretary of State serves a Termination Warning Notice or a Termination Notice otherwise than under clause 7.1, 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.

Effect of Termination

- 7.26. 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.
- 7.27. Subject to clauses 7.28 and 7.29, if the Secretary of State terminates this Agreement under clause 7.1, he will indemnify the Academy Trust. If the Secretary of State terminates this Agreement otherwise than under clause 7.1, he may at his discretion indemnify or compensate the Academy Trust.
- 7.28. 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.

7.29. 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 7.27, 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.

7.30. 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 7.30(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.

7.31. The Secretary of State may:

- a) waive all or part of the repayment due under sub-clause 7.30(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.

8. OTHER CONTRACTUAL ARRANGEMENTS

Information

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

Access by the Secretary of State's Officers

- 8.3. The Academy Trust must allow DfE officials to enter the Academy at any reasonable time. All records, files and reports relating to the running of the Academy must be available to them at any reasonable time. Two DfE officials may attend and speak at any meetings of the Board of Charity Trustees or any other meetings of Charity Trustees of the Academy Trust, but will withdraw from any discussion of the 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.
- 8.4. 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 or any committee to which it 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.
- 8.5. The Academy Trust may exclude from items provided under clause 8.4 any content 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, the Academy Trust reasonably believes should remain confidential.

Notices

8.6. A notice or communication to a party in connection with this 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 9.00 am 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 business days after deemed receipt of the notice):

Name of party	Position of contact	Address
Secretary of State	Head of Academies Division	Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT
Academy Trust	Chair of Board of Charity Trustees or Principal	Bradford Academy, Teasdale Street, Bradford, West Yorkshire, BD4 7QJ

General provisions

- 8.7. The Academy Trust cannot assign this Agreement.
- 8.8. 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 it), 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.
- 8.9. Termination of this Agreement will not affect the accrued rights, remedies, obligations or liabilities of the parties to this Agreement existing at termination.
- 8.10. 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.
- 8.11. 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.
- 8.12. The Secretary of State agrees that this Agreement shall be interpreted in a way which is compatible with the provisions of clauses 20A-F and 23A-H (if used) of the Church Supplemental Agreement dated and made between (1) the Secretary of State; (2) the Academy Trust; (3) Leeds Diocesan Board of Finance; and (4) Leeds Diocesan Board of Education.

This Agreement was executed as a Deed on

2018

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

.....

Director

.....

Witness

Name:

Address:

The Corporate Seal of

THE SECRETARY OF STATE FOR EDUCATION

affixed to this deed is authenticated by:

.....

Duly Authorised

ANNEXES

9. ADMISSION OF CHILDREN AND YOUNG PEOPLE WITH EDUCATION, HEALTH AND CARE PLANS

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

9.1. Except as set out in clause 10 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 Academy Trust must admit the pupil if such a determination is pending. The Secretary of State’s determination as to whether the LA acted unreasonably will be final, subject to any right of appeal which a parent of the pupil may have to the First Tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.

10. ADMISSION OF CHILDREN WITH A STATEMENT OF SPECIAL EDUCATIONAL NEEDS

(Clauses 10.1-10.7 only apply where the pupil has a statement of special educational needs (SEN) rather than an EHC plan and where they therefore continue to be subject to the relevant provisions of the Education Act 1996. EHC plans are replacing statements of SEN but although all statements of SEN should have been converted to an EHC plan by the 1 April 2018 this clause is retained to protect pupils who still have a statement of special education need after this date. The detail on the drafting of a statement below is retained to protect pupils in exceptional circumstances.)

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

10.1. The Academy Trust must admit all children with a Statement of SEN naming the Academy.

- 10.2. The Academy Trust must have regard to the Special Educational Needs Code of practice 2001 when dealing with statements of SEN.
- 10.3. Where the LA sends the Academy Trust a draft statement with a proposal that the Academy is named in the final statement, the Academy Trust must respond within 15 working days unless the time period falls within a school holiday that is longer than two weeks in which case the Academy Trust should respond within 15 working days of the end of the school holiday.
- 10.4. In its response the Academy Trust must either:
- a. consent to being named in the final statement or
 - b. explain why it believes that admitting the child would be incompatible with the provision of efficient education for other children and the efficient use of resources, including why no reasonable steps could secure compatibility. In doing so the Academy Trust must have regard to the relevant legislation and Code of Practice. 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. The final decision as to whether to name the Academy falls to the LA.
- 10.5. If the Academy Trust considers that the LA should not have named the Academy in the statement of SEN, 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 Academy Trust must admit the pupil if such a determination is pending. 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.
- 10.6. If a parent of a child for whom the LA maintains a statement appeals to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber, 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.

- 10.7. 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
- 10.8. Clauses 10.1 to 10.7 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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