Multi Academy Model
(for Mainstream and Special Academies)

PRIMARY ACADEMIES TRUST

MASTER FUNDING AGREEMENT

1-11-11

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INTRODUCTION

1) This Agreement is made under Section 1 of the Academies Act 2010, between the Secretary of State for Education ("the Secretary of State") and the Primary Academies Trust (the "Company").

2) The Company is a company incorporated in England and Wales, limited by guarantee with registered Company number [7821367].

3) The Company intends to establish and maintain, and to carry on or provide for the carrying on of a number of Academies in accordance with this Agreement and the Supplemental Agreements.

4) This Agreement and the Supplemental Agreements will apply in respect of an Academy from such time as a Supplemental Agreement relating to that Academy shall have been entered into between the Secretary of State and the Company.

5) 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) "Academies Financial Handbook" - clause 67;

   b) "Accounting Officer" – clause 62;

   c) "Annual Letter of Funding" - clause 60;

   d) "GAG" – clause 36;

   e) "Capital Expenditure" - clause 37;

   f) "Capital Grant" – clause 37;

   g) "EAG" - clause 36;

   h) "Local Governing Body" – clause 15;

   i) "Recurrent Expenditure" – clause 36;

   j) "Start-up Period" – clause 50;

6) In this Agreement the following words and expressions shall have the following

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meanings:-

"Academy Financial Year" means the year from 1st September to 31st August or such other period as the Secretary of State may from time to time specify by notice in writing to the Company;

"Additional Directors" means Directors who may be appointed by the Secretary of State under the Articles of Association;

"Academy" means a Mainstream Academy or a Special Academy in respect of which a Supplemental Agreement has been entered into between the Secretary of State and the Company and the expression "Academies" shall refer to all or any of such Academies;

"admission requirements" – are annexed to the relevant Supplemental Agreement;

"this Agreement" means this agreement and its annexes and a reference in this Agreement to a numbered clause or annex is a reference to the clause or annex of this Agreement bearing that number or letter as the same may be amended or supplemented from time to time;

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

"Control" in relation to a body corporate ('Entity') means the legal or beneficial ownership of 30 per cent or more of the issued shares in the Entity ordinarily having voting rights or the power of a person ('A') otherwise to secure –

(a) by means of the holding of shares in that Entity or having an interest conferring voting rights at general meetings of the membership of the Entity or of any other body corporate;

(b) by virtue or any powers conferred by the articles of association or other document regulating that Entity or any other Entity or partnership including, without limitation, the power to appoint or remove a majority of the governing body thereof, or

(c) by virtue of any agreement, understanding or arrangement between any person or persons,

that the affairs of the first-mentioned Entity are conducted in accordance with the wishes of A and 'Controls' shall be construed accordingly;

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   j) "Start-up Period" – clause 50;

6) In this Agreement the following words and expressions shall have the following

"DfE" means Department for Education;

"Further Directors" means Directors who may be appointed by the Secretary of State under the Articles of Association if a Special Measures Termination Event, as defined in the relevant Supplemental Agreement, occurs;

"LA" means the Local Authority in the area in which the relevant Academy is situated;

"Mainstream Academy" means an Academy having the characteristics referred to in clause 12;

"Memorandum" and "Articles" means the Memorandum and Articles of Association of the Company for the time being in force, a copy of the current version of which is annexed to this Agreement as Annex A;

"parents" means parents or guardians;

"persons" includes a body of persons, corporate or incorporate;

"Principal" means the head teacher of an Academy;

"Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2006;

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

"SEN" means special educational needs, and the expressions "special educational needs" and "special educational provision" have the meaning set out in section 312 of the Education Act 1996;

"Special Academy" means an Academy specially organised to make special educational provision for pupils with SEN;

"Supplemental Agreement" means an agreement supplemental to this Agreement, substantially in the form set out in Schedule 1 to this Agreement to be entered into by the Secretary of State and the Company pursuant to which the Company agrees to establish and maintain, and to carry on or provide for the carrying on, and the Secretary of State agrees to fund, an Academy in accordance with the terms and conditions of that Supplemental Agreement and this Agreement;

7) The Interpretation Act 1978 shall apply for the interpretation of this Agreement and any Supplemental Agreement as it applies for the interpretation of an Act of Parliament.

8) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement or Supplemental Agreement.

9) Questions arising on the interpretation of the arrangements in this Agreement shall be resolved by the Secretary of State after consultation with the Company

10) Section 1 (3) of the Academies Act 2010 states that -

> (3) An Academy agreement is an agreement between the Secretary of State and the other party under which-
>
> (a) the other party gives the undertakings in subsection (5), and
>
> (b) the Secretary of State agrees to make payments to the other party in consideration of those undertakings."

LEGAL AGREEMENT

11) In consideration of the Company undertaking to establish and maintain, and to carry on or provide for the carrying on of, of a number of independent schools in England specially organised to make special educational provision for pupils with SEN ("**the Special Academies**") or having the characteristics referred to in clause 12 ("**the Mainstream Academies**"), the Secretary of State agrees to make payments to the Company in accordance with the conditions and requirements set out in this Agreement and Supplemental Agreements. If it is agreed between the Secretary of State and the Company that the Company will establish and maintain, and to carry on or provide for the carrying on of an Academy, the parties will enter into a Supplemental Agreement in relation to that Academy. For the avoidance of doubt, any obligations imposed upon or powers given to an Academy by this Agreement or any Supplemental Agreement are also imposed upon the Company.

CHARACTERISTICS OF A MAINSTREAM ACADEMY

12) The characteristics of a **Mainstream Academy** are as set down in Section 1(6) of the Academies Act 2010:

a) The school has a curriculum satisfying the requirements of section 78 of EA 2002 (balanced and broadly based curriculum)

b) If the school provides secondary education, its curriculum for the secondary education has an emphasis on a particular subject area, or particular subject areas, specified in the Agreement;

c) The school provides education for pupils of different abilities[1]

d) the school provides education for pupils who are wholly or mainly drawn from the area in which the school is situated.

THE SEN OBLIGATIONS

12A) In respect of **Special Academies**:

a) The Company must comply with all of the obligations imposed upon the governing bodies of maintained special schools in Chapter 1 of Part 4 of the Education Act 1996 and in Regulations in force at the date of this agreement or made from time to time under any provision in that Chapter (as amended from time to time[2]).

b) Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Company to comply with an obligation imposed by this Agreement where the Company has failed to comply with any such obligation.

c) The Company must ensure that each Academy's website includes details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; the facilities provided to assist access to the Academy by disabled pupils; and the plan prepared by the Academy Trust under paragraph 3 of Schedule 10 to the Equality Act 2010. Disabled pupils in this paragraph mean pupils who are disabled for the purposes of the Equality Act 2010[3].

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[1] This clause will not apply to any Supplemental Funding Agreement entered into in relation to an Academy which is a "selective school" within the meaning of Section 6[4] of the Academies Act 2010

[2] Currently these duties are in section 313 (Duty to have regard to the Special Educational Needs Code of Practice 2001); section 317(5), (6) and (6A) (Duties in relation to the publication of information relating to arrangements and facilities for disabled pupils at the school); and 324(5)(b) (Duty to admit the child where a school is named in the statement); and The Education (Special Educational Needs)(Information)(England) Regulations 1999 (S.I. 1999/2506). For the avoidance of doubt, the obligations in paragraph 12 of this agreement are in addition to any obligations imposed upon Academy proprietors directly in legislation or regulations.

[3] This obligation is in addition to the obligation to comply with the duties to publish information imposed upon the governing bodies of maintained special schools set out in The Education (Special

CONDITIONS OF GRANT

General

13) Other conditions and requirements in respect of an Academy, unless specified otherwise in a Supplemental Agreement, are that:

a) the school will be at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community;

b) there will be assessments of pupils performance as they apply to maintained schools and the opportunity to study for external qualifications in accordance with clause 30 (d);

c) in respect of **Mainstream Academies**, the admissions policy and arrangements for the school will be in accordance with admissions law, and the DfE Codes of Practice, as they apply to maintained schools;

d) teachers' levels of pay and conditions of service for all employees will be the responsibility of the Company;

e) there will be an emphasis on the needs of the individual pupils including pupils with 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.

g) the Company shall as soon as reasonably practicable establish an appropriate mechanism for the receipt and management of donations and shall use reasonable endeavours to procure donations through that mechanism for the purpose of the objects specified in the Articles.

Governance

14) Each Academy will be governed by the Company. The Company shall have regard to (but for the avoidance of doubt shall not be bound by) any guidance as to the governance of Academies that the Secretary of State may publish.

15) The Company shall establish, for each Academy an Advisory Body, whose role shall be

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Educational Needs) (Information) Regulations 1999 (as amended from time to time) which paragraph 12 has the effect of imposing.

to provide advice to the Company in relation to the functioning of that Academy. The role of the Advisory Body and the membership of it shall be for the Company to decide, but the Company will, as a minimum, ensure that:

a) a minimum of two parents of a pupil at the Academy (to be elected by the parents of registered pupils of the Academy) shall be a member of the Advisory Body;

b) up to two employees at the Academy (to be elected by employees of the Academy) shall be a member of the Advisory Body[4];

d) any advice of the Advisory Body is brought to the attention of the Directors of the Company;

e) to the extent that the Company may, in accordance with the Articles, choose to establish a Local Governing Body, then the Company may additionally constitute the Advisory Body as the Academy's Local Governing Body.

Conduct

16) Each Academy shall be conducted in accordance with:

a) the Articles, which shall not be amended by the Company without the written 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 including, without limitation, the independent schools standards prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy

c) the terms of this Agreement and the relevant Supplemental Agreement.

Criminal Records Bureau Checks

17) The Company shall comply with the requirements of the Education (Independent School Standards) (England) Regulations 2010 (or such regulations as may for some time being be applicable) in relation to carrying out enhanced criminal records checks, obtaining enhanced criminal records certificates and making any further checks, as required and appropriate for members of staff, supply staff, individual Directors and the Chair of the Local Governing Body.

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[4] Delete if not required.

Pupils

18) Each **Mainstream Academy** will be an all ability inclusive[5] school whose requirements for:

a) the admission of pupils to the Academy are set out in the relevant annex to the Supplemental Agreement;

b) the admission to the Academy of and support for pupils with SEN and with disabilities (for pupils who have and who do not have statements of SEN) are set out in Annex B to this Agreement;

c) pupil exclusions are set out in Annex C to this Agreement.

18AA) Each **Special Academy** will be a special school whose requirements for:

a) the admission of pupils to the Academy are set out in the relevant annex to the Supplemental Agreement;

b) pupil exclusions are set out in Annex C to this Agreement.

Designated Teacher for Looked after Children

18A) The Company will in respect of each Academy act in accordance with, and be bound by, all relevant statutory and regulatory provisions and have regard to any guidance and codes of practice issued pursuant to such provisions, as they apply at any time to a maintained school, relating to the designation of a person to manage the teaching and learning programme for children who are looked after by an LA and are registered pupils at the school. For the purpose of this clause, any reference to the governing body of a maintained school in such statutory and regulatory provisions, or in any guidance and code of practice issued pursuant to such provisions, shall be deemed to be references to the Directors of the Company.

Teachers and other staff

19) Subject to clause 20, the Company shall not employ anyone under a contract of employment or for services to carry out planning and preparing lessons and courses for

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[5] If one of the Mainstream Academies is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 then the Supplemental Funding Agreement for that Academy will provide that that Academy is not required to be an all ability inclusive school.

pupils, delivering lessons to pupils, assessing the development, progress and attainment of pupils, and reporting on the development, progress and attainment of pupils ("specified work") who is not either:-

a) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002; or

b) otherwise eligible to do specified work under the Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003/1663), which for the purpose of this clause shall be construed as if the relevant Academy were a maintained school.

20) Clause 19 does not apply to anyone who:

a) was transferred to the employment of the Company by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006; and

b) immediately prior to the transfer, was employed to do specified work; and

c) immediately prior to the transfer, was not:

i) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002 and registered with full registration with the appropriate body, or

ii) eligible to do specified work under the Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003/1663)

("transferred staff member"). The Company shall use its best endeavours to ensure that any transferred staff member who undertakes specified work and does not meet the requirements of either clause 20(a) or clause 20(b) meets such requirements as soon as possible.

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

22) The Company shall ensure that all employees at each Academy other than teachers have access to the Local Government Pension Scheme.

Curriculum, curriculum development and delivery and RE and collective worship

23) The curriculum provided by each Academy to pupils up to the age of 16 shall be broad and balanced.

23A) The specialism for each **Mainstream Academy** in relation to its secondary curriculum will be set out in the relevant Supplemental Agreement.

24) The Company shall ensure that the broad and balanced curriculum includes English, Mathematics and Science.

25) The Company shall make provision for the teaching of religious education and for a daily act of collective worship at each Academy.

26) Where a **Mainstream Academy** is designated with a religious character[6] 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) subject to clause 28, the Company shall ensure that provision is made for religious education to be given to all pupils at the Academy in accordance with the tenets of the specified religion or religious denomination of the Academy;

b) subject to clause 28, the Company shall comply with the requirements of 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 specified religion or religious denomination of the Academy;

c) the Company shall 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 practice of the specific religion or religious denomination are inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious

[6] Alternative provisions are available and would be potentially appropriate for non-denominational faith schools.

character.

27) Where a **Mainstream Academy** has not been designated with a religious character in accordance with section 124B of the School Standards and Framework Act 1998 or further to Section 6(8) of the Academies Act 2010:

a) subject to clause 28, the Company shall ensure that 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;

b) subject to clause 28, the Company shall ensure that the Academy complies 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.

c) the Company:

(1) agrees that before making an application pursuant to the Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003 for each Academy to be designated as a school with religious character it shall seek the prior written consent of the Secretary of State;

(2) hereby acknowledges that the Secretary of State may in his absolute discretion refuse or consent to the Company making such an application.

28) Section 71(1) – (6) and (8) of the School Standards and Framework Act 1998 shall apply as if each 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 by each Academy in accordance with clauses 26 or 27 as appropriate.

28A) In respect of RE and collective worship at **Special Academies**:

a) subject to c), the Company shall ensure that provision shall be made for religious education to be given to all pupils at each Academy in accordance with the

requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998;

b) subject to c), the Company shall ensure that each Academy complies with the requirements of regulation 5A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 as if it were a maintained special school;

c) Regulation 5A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 shall apply as if the Academy were a community or foundation special 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 by the Academy in accordance with this clause.

29) The Company shall have regard to any guidance issued by the Secretary of State on sex and relationship education to ensure that children at each Academy are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children.

29A The Company agrees to act in accordance with Sections 406 (Political Indoctrination) and 407 (Duty to secure balance treatment of political issues) of the Education Act 1996 as if it were a maintained school, subject to the following modifications:

a) references to any maintained school shall be treated as references to each Academy;

b) references to registered pupils shall be treated as references to registered pupils at each Academy;

c) references to the governing body or the local authority shall, in each case, be treated as references to the Company; and

d) references to the head teacher shall, in each case, be treated as references to the Principal of each Academy.

Assessment

30) The Secretary of State will notify the appropriate body for assessment purposes about each Academy.

a) The Company shall ensure that the Academy complies with any guidance issued by the Secretary of State from time to time to ensure that pupils take part in assessments and in teacher assessments of pupil's performance as they apply to maintained schools.

b) The Company shall report to any body on assessments under clause 30 as the Secretary of State shall prescribe and shall provide such information as may be required by that body as applies to maintained schools.

c) In respect of all Key Stages, the Company will submit each Academy to monitoring and moderation of its assessment arrangements as prescribed by the Secretary of State.

d) The Company may not offer courses at any Academy which lead to relevant qualifications, as defined in section 96 of the Learning and Skills Act 2000, unless the Secretary of State gives specific approval for such courses.

Exclusions Agreement

31) In respect of **Mainstream Academies**, the Company shall, if invited to do so by an LA, enter into an agreement in respect of an Academy with that LA, which has the effect that where:

a) the Company admits a pupil to the Academy who has been permanently excluded from a maintained school, the Academy itself or another Academy with whom the LA has a similar agreement; or

b) the Company permanently excludes a pupil from the Academy

payment will flow between the Company and the LA in the same direction and for the same amount that it would, were the Academy a maintained school, under Regulations made under section 47 of the School Standards and Framework Act 1998 relating to the addition or deduction of a maintained school's budget following a permanent exclusion or the admission of a permanently excluded pupil. At the date of this Agreement, the applicable Regulation is Regulation 23 of the School Finance (England) Regulations 2008.

School Meals

32) The Company shall, if requested to do so by or on behalf of any pupils at any Academy, provide school lunches for those pupils unless it would be unreasonable for it to do so. Subject to the provisions of clause 33 charges may be levied for lunches, but the Company shall otherwise fund the cost of such school lunches from its GAG.

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

Charging

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

a) references to any maintained school shall be treated as references to an Academy;

b) references to registered pupils shall be treated as references to registered pupils at an Academy;

c) references to the governing body or the local education authority shall, in each case, be treated as references to the Company;

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 Company may charge persons who are not registered pupils at an Academy for education provided or for facilities used by them at that Academy.

International Education Surveys

34A) The Secretary of State may, by notice in writing to the Company, require the Company to participate in an international education survey and the Company shall, upon receipt of such notice, participate in that survey and provide to the Secretary of State or to those

carrying out the survey all such assistance and information as may reasonably be required for the purposes of the Academy's participation in that survey.

GRANTS TO BE PAID BY THE SECRETARY OF STATE

General

35) The Secretary of State shall pay grants towards Capital and Recurrent Expenditure for each Academy. Except with the Secretary of State's prior agreement, the Company shall not budget for its expenditure in any Academy Financial Year in excess of expected income. The Company 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 Company shall commit the Secretary of State to paying any particular amount of grant.

36) "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 37. The Secretary of State shall pay two separate and distinct grants in respect of recurrent expenditure: General Annual Grant ("GAG") and Earmarked Annual Grant ("EAG").

Capital Grant

37) "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 other than necessary replacements, repairs and maintenance due to normal wear and tear;

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 other than necessary replacements, 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 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 this 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 to the Company in respect of Capital Expenditure.

38) Where an Academy is to open in new premises, or where existing premises are to be substantially refurbished or remodelled to enable the Academy to open in such premises, the Secretary of State, may, in his absolute discretion be responsible for meeting the incurred Capital Expenditure for that Academy. To that end, the Secretary of State will consider providing funding in accordance with any arrangements as he considers appropriate.

39) Any Capital Expenditure incurred in respect of each Academy on which Capital Grant payments are sought from the Secretary of State will require the specific prior written agreement of the Secretary of State, which agreement shall not be unreasonably withheld or delayed.

40) Any payment of Capital Grant to the Company under this Agreement is subject to the fulfilment of the following conditions:

a) such grants are used solely to defray expenditure approved by the Secretary of State;

b) the Company 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.

c) Any other conditions that the Secretary of State may specify

Arrangements for Payment of Capital Grant

41) Capital Grant will be paid by the Secretary of State to the Company on the basis of claims for grant submitted to the Secretary of State in the notified format with supporting invoices and certificates as required by the Secretary of State. 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 40 are complied with. If a dispute arises as to whether a claim is or is not acceptable both parties undertake to attempt to resolve it in good faith. In the event of such a dispute, the Secretary of State shall pay to the Company so much of the claim as shall not be in dispute.

General Annual Grant

42) GAG will be paid by the Secretary of State to the Company in order to cover the normal running costs of each Academy. These 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 pension contributions, educational support staff, administrative and clerical staff and manual and premises related staff);

c) employees' expenses;

d) the purchase, maintenance, repair and replacement:

(i) of teaching and learning materials and other educational equipment, including books, stationery and ICT equipment and software, sports equipment and laboratory equipment and materials;

(ii) of 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.

42A) Clauses 43 to 54 apply in respect of **Mainstream Academies** only.

43) Subject to clauses to 51-52, GAG for each Academy Financial Year for each **Mainstream Academy** will include;

a) funding equivalent to that which would be received by a maintained school with similar characteristics, determined by the Secretary of State and notified in the Annual Letter of Funding or its equivalent, taking account of the number of pupils at each Academy;

b) funding in respect of functions which would be carried out by the local authority if each Academy was a maintained school.

44) The GAG for each Academy Financial Year for each **Mainstream Academy** will also include, payable on a basis equivalent to that applied to maintained schools:

n) funding for matters for which it is necessary for that Academy to incur extra costs, for as long as those costs are deemed necessary by the Secretary of State; and

o) payments in respect of further, specific grants made available to maintained schools, where the relevant Academy meets the requisite conditions and criteria necessary for a maintained school to receive these grants.

45) Subject to clause 46, the basis of the pupil number count for the purposes of determining GAG for an Academy Financial Year for a **Mainstream Academy** will be in the first year of conversion, the same basis as that used by the Local Authority for determining the budget share of the predecessor maintained school as adjusted by numbers counted in any subsequent Schools Census, as determined by the Secretary of State. In subsequent years the basis of the pupil count will be as determined by the Secretary of State.

46) Once the conditions specified in clause 47 have been satisfied with respect to a **Mainstream Academy** for the Academy Financial Year for which funding is being calculated, the basis of the pupil number count for the purpose of determining GAG for that Academy will be:

a) for the pupil number count for pupils in Year 11 and below, the Schools Census for the January preceding the Academy Financial Year in question; and

b) for the pupil number count for pupils in Year 12 and above, the formula which for the time being is in use for maintained schools for the calculation of pupil numbers for pupils in Year 12 and above for the purpose of calculating their level of funding.

47) For the purpose of clause 46, the conditions are:

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

b) the total number of pupils as measured in the Schools Census for the preceding January is 90% or more of the planned final size of the Academy, as specified in the Academy's Supplemental Agreement.

c) The Secretary of State had determined that the basis shall be as provided for in Clause 46.

48) For any Academy Financial Year in which GAG for a **Mainstream Academy** has been calculated in accordance with clause 45, no adjustment shall be made to the following

Academy Financial Year's formula funding element of GAG for that Academy to recognise variation from the pupil count basis used.

49) For any Academy Financial Year in which GAG for a **Mainstream Academy** is calculated in accordance with clause 46, no adjustment will be made to the formula funding element in the following Academy Financial Year's formula funding element of GAG unless the Company demonstrates to the satisfaction of the Secretary of State that there has been a significant impact on costs, such as an extra class. For any other element of GAG the Secretary of State may make adjustments to recognise a variation in pupil numbers from that used to calculate the element of grant in question; the basis of these will be set out in the annual letter of funding.

50) The Secretary of State recognises that:

a) in relation to **Mainstream 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 Academy Financial 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 may 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 43-49, in order to enable the Academy to operate effectively[7];

b) in relation to **Mainstream Academies** which open with pupils transferred from one or more maintained schools which have closed, additional GAG resources may 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. If the Secretary of State has indicated that such additional GAG will be payable, the Company will make a bid for this addition to GAG based upon need and providing appropriate supporting evidence.

51) 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 43-49 to allow the relevant **Mainstream Academy** to:

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[7] Note that a larger GAG for the Start-Up Period is not applicable to schools applying to convert further to the Academies Act 2010.

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.

52) The Secretary of State recognises that if he serves notice of intention to terminate a Supplemental Agreement under that agreement the intake of new pupils during the notice period is likely to decline and that in such circumstances payments based simply upon the number of pupils attending the relevant **Mainstream 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 with respect to that Academy in the notice period than would be justified solely on the basis of the methods set out in clauses 43-49, in order to enable the Academy to operate effectively.

53) The Secretary of State also recognises that if this Agreement or a Supplemental Agreement is terminated for any reason by either party the number of pupils at the relevant **Mainstream Academy or Academies** is likely to decline. In these circumstances both parties undertake to attempt to resolve issues arising from such termination in good faith and with the aim of protecting the interests and the education of the pupils at the Academy.

54) Subject to clause 73, GAG paid by the Secretary of State in respect of a **Mainstream Academy** shall only be spent by the Company towards the normal running costs of that Academy.

54AA) Clauses 54A to 54H apply in respect of **Special Academies** only.

54A) Subject to clauses 54E – 54F, GAG for the 2011-12 Financial Year for each **Special Academy** will be the total of the following areas of funding; (see clause 54D)

a) funding equivalent to that which would be received by a maintained Special school with similar characteristics, determined by the Secretary of State and notified in the Annual Letter of Funding or its equivalent, taking account of the number of pupils at each Academy;

b) funding in respect of functions which would be carried out by the local authority if each Academy was a maintained school.

54B) The GAG for each Academy Financial Year for each **Special Academy** will also include, payable on a basis equivalent to that applied to maintained schools:

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

54C) GAG will be based on a number of places and/or pupils, as appropriate to the funding formula of the local authority, determined annually by the Secretary of State, who shall consult the Company and the local authority before finally determining the number(s) to be used.

54D) Arrangements for the provision of GAG in subsequent funding years will be notified to each **Special Academy** by letter before 1 April. The Secretary of State may make provision for GAG to be adjusted in-year if the number of pupils attending the relevant academy at specified dates exceeds or falls below thresholds specified by letter. Arrangements for this will be set out in the Annual Letter of Funding.

54E) The Secretary of State recognises that a larger GAG may be appropriate to meet additional costs during the start-up period, and may pay start-up grant, on a basis determined by him, during that period, the length of which will be stipulated in the Annual Letter of Funding.

54F) The Secretary of State recognises that if he serves notice of intention to terminate a Supplemental Agreement, the intake of new pupils during the notice period is likely to decline and that in such circumstances payments based on a number of places related to the number of pupils attending the relevant **Special 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 with respect to that Academy in the notice period than would be justified solely on the basis of the methods set out in clauses 54A-54C, in order to enable the Academy to operate effectively.

54G) The Secretary of State also recognises that if this Agreement or a Supplemental Agreement is terminated for any reason by either party the number of pupils at the relevant **Special Academy or Academies** is likely to decline. In these circumstances both parties

undertake to attempt to resolve issues arising from such termination in good faith and with the aim of protecting the interests and the education of the pupils at the Academy.

54H) GAG paid by the Secretary of State in respect of a **Special Academy** shall only be spent by the Company towards the normal running costs of that Academy.

Earmarked Annual Grant

55) Earmarked Annual Grant ("EAG") shall be paid by the Secretary of State to the Company 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 Company and as described in the relevant funding letter. The Company shall only spend EAG in accordance with the scope, terms and conditions of the grant set out in the relevant funding letter.

56) Where the Company is seeking a specific EAG in relation to any Academy Financial Year, it shall submit a letter outlining its proposals and the reasons for its request to Academies Division, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

Arrangements for Payment of GAG and EAG

57) The Secretary of State shall notify the Company at a date preceding the start of each Academy Financial Year of the GAG and EAG figures in respect of each Academy which, subject to Parliamentary approval, the Secretary of State plans for that Academy Financial Year and of the assumptions and figures on which these are based.

58) If GAG or EAG is calculated incorrectly due to a mistake of the Secretary of State then:

a) if this leads to an underpayment of GAG, the Secretary of State will correct the underpayment in subsequent Academy Financial Years;

b) if this leads to an overpayment of GAG, the Secretary of State reserves the right to recover any overpaid grant in subsequent Academy Financial Years, as appropriate, having considered all the relevant circumstances and taking into account any representations from the Company.

59) If GAG or EAG is calculated incorrectly because the Company provides incorrect information to the Secretary of State then;

a) if this leads to an underpayment of GAG, the Secretary of State may correct the underpayment in subsequent Academy Financial Years;

b) If this leads to an overpayment of GAG, the Secretary of State reserves the right to recover any overpaid grant in subsequent Academy Financial Years, as appropriate, having considered all the relevant circumstances and taking into account any representations from the Company.

60) The amounts of GAG for an Academy Financial Year will be determined annually by the Secretary of State. The amount of GAG for each Academy for the initial Academy Financial Year will be notified to the Company in a funding letter at a date preceding that year. For subsequent years the amount of GAG will be notified to the Company in a funding letter not later than 31 March preceding that Academy Financial Year (the "Annual Letter of Funding"). The Annual Letter of Funding will not include the amount that the Company will receive in respect of grants for which information to enable timely calculation is not available or is incomplete, such grants will be notified as soon as practicable later in the year. Amounts of EAG will be notified to the Company wherever possible in the Annual Letter of Funding or as soon as practicable thereafter.

61) 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

62) [8]Not used.

63) The Secretary of State may meet costs incurred by the Company in connection with the transfer of employees from any predecessor school under the Transfer of Undertakings (Protection of Employment) Regulations 2006. Payment of grant in respect of such costs is to be agreed between the parties on a case by case basis and the Company 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.

64) The Company may also receive funding from an LA in respect of the provision detailed in statements of SEN for pupils attending an Academy in accordance with the provisions of Section 483A of the Education Act 1996 and regulations made under that section. The

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[8] NOTE. If the Academies are "sponsored academies", then see appropriate wording to be included as set out in Section B of the Appendix below.

Company shall ensure that all provision detailed in statements of SEN is provided for such pupils.

65) Not used.

FINANCIAL AND ACCOUNTING REQUIREMENTS

General

66) The Company shall appoint an Accounting Officer and shall notify the Secretary of State of that appointment.

67) In relation to the use of grant paid to the Company by the Secretary of State, the Company shall abide by the requirements of and have regard to the guidance in the Academies Financial Handbook published by the DfE and amended from time to time and as modified to take account of the fact that the Company manages more than one Academy, which sets out in detail provisions for the financial management of each Academy including guidance on financial systems and controls and accounting and reporting requirements, in so far as these are not inconsistent with any accounting and reporting requirements and guidance that it may be subject to by virtue of its being a charity.

68) The formal budget plan must be approved each Academy Financial Year by the Directors of the Company.

69) Any payment of grant by the Secretary of State in respect of each Academy is subject to his being satisfied as to the fulfilment by the Company of the following conditions:

a) in its conduct and operation it shall apply financial and other controls which conform to the requirements both of propriety and of good financial management;

b) 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) in addition to the obligation to fulfil the statutory requirements referred to in sub-clause f) below, the Company shall prepare its financial statements, Directors' report, Annual Accounts and its Annual Return for each Academy Financial Year in accordance with the Statement of Recommended Practice as if the Company was a non-exempt Charity and/or in such form or manner and by such date as the

Secretary of State may reasonably direct and shall file these with the Secretary of State and the Principal Regulator each Academy Financial Year;

d) a statement of the accounting policies used should be sent to the Secretary of State with the financial statements and should carry an audit report stating that, in the opinion of the auditors, the statements show a true and fair view of the Company's affairs and that the grants were used for the purposes intended;

e) the Company shall ensure that its accounts are audited annually by independent auditors appointed under arrangements approved by the Secretary of State;

f) the Company prepares and files with the Companies Registry such annual accounts as are required by the Companies Act 2006;

g) the Company shall publish on its website its Annual Accounts, Annual Report, Memorandum and Articles of Association, Funding Agreement and a list of the names of the Directors of the Company;

h) the Company 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 each Academy is situated;

70) 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 maintained by the Company to standards determined by the Secretary of State and to make recommendations for improving the financial management of the Company.

71) The books of accounts and all relevant records, files and reports of the Company including those relating to financial controls, shall be open at all reasonable times to officials of the DfE and the National Audit Office and to contractors retained by the DfE or the National Audit Office for inspection or the carrying out of value for money studies; and the Company 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.

72) The Company shall submit indicative budgets relating to each Academy to the Secretary of State by not later than 15 February before the start of each Academy Financial Year. Such budgets shall set out clearly the prospective income and expenditure of the relevant Academy and shall differentiate, and give adequate details of:

a) a statement of expected income for that Academy Financial Year including cash donations and gifts in kind from sources other than GAG, EAG and grants from the Secretary of State towards capital and revenue expenditure, distinguishing between income from public funds including the national lottery and income from other sources. Income from cash donations and gifts in kind from sources other than GAG, EAG and grants from the Secretary of State towards capital expenditure will not be taken into account by the Secretary of State in the calculation of GAG;

b) a statement of proposed recurrent expenditure for that Academy Financial Year;

c) a statement of proposed capital expenditure for that Academy Financial Year.

73) At the beginning of any Academy Financial Year the Company may hold unspent GAG for any Academy from previous Academy Financial Years amounting to such percentage (if any) as the Secretary of State may specify by notice in writing to the Company prior to the beginning of that Academy Financial Year of the total GAG payable for the Academy in the Academy Financial Year just ended or such higher amount as may from time to time be agreed. The Company shall use such carried forward amount for such purpose, or subject to such restriction on its use, as the Secretary of State may specify by notice in writing to the Company.

74) Notwithstanding clause 73 any additional grant provided over and above that set out in clauses 43-49 and made in accordance with clauses 50-52 may be carried forward without limitation or deduction until the Start-up Period or the circumstances set out in clause 52 come to an end.

75) Any savings of GAG not allowed to be carried forward under clauses 73-74 will be taken into account in the payment of subsequent grant.

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

77) The Company shall not, in relation to assets or property funded (whether in whole or in part) by the Secretary of State, without the prior written consent of the Secretary of State which shall not be unreasonably withheld or delayed:

a) except such as are given in normal contractual relations, give any guarantees, indemnities or letters of comfort;

b) write off any debts or liabilities owed to it above a value for the time being specified by the Secretary of State nor offer to make any ex gratia payments;

c) make any sale or purchase of freehold property; or

d) grant or take up any leasehold or tenancy agreement for a term exceeding three years.

77A) Grants paid by the Secretary of State shall only be used by the Academy Trust for purposes listed in Articles 4(a) and 4(b) of the Articles. Such funds shall not be used by the Academy Trust for purposes listed in Article 4(c) of the Articles without the prior written consent of the Secretary of State except where the use of such funds for a charitable purpose set out in Article 4(c) is merely incidental to their use for the purposes set out in Articles 4(a) and 4(b) of the Articles.

78) The Company shall provide 30 days notice to the Secretary of State, whether or not the circumstances require the Secretary of State's consent, of its intention to:

a) give any guarantees, indemnities or letters of comfort;

b) write off any debts owed to it or offer to make any ex gratia payments;

c) make any sale or purchase of freehold property; or

d) grant or take up any leasehold or tenancy agreement for a term exceeding three years.

79) Each discovered loss of an amount exceeding the amount for the time being specified by the Secretary of State and arising from suspected theft or fraud, shall be reported by the Company to the Secretary of State at the earliest opportunity.

80) It is the responsibility of the Company to ensure that each Academy balances its budget from Academy Financial Year to Academy Financial Year. For the avoidance of doubt, this does not prevent the Company from:

a) carrying a surplus from one Academy Financial Year to the next; or

b) carrying forward from a previous Academy Financial Year or Academy Financial Years a sufficient surplus or sufficient cumulative surpluses on grants from the Secretary of State to meet an in-year deficit on such grants in a subsequent financial year; 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 Company's responsibility to ensure that the Company balances its overall budget from Academy Financial Year to Academy Financial Year.

80A The Company shall abide by the requirements of and have regard to the Charity Commission's guidance to charities and charity trustees and in particular the Charity Commission's guidance in the Protecting Charities from Harm ('the compliance toolkit'). Any references in this document which require charity trustees to report to the Charity Commission should instead be interpreted as references to report to the Principal Regulator.

Borrowing Powers

81) The Company shall not borrow against or so as to put at risk property or assets funded (whether in whole or in part) by the Secretary of State without specific approval of the Secretary of State, such approval may only be granted in limited circumstances. The Company shall not operate an overdraft except to cover irregularities in cash flow. Such an overdraft, and the maximum amount to be borrowed, shall require approval by the Company in General Meeting and in writing by the Secretary of State, and shall be subject to any conditions which the Secretary of State may reasonably impose.

82) The Company shall provide 30 days notice to the Secretary of State of its intention to borrow, whether or not such borrowing requires the Secretary of State's approval under clause 81 above.

Disposal of Assets

83) Where the Company 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 to the Company at nil or nominal consideration and which were previously used for the purposes of an Academy and/or were transferred from an LA, the value of which assets shall be disregarded.

84) The sale or disposal by other means, or reinvestment of proceeds from the disposal, of a capital asset by the Company shall require the consent of the Secretary of State, such consent not to be unreasonably withheld or delayed, where:

a) the Secretary of State paid capital grant in excess of the value for the time being specified by the Secretary of State for the asset; or

b) the asset was transferred to the Company from an LA for no or nominal consideration.

85) Furthermore, reinvestment of a percentage of the proceeds of disposal of a capital asset paid for with a capital grant from the Secretary of State shall require the Secretary of State's consent in the circumstances set out above and reinvestment exceeding the value for the time being specified by the Secretary of State or with other special features will be subject to Parliamentary approval. The percentage of the proceeds for which consent is needed is the percentage of the initial price of the asset which was paid by capital grant from the Secretary of State.

86) 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 by the Secretary of State, where the asset was acquired by the Company. In this event, the Company 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 Company for its charitable purposes.

87) 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 Company from an LA 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 LA from which the asset was transferred, taking into account the amount of the proceeds to be reinvested by the Company. The Secretary of State will have regard to any representations from the Company and the LA from which the asset was transferred before giving consent under this clause.

88) Except with the consent of the Secretary of State, the Company shall not dispose of assets funded (whether in whole or in part) by the Secretary of State for a consideration less than the best price that can reasonably be obtained, such consent not to be unreasonably withheld or delayed.

89) The Company shall provide 30 days notice to the Secretary of State of its intention to dispose of assets for a consideration less than the best price that can reasonably be obtained, whether or not such disposal requires the Secretary of State's consent under clause 88 above.

TERMINATION

90) This Agreement shall commence on the date hereof and continue until terminated in accordance with clause 91 or until all Supplemental Agreements have terminated.

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

a) the Company 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 Company proposes a voluntary arrangement within Section 1 of the Insolvency Act 1986 (as amended); or

c) the Company 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 Company 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 Company; or

d) the Company has a receiver and manager (with the exception of Receivers and Managers or Interim 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 distraint, execution or other process is levied or enforced on any of the Company's property and is not paid out, withdrawn or discharged within fifteen Business Days; or

f) the Company has passed a resolution for its winding up; or

g) an order is made for the winding up or administration of the Company.

The Company shall notify the Secretary of State as soon as possible after receiving any petition which may result in an order for the winding up or administration of the Company and shall provide an explanation to the Secretary of State of the circumstances giving rise to the service of such a petition.

92) If, following the exercise of the Secretary of State's powers to appoint Additional Directors or Further Directors, pursuant to the Articles of Association the Members pass an ordinary or special resolution to remove one or more of those Additional or Further Directors appointed by the Secretary of State, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement or, as the Secretary of State may in his absolute discretion decide any of the Supplemental Funding Agreement's.

93) The Secretary of State's right to terminate this Agreement under clause 92 shall cease if he removes any of the Additional Directors or Further Directors which he has appointed pursuant to the Articles of Association.

Change of Control of the Company

93A) The Secretary of State may at any time by notice in writing, subject to clause 93C) below, terminate this Agreement forthwith (or on such other date as he may in his absolute discretion determine) in the event that there is a change:

(a) in the Control of the Company;

(b) in the Control of a legal entity that Controls the Company.

93B) The Company shall, as soon as it is reasonably practicable to do so after it has become aware of any change or proposed change of Control within the meaning of clause 93A), give written notice to the Secretary of State of such change or proposed change of Control.

93C) When notifying the Secretary of State further to clause 93B), the Company may seek the Secretary of State's agreement that, if he is satisfied that the person assuming Control is suitable, he will not in those circumstances exercise his right to terminate this Agreement further to clause 93A).

Effect of Termination

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

GENERAL

Information

95) 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, any Academy's:

a) curriculum;
b) arrangements for the assessment of pupils;
c) teaching staff including numbers, qualifications, experience, salaries, and teaching loads;
d) class sizes;
e) outreach work with other schools and the local community;
f) 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 – for Mainstream Academies only;
g) numbers of pupils excluded (including permanent and fixed term exclusions);
h) levels of authorised and unauthorised attendance;
i) charging and remissions policies and the operation of those policies;
j) organisation, operation and building management;
k) financial controls; and
l) membership and proceedings of the Company and the Local Governing Body.

96) The Company 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 Company with such information as it may reasonably require of him for the running of an Academy.

Access by the Secretary of State's Officers

97) The Company shall allow access to the premises of any Academy at any reasonable time to DfE officials. All records, files and reports relating to the running of the Company and each Academy shall be available to them at any reasonable time. The Company shall provide the Secretary of State in advance with papers relating to each Academy prepared for meetings of the Local Governing Body, of the Company's directors and of the members of the Company. Two DfE officials shall be entitled to attend and to speak at all such meetings, but shall withdraw from any discussion of an Academy's or the Company's relationship with the Secretary of State or any discussion of bids for funding to the Secretary of State. The

Company shall take any steps which are required to secure its compliance with the obligations imposed by this clause of this Agreement.

98) The Company shall ensure that:

a) the agenda for every meeting of the relevant Local Governing Body and the Company's directors;

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 made available for inspection by any interested party at the relevant Academy and, as soon as is reasonably practicable, sent to the Secretary of State.

99) There may be excluded from any item required to be made available for inspection by any interested party and to be sent to the Secretary of State by virtue of clause 98, any material relating to:

a) a named teacher or other person employed, or proposed to be employed, at any Academy;

b) a named pupil at, or candidate for admission to, any Academy; and

c) any matter which, by reason of its nature, the Company is satisfied should remain confidential.

Notices

100) Any notice or other communication concerning this Agreement or a Supplemental Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the Company at its registered office or such other addressee/address as may be notified in writing from time to time by the Company and, in the case of a notice or communication from the Company to the Secretary of State to Head of Academies Division, Department for Education, 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.

101) The service by the Secretary of State of a notice of termination of a Supplemental Agreement shall not prejudice the ability of the Company (if it wishes to do so) during the

notice period to admit pupils to the relevant Academy in accordance with the provisions of this Agreement and the relevant Supplemental Agreement and to receive GAG and EAG in respect of them.

Appointment of Additional or Further Directors by the Secretary of State

102) The Secretary of State undertakes to the Company not to exercise the powers under the Articles to appoint Additional Directors or Further Directors in the following circumstances:-

a) if the matters giving rise to the appointment of the Additional or Further Directors relate, in the reasonable opinion of the Secretary of State, to the affairs of only one Academy; and

b) if the Company has delegated, and continues to delegate, to a Local Governing Body of such Academy all decisions and powers that the Secretary of State reasonably considers are necessary to enable such Local Governing Body to address the matters that gave rise to the appointment of the Additional or Further Directors and to ensure that the relevant Local Governing Body is capable of properly conducting the affairs of the relevant Academy on the Company's behalf.; and

c) if the Company replaces such members of the Local Governing Body and/or appoints additional members of that Local Governing Body as, in either case, the Secretary of State may by notice in writing to the Company specify; and

d) provided that such delegation is not subsequently revoked or, without the prior written consent of the Secretary of State, varied in any material respect.

General

103) This Agreement shall not be assignable by the Company.

104) The Secretary of State and the Company recognise the difficulties in catering in this Agreement and the Supplemental Agreements for all the circumstances which may arise in relation to the Academies 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 Academies throughout the currency of this Agreement.

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



2011

THE COMPANIES ACT 2006

A COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

THE PRIMARY ACADEMIES TRUST

COMPANY NUMBER:

THE COMPANIES ACT 2006

COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

THE PRIMARY ACADEMIES TRUST

INTERPRETATION

1. In these Articles:-

a. "the Academies" means all the schools referred to in Article 5(h) (both the Church Academies and the Community Academies) and established by the Company (and "Academy" shall mean any one of those schools);

b. "Academy Financial Year" means the academic year from 1st of September to 31st of August in any year;

c. "Academy Directors" means the Directors appointed pursuant to Articles 51-52 and Academy Director shall mean any one of those Directors;

d. "Additional Directors" means the Directors appointed pursuant to Article 61 and 61A;

e. "Advisory Bodies" means the advisory bodies which might be Local Governing Bodies, but are otherwise required under clause 15 of the Master Funding Agreement;

f. "the Articles" means these Articles of Association of the Company;

g. "Chief Executive Officer" means such person as may be appointed by the Directors from among the Executive Directors as the Chief Executive Officer of the Company;

h. "Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

i. "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 on which it is given or on which it is to take effect;

j. "Church Academies" means those of the Academies designated as Church of England academies as may now or subsequently be carried on by the Company pursuant to Article 5(h);

k. "Community Academies" means those of the Academies not having a Church of England religious designation as may now or subsequently be carried on by the Company pursuant to Article 5(h);

l. "Diocese" means the Church of England diocese in which the Academies are situated;

m. "Diocesan Bishop" means the Bishop of the Diocese or the diocesan officials appointed by him for the role to be undertaken by the Diocesan Bishop in these Articles;

n. "Diocesan Board of Education" means that body constituted under the Diocesan Boards of Education Measure 1991 for the Diocese and any successor body;

o. "Diocesan Director of Education" means the chief officer of the Diocesan Board of Education;

p. "the Company" means save as otherwise defined at Article 6.9 the company intended to be regulated by these Articles and referred to in Article 2;

q. "the Directors" means save as otherwise defined at Article 6.9 the directors of the Company (and "Director" means any one of those directors);

r. "Executive Directors" means such persons as may be appointed by the Members from among the Principals of the various Academies to be Directors.

s. "EDEN" means the Exeter Diocesan Education Network, a company limited by guarantee and with company number 07712752 or any replacement successor institution established by the Diocesan Board of Education.

t. "financial expert" means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;

u. "Foundation Directors" means Directors appointed under Article 50B;

v. "Foundation Member" means EDEN;

w. "Further Directors" means the Directors appointed pursuant to Article 62 ;

x. "the Incumbent" means

(a) in relation to an ecclesiastical parish or the chapelry of a chapel constituted a benefice, the incumbent of the parish or chapel

(b) in relation to any other chapelry, the incumbent of the ecclesiastical parish in which the chapel of the chapelry is situated

(c) a curate licensed to be charge of a parish or a minister acting as priest-in-charge of a parish in which rights of presentation are suspended;

(d) a vicar in a team ministry to the extent that the duties of a minister are assigned to him by a pastoral scheme or his license from the bishop

and in these Articles is the incumbent of a benefice situated in any of the parishes in which the Academies are situated and who shall be nominated by the Diocesan Bishop;

y. "Local Authority Associated Persons"means any person associated with any local authority within the meaning given in section 69 of the Local Government and Housing Act 1989;

z. "Local Governing Bodies" means the committees appointed pursuant to Articles 100-104 (if any)(and "Local Governing Body" means any one of these committees);

aa. "Master Funding Agreement" means the master funding agreement between (1) the Secretary of State and (2) the Company;

bb. "Member" means a member of the Company and someone who as such is bound by the undertaking contained in Article 8 ;

cc. "the Memorandum" means the Memorandum of Association of the Company;

dd. "Office"means the registered office of the Company;

ee. "Parent Directors" means the Directors appointed pursuant to Articles 53 – 56 inclusive.

ff. "Principals" means the head teachers of the Academies or of any group of Academies (and "Principal" means any one of these head teachers);

gg. "Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2006;

hh. "Relevant Funding Agreements" means the agreement or agreements entered into by the Company and the Secretary of State under section 1 of the Academies Act 2010 for the establishment of each Academy, including any variation or supplemental agreements thereof;

ii. "Scheme of Delegation" means a scheme delegating powers of the Directors to the Local Governing Body of an Academy drawn up to devolve to such Local Governing Body those powers and controls which can and are consistent with the Objects and which could properly be exercised at a local level while reserving to the Directors those powers and controls necessarily retained at the centre so that all Academies can secure the benefits of belonging to the group of all of the Academies;

jj. "the seal" means the common seal of the Company if it has one;

kk. "Reserved Teacher" has the same meaning given to the term "reserved teacher" in section 58(2) of the School Standards and Framework Act 1998 namely a teacher who is (i) selected for their fitness and competence to give religious education as is required in accordance with arrangements under paragraph 3(3) of Schedule 19 of that Act (arrangements for religious education in accordance with the Objects and the school's trust deed) and (ii) is specifically appointed to do so;

ll. "Secretary" means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

mm. "Secretary of State" means the Secretary of State for Education or successor;

nn. "Staff Director" means an employee of the Company who may be appointed as a Director pursuant to Article 50A;

oo. "teacher" means a person employed under a contract of employment or a contract for services or otherwise engaged to provide his services as a teacher at one or more Academies;

pp. "Trustees" means those trustees holding the schools' sites and providing them to the Academy Trust for use and occupation by the Academies;

qq. "the United Kingdom" means Great Britain and Northern Ireland;

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

ss. subject as aforesaid, words or expressions contained in these Articles shall, unless the context requires otherwise, bear the same meaning as in the Companies Act 2006, as appropriate;

tt. any reference to a statute or statutory provision or measure shall include any statute or statutory provision or measure which replaces or supersedes such statute or statutory provision or measure including any modification or amendment thereto.

2. The Company's name is The Primary Academies Trust (and in this document it is called "**the Company**").

3. The Company's registered office is to be situated in England and Wales.

OBJECTS

4. The Company's Objects ("**the Objects**") are specifically restricted to the following:

a) in relation to all of the Academies 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 schools offering a broad and balanced curriculum; and

b) in relation to all Church Academies these to be conducted in accordance with the principles practices and tenets of the Church of England both generally and in particular in relation to arranging for religious education and daily acts of worship (as required by the Master Funding Agreement) and in having regard to the advice of the Diocesan Board of Education

5. In furtherance of the Objects but not further or otherwise the Company 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 Company;

(b) to raise funds and to invite and receive contributions provided that in raising funds the Company shall not undertake any substantial permanent trading activities and shall conform to any relevant statutory regulations;

(c) (subject to such consents as may be required by law or as may be required from the Trustees as landlords/licensors where this is the case) to acquire, alter, improve and charge or otherwise dispose of property;

(d) subject to Article 6 below to employ such staff, as are necessary for the proper pursuit of the Objects (including in relation to the Church Academies the maintenance of an effective Church of England ethos) and to make all reasonable and necessary provision for the payments of pensions and superannuation to staff and their dependents;

(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 Company the costs, charges and expenses of and incidental to the formation and registration of the Company;

(h) to establish, maintain, carry on, manage and develop the Academies at:

1. Blackpool C of E VC Primary School, Liverton, Newton Abbot, Devon TQ12 6JB,

2. Chudleigh Knighton C of E VC Primary School, Chudleigh Knighton, Newton Abbot, Devon TQ13 0EU,

3. Newton Ferrers C of E VC Primary School, Dillons, The Green, Newton Ferrers, Plymouth PL8 1AS

4. Salcombe C of E VC Primary School, Onslow Road, Salcombe, Devon TQ8 8AG,

5. Hemyock Community Primary School, Parklands, Hemyock, Cullompton, Devon EX15 3RY,

6. Sampford Peverell C of E Primary School, Sampford Peverell, Tiverton, Devon EX16 7BR,

7. Wilcombe Community Primary School, Lazenby Road, Tiverton, Devon EX16 4AL,

8. Sidbury C of E (VC) Primary School, Church Street, Sidbury, Devon EX10 05B,

9. South Brent Community Primary School, Totnes Road, South Brent, Devon TQ10 9JN' and

10. Orchard Vale Community Primary School, Westacott Road, Whiddon Valley, Barnstaple, Devon EX32 8QY.

and at any other locations as may be unanimously agreed between the Members and the Directors;

(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 areas of curricular specialisation of each of the Academies and to their 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 from the Trustees or otherwise required by law and/or by any contract entered into by or on behalf of the Company, to borrow and raise money for the furtherance of the Objects in such manner and on such security as the Company may think fit;

(m) to deposit or invest any funds of the Company not immediately required for the furtherance of its Objects (but to invest only after obtaining such advice from a financial expert as the Directors consider necessary and having regard to the suitability of investments and the need for diversification);

(n) to delegate the management of investments to a financial expert, but only on terms that:

(i) the investment policy is set down in writing for the financial expert by the Directors;

(ii) every transaction is reported promptly to the Directors;
the performance of the investments is reviewed regularly with the Directors;

(iii) the Directors are entitled to cancel the delegation arrangement at any time;

(iv) the investment policy and the delegation arrangement are reviewed at least once a year;

(v) all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Directors on receipt; and

(vi) the financial expert must not do anything outside the powers of the Directors;

(o) to arrange for investments or other property of the Company to be held in the name of a nominee company acting under the control of the Directors or of a financial expert acting under their instructions, and to pay any reasonable fee required;

(p) to provide indemnity insurance to cover the liability of Directors 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 Company: Provided that any such insurance shall not extend to any claim arising from any act or omission which the Directors knew to be a breach of trust or breach of duty or which was committed by the Directors 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 Directors in their capacity as Directors;

(q) to establish subsidiary companies to carry on any trade or business for the purpose of raising funds for the Company;

(r) to do all such other lawful things as are necessary for or are incidental to or conducive to the achievement of the Objects and in relation to the Church Academies is appropriate to their religious character.

6.1 The income and property of the Company shall be applied solely towards the promotion of the Objects.

6.2 None of the income or property of the Company may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the Company. Nonetheless a member of the Company who is not also a Director may:

a) benefit as a beneficiary of the Company;

b) be paid reasonable and proper remuneration for any goods or services supplied to the Company;

c) be paid rent for premises let by the member of the Company if the amount of the rent and other terms of the letting are reasonable and proper; and

d) be paid interest on money lent to the Company at a reasonable and proper rate, such rate not to exceed 2 per cent per annum below the base lending rate of a UK clearing bank selected by the Directors, or 0.5%, whichever is the higher.

6.3 A Director may benefit from any indemnity insurance purchased at the Company's expense to cover the liability of the Directors 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 Company: Provided that any such insurance shall not extend to any claim arising from any act or omission which Directors knew to be a breach of trust or breach of duty or which was committed by the Directors 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 the Directors in their capacity as directors of the Company.

6.4 A company, which has shares listed on a recognised stock exchange and of which any one Director holds no more than 1% of the issued capital of that company, may receive fees, remuneration or other benefit in money or money's worth from the Company.

6.5 A Director may at the discretion of the Directors be reimbursed from the property of the Company for reasonable expenses properly incurred by him or her when acting on behalf of the Company, but excluding expenses in connection with foreign travel.

6.6 No Director may:

(a) buy any goods or services from the Company;

(b) sell goods, services, or any interest in land to the Company;

(c) be employed by, or receive any remuneration from the Company (other than the Chief Executive Officer and any Staff Directors whose employment and/or remuneration is subject to the procedure and conditions in Article 6.8 and 6.8A);

(d) receive any other financial benefit from the Company;

unless:

(i) the payment is permitted by Article 6.7 and the Directors follow the procedure and observe the conditions set out in Article 6.8; or

(ii) the Directors obtain the prior written approval of the Charity Commission and fully comply with any procedures it prescribes.

6.7 Subject to Article 6.8, a Director may:

a) receive a benefit from the Company in the capacity of a beneficiary of the Company.

b) be employed by the Company or enter into a contract for the supply of goods or services to the Company, other than for acting as a Director.

c) receive interest on money lent to the Company at a reasonable and proper rate not exceeding 2% per annum below the base rate of a clearing bank to be selected by the Directors, or 0.5%, whichever is the higher.

d) receive rent for premises let by the Director to the Company if the amount of the rent and the other terms of the lease are reasonable and proper.

6.8 The Company and its Directors may only rely upon the authority provided by Article 6.7 if each of the following conditions is satisfied:

(a) the remuneration or other sums paid to the Director do not exceed an amount that is reasonable in all the circumstances.

(b) the Director is absent from the part of any meeting at which there is discussion of:

i) his or her employment, remuneration, or any matter concerning the contract, payment or benefit; or

ii) his or her performance in the employment, or his or her performance of the contract; or

iii) any proposal to enter into any other contract or arrangement with him or her or to confer any benefit upon him or her that would be permitted under Article 6.7; or

(iv) any other matter relating to a payment or the conferring of any benefit

permitted by Article 6.7.

(c) the Director does not vote on any such matter and is not to be counted when calculating whether a quorum of Directors is present at the meeting.

(d) save in relation to employing or contracting with the Chief Executive Officer (a Director pursuant to Article 57) the other Directors are satisfied that it is in the interests of the Company to employ or to contract with that Director rather than with someone who is not a Director. In reaching that decision the Directors must balance the advantage of employing a Director against the disadvantages of doing so (especially the loss of the Director's services as a result of dealing with the Director's conflict of interest).

(e) the reason for their decision is recorded by the Directors in the minute book.

(f) A majority of the Directors then in office have received no such payments or benefit.

6.8A The provision in Article 6.6 (c) that no Director may be employed by or receive any remuneration from the Company (other than the Chief Executive Officer and the Staff Directors) does not apply:

(a) to an existing employee of the Academies referred to in Article 5(h) who is appointed as a Director; or

(b) to an employee of the Company who is subsequently elected or appointed as a Director save that this Article shall only allow such a Director to receive remuneration or benefit from the Company in his capacity as an employee of the Company and provided that the procedure as set out in Articles 6.8(b)(i), (ii) and 6.8 (c) is followed.

6.9 In Articles 6.2-6.9:

(a) "company" shall include any company in which the Company:

- holds more than 50% of the shares; or
- controls more than 50% of the voting rights attached to the shares; or
- has the right to appoint one or more Directors to the Board of the company.

(b) "Director" shall include any child, stepchild, parent, grandchild, grandparent,

brother, sister or spouse of the Director or any person living with the Director as his or her partner

(c) the employment or remuneration of a Director includes the engagement or remuneration of any firm or company in which the Director is:

(i) a partner;
(ii) an employee;
(iii) a consultant;
(iv) a director;
(v) a member; or
(vi) a shareholder, unless the shares of the company are listed on a recognised stock exchange and the Director holds less than 1% of the issued capital.

7. The liability of the members of the Company is limited.

8. Every member of the Company undertakes to contribute such amount as may be required (not exceeding £10) to the Company'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 Company'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.

9. If the Company 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 Company, 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 Company by Article 6 above, chosen by the members of the Company at or before the time of dissolution and if that cannot be done then to some other charitable object.

10. No alteration or addition shall be made to or in the provisions of the Memorandum and/or Articles without the written consent of the Secretary of State and of each of the Members, the Trustees and the Diocesan Board of Education.

11. No alteration or addition shall be made to or in the provisions of the Articles which would have the effect (a) that the Company would cease to be a company to which section 60 of the Companies Act 2006 applies; or (b) that the Company would cease to

be a charity.

MEMBERS

12. The Members of the Company shall comprise

a. the signatories to the Memorandum comprising

i. The University of Exeter;

ii. EDEN (which shall be the Foundation Member);

iii. the Chief Executive Officer;

b. the chairman of the Directors;

c. persons appointed under Article 16;

d 1 person appointed by the Secretary of State, in the event that the Secretary of State appoints a person for this purpose; and

e. any further person appointed under Article 16A.

12A. The Secretary of State's appointed Member (further to Article 12 d) shall become a Member upon the Secretary of State delivering, or posting (by registered post), to the Office of the Academy Trust a notice appointing a person as his Member.

13. Each of the persons entitled to appoint Members in Article 12 shall have the right from time to time by written notice delivered to the 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.

14. If any of the persons entitled to appoint Members in Article 12:

a) in the case of an individual, die or become legally incapacitated;

b) in the case of a corporate entity, cease to exist and are not replaced by a successor institution; or

c) becomes insolvent or makes any arrangement or composition with their creditors generally

their right to appoint Members under these Articles shall vest in the remaining Members.

15. Membership will terminate automatically if:

a) a Member (which is a corporate entity) ceases to exist and is not replaced by a successor institution;

b) a Member (which is an individual) dies or becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;

c) a Member becomes insolvent or makes any arrangement or composition with that Member's creditors generally; or

d) a Member, being a Director, ceases to be a Director.

16. The Members may agree unanimously in writing to appoint such additional Members as they think fit and may unanimously (save that the agreement of the Member(s) to be removed shall not be required) in writing agree to remove any such additional Members with the consent of the Diocesan Board of Education.

16A Upon (a) the resignation or removal of any Member (including a signatory to the Memorandum) other than the Foundation Member and/or (b) any other termination of such a Member's (other than the Foundation Member's) position as Member, the Members shall appoint (by a majority) a replacement Member if required in order to ensure that the number of Foundation Members does not exceed 25% of the total number of Members.

16B. If the number of Foundation Members pursuant to Article 12 is less than 25% of the total number of Members then the EDEN may appoint an additional Foundation Member provided that the total number of Foundation Members would not thereby exceed 25% of the total number of Members.

17. Every person nominated to be a Member of the Company shall

(a) either sign a written consent to become a Member or sign the register of Members on becoming a Member; and

(b) give an undertaking to the Foundation Member to uphold the Objects of the Academy Trust

and upon any such nomination the Company shall write to the Diocesan Board of Education to advise them of this and provide the undertaking required.

18. Any Member other than the Foundation Member may resign provided that after such resignation the number of Members is not less than three. A Member shall cease to be one immediately on the receipt by the Company of a notice in writing signed by the person or persons entitled to remove him under Articles 13 or 16 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

19. The Company 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 Company and that of the next. Provided that so long as the Company 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 Directors shall appoint. All general meetings other than Annual General Meetings shall be called General Meetings.

20. The Directors may call general meetings and, on the requisition of Members pursuant to the provisions of the Companies Act 2006, shall forthwith proceed to convene a general meeting in accordance with that Act. If there are not within the United Kingdom sufficient Directors to call a general meeting, any Director or any Member of the Company may call a general meeting.

NOTICE OF GENERAL MEETINGS

21. 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 by a majority in number of Members having a right to attend and vote and together representing not less than 90% of the total voting rights at that meeting.

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 also state that the Member is entitled to appoint a proxy.

The notice shall be given to all the Members, to the Directors and auditors.

22. 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.

23. 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 proxy of a Member or a duly authorised representative of a Member organisation shall constitute a quorum.

24. 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 Directors may determine.

25. The chairman of the Directors or in his absence some other Director nominated by the Directors shall preside as chairman of the meeting, but if the chairman nor such other Director (if any) be present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present shall elect one of their number to be chairman and, if there is only one Director present and willing to act, he shall be the chairman, except that no employee of the Company may chair the meeting.

26. If no Director is willing to act as chairman, or if no Director 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, except that no employee of the Company may chair the meeting.

27. A Director (including for the avoidance of doubt any Executive Director) shall, notwithstanding that he is not a Member, be entitled to attend and speak at any general meeting.

28. The chairman may, with the consent of a majority of the Members at 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.

29. 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 Companies Act 2006, 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.

30. 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.

31. 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.

32. A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be Members) and fix a time, date 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.

33. 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, date 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.

34. 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.

35. A resolution in writing agreed by such number of members as required if it had been proposed at a general meeting shall be as effectual as if it had been passed at a general meeting duly convened and held provided that a copy of the proposed resolution has been sent to every Member. The resolution may consist of several instruments in the like form each agreed by one or more Members.

VOTES OF MEMBERS

36. 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.

37. Not used.

38. No Member shall be entitled to vote at any general meeting unless all moneys then payable by him to the Company have been paid.

39. No objections shall be raised to the qualification of any person to vote at any general meeting 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.

40. An instrument appointing a proxy shall be in writing, signed 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 Directors may approve) -.

> "I/We, ..., of ....., being a Member/Members of the above named Company, hereby appoint ..... of ....., or in his absence, ... of ..... as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual general meeting/ general meeting of the Company to be held on .....20[ ], and at any adjournment thereof.
>
> Signed on ..... 20[ ]"

41. 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 Directors may approve)-

"I/We, ..., of ....., being a Member/Members of the above-named Company, hereby appoint .... of ....., or in his absence, ... of ....., as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual general meeting/ general meeting of the Company, to be held on .... 20[ ], 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 .... 20[ ]"

42. The instrument appointing a proxy and any authority under which it is signed or a copy of such authority certified by a notary or in some other way approved by the Members 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 Company 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 Secretary or to any Director;

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

43. 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 Company 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.

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

DIRECTORS

45. The number of Directors shall be 16 except for appointments of up to four Co-opted Directors pursuant to Article 58 and any Additional Directors made by the Secretary of State under Articles 61, 61A, 62 or 67A.

45A All Directors shall upon their appointment give a written undertaking to the Foundation Member and Trustees to uphold the Objects of the Company in relation to the Church Academies and upon their appointment the Company shall write to the Diocesan Board of Education to advise of the appointment and provide the undertaking required.

46. Subject to Articles 48-49 and 63, the Company shall have the following Directors:

a. twelve Non Executive Directors comprising:

(i) Four Foundation Directors appointed and/or holding office further to Article 50B;

(ii) Four Academy Directors appointed under Articles 51 or 52; and

(iii) Four Parent Directors appointed under Articles 53-56;

b. Four Executive Directors appointed and/or holding office further to Article 50A;

c. Any Additional Directors, if appointed under Article 61, 61A or 67A;

d. Any Further Directors, if appointed under Article 62 or Article 67A;

e. Up to 2 Directors, if appointed by the Secretary of State in accordance with the terms of any of the Relevant Funding Agreements following the provision of a notice by the Company to terminate that Relevant Funding Agreement.

47. The Company may also have any Co-opted Director appointed under Article 58.

48. The first Directors shall be those persons named in the statement delivered pursuant to sections 9 and 12 of the Companies Act 2006.

49. Future Directors shall be appointed or elected, as the case may be, under these Articles. Where it is not possible for such a Director to be appointed or elected due to the fact that an Academy has not yet been established or the Chief Executive Officer has not been appointed, then the relevant Article or part thereof shall not apply.

APPOINTMENT OF DIRECTORS

50. Not Used

50A. The Members shall appoint four Executive Directors (each of whom shall be a Principal of an Academy or of a group of Academies) through such process as they may determine. The first Executive Directors shall be the Principals of Orchard Vale Primary Academy, South Brent Primary Academy and the Executive Heads of Children First Federation and First Federation.

50B. The Foundation Member shall appoint as a Foundation Director the Incumbent of one of the parishes served by the Academies and nominated by the Diocesan Bishop. Further, the Foundation Member shall appoint three other individuals who may be drawn from across any parish in which the Academies are situated or from outside of these parishes altogether as additional Foundation Director(s) provided always that the total number of Foundation Directors would not thereby exceed 25% of the total number of Directors (excluding any Additional or Further Directors) and provided always that such Foundation Directors shall not be serving headteachers (or equivalent).

ACADEMY DIRECTORS

51. Subject to Article 52, the chairman of each Local Governing Body shall be an Academy Director for as long as he remains in office as such and shall be appointed by the Directors of the Company but they shall appoint as the chairman of a Local Governing Body someone other than the Chief Executive Officer or any other employee of the Company.

52. If the number of Local Governing Bodies exceeds 4, the chairmen of the Local Governing Bodies shall elect 4 persons from amongst their numbers to be the Academy Directors. Any person elected in accordance with this Article shall only remain an Academy Director for as long as he remains chairman of a Local Governing Body. The Directors shall make all necessary arrangements for, and determine all other matters relating to, the election of the Academy Directors in accordance with this Article. Any election of the Academy Directors which is contested shall be held by secret ballot.

PARENT DIRECTORS

53. There shall be 4 Parent Directors.

54. Parent Directors shall be elected by the Parent members of the Local Governing Bodies or if these do not exist by the Advisory Bodies who shall themselves have been elected or appointed in accordance with the terms of reference determined by the Directors from time to time) from amongst their number. The elected Parent Directors must be a parent of a registered pupil at one of the Academies at the time when they are elected.

54A. The number of Parent Directors required shall be made up by Parent Directors appointed by the Directors if the number of parents standing for election is less than the number of vacancies.

55. The Directors shall make all necessary arrangements for, and determine all other matters relating to, an election of the Parent Directors, including any question of whether a person is a parent of a registered pupil at one of the Academies. Any election of the Parent Directors which is contested shall be held by secret ballot.

56. In appointing a Parent Director the Directors shall appoint a person who is the parent of a registered pupil at an Academy; or where it is not reasonably practical to do so, a person who is the parent of a child of compulsory school age.

CHIEF EXECUTIVE OFFICER

57. The Chief Executive Officer shall be a Member and shall be appointed from amongst the Executive Directors in accordance with Article 107.

CO-OPTED DIRECTORS

58. The Directors may appoint up to 4 Co-opted Directors. A 'Co-opted Director' means a person who is appointed to be a Director by being Co-opted by Directors who have not themselves been so appointed. The Directors may not co-opt an employee of the Company as a Co-opted Director if thereby the number of Directors who are employees of the Company would exceed one third of the total number of Directors including the Chief Executive Officer.

APPOINTMENT OF ADDITIONAL DIRECTORS

59. The Secretary of State may give a warning notice to the Directors (which he shall copy to the Diocesan Board of Education) where he is satisfied—

    i) that the standards of performance of pupils at any of the Academies are unacceptably low, or

    ii) that there has been a serious breakdown in the way any of the Academies are managed or governed, or

    iii) that the safety of pupils or staff of any of the Academies is threatened (whether by a breakdown of discipline or otherwise).

60. For the purposes of Article 59 a 'warning notice' is a notice in writing by the Secretary of State to the Company delivered to the Office setting out—

    (a) the matters referred to in Article 59;

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

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

61. The Secretary of State may appoint such Additional Directors as he thinks fit (after consultation with the Diocesan Board of Education) if the Secretary of State has:

    (a) given the Directors a warning notice in accordance with Article 59; and

(b) the Directors have failed to comply, or secure compliance, with the notice to the Secretary of State's satisfaction within the compliance period.

61A The Secretary of State may also appoint such Additional Directors (after consultation with the Diocesan Board of Education) where following an Inspection by the Chief Inspector in accordance with the Education Act 2005 (an "Inspection") an Academy receives an Ofsted grading (being a grade referred to in The Framework for School Inspection or any modification or replacement of that document for the time being in force) which amounts to a drop, either from one Inspection to the next Inspection or between any two Inspections carried out within a 5 year period, of two Ofsted grades. For the purposes of the foregoing the grade received by the predecessor school as defined in the Relevant Funding Agreement shall be regarded as the grade received by the Academy.

62. The Secretary of State may also appoint such Further Directors as he thinks fit (after consultation with the Diocesan Board of Education) if a Special Measures Termination Event (as defined in the Relevant Funding Agreement) occurs in respect of any Academy.

63. Within 5 days of the Secretary of State appointing any Additional or Further Directors in accordance with Articles 61, 61A or 62, any Directors appointed under Article 50A and holding office immediately preceding the appointment of such Directors, shall resign immediately and the Members' power to appoint Directors under Article 50A shall remain suspended until the Secretary of State removes one or more of the Additional or Further Directors.

TERM OF OFFICE

64. The term of office for any Director shall be 4 years, save that:

(a) this time limit shall not apply to the Foundation Directors or the Executive Directors. Subject to remaining eligible to be a particular type of director, any Director may be appointed or re-elected; and

(b) an Executive Director shall only hold office for so long as he/she continues to be employed as a Principal at one of the Academies;

RESIGNATION AND REMOVAL

65. A Director shall cease to hold office if he resigns his office by notice to the Company

(but only if at least three Directors will remain in office when the notice of resignation is to take effect).

66. A Director 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 a Parent Director or an Academy Director.

66A Co-opted Directors appointed in accordance with Article 58 may be removed by a resolution of the Directors provided that no Co-opted Director may vote on the removal of another Co-opted Director

67. Where a Director resigns his office or is removed from office, the Director or, where he is removed from office, those removing him, shall give written notice thereof to the Secretary.

67A. Where an Additional or Further Director appointed pursuant to Articles 61, 61A or 62 ceases to hold office as a Director for any reason, other than being removed by the Secretary of State, the Secretary of State shall be entitled to appoint an Additional or Further Director in his place.

DISQUALIFICATION OF DIRECTORS

68. No person shall be qualified to be a Director unless he is aged 18 or over at the date of his election or appointment. No current pupil of any of the Academies shall be a Director.

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

70. A Director shall cease to hold office if he is absent without the permission of the Directors from all their meetings held within a period of six months and the Directors resolve that his office be vacated.

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

(a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced;

(b) he is the subject of a bankruptcy restrictions order or an interim order; or

(c) notice has been served upon such person pursuant to Article 13

72. A person shall be disqualified from holding or continuing to hold office as a Director 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).

73. A Director shall cease to hold office if he ceases to be a Director by virtue of any provision in the Companies Act 2006 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).

74. A person shall be disqualified from holding or continuing to hold office as a Director if he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission 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.

75. A person shall be disqualified from holding or from continuing to hold office as a Director at any time when he is:

(a) included in the list kept by the Secretary of State under section 1 of the Protection of Children Act 1999; or

(b) disqualified from working with children in accordance with Section 35 of the Criminal Justice and Court Services Act 2000; or

(c) barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006); or

(d) unwilling to give the undertaking required pursuant to Article 45A when requested in writing to provide this by the Foundation Member; or

(e) a person who has previously been disqualified from being a governor of a Church of England designated School.

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

Education Act 2002 or is subject to any prohibition or restriction which takes effect as if contained in such a direction.

77. A person shall be disqualified from holding or continuing to hold office as a Director 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.

78. After the first Academy has opened, a person shall be disqualified from holding or continuing to hold office as a Director if he has not provided to the chairman of the Directors a criminal records certificate at an enhanced disclosure level under section 113B of the Police Act 1997. In the event that the certificate discloses any information which would in the opinion of either the chairman or the Chief Executive Officer 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.

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

80. Articles 68 to 79 and Articles 97-98 also apply to any member of any committee of the Directors, including a Local Governing Body, who is not a Director.

SECRETARY TO THE DIRECTORS

81. The Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them. The Secretary shall not be a Director, or a Principal. Notwithstanding this Article, the Directors may, where the Secretary fails to attend a meeting of theirs, appoint any one of their number or any other person to act as Secretary for the purposes of that meeting.

CHAIRMAN AND VICE-CHAIRMAN OF THE DIRECTORS

82. The Directors shall each school year, at their first meeting in that year, elect a chair and vice chair from among their number. A Director employed by the Company shall not be eligible for election as chairman or vice chairman.

83. Subject to Article 84, the chairman or vice chairman shall hold office as such until the start of the first meeting of the Directors in the following school year.

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

(a) he ceases to be a Director;

(b) he is employed by the Company;

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

(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; or

(e) his term of office expires in accordance with Article 83.

85. Where by reason of any of the matters referred to in Article 84, a vacancy arises in the office of chair or vice-chairman, the Directors shall at their next meeting elect one of their number to fill that vacancy until the start of the first meeting of the Directors in the following school year.

86. 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 chair for the purposes of the meeting.

87. Where in the circumstances referred to in Article 86 the vice-chairman is also absent from the meeting or there is at the time a vacancy in the office of vice-chairman, the Directors shall elect one of their number to act as a chairman for the purposes of that meeting, provided that the Director elected shall not be a person who is employed by the Company.

88. The Secretary shall act as chairman during that part of any meeting at which the chairman is elected.

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

90. The Directors may remove the chairman or vice-chairman from office in accordance with these Articles.

91. A resolution to remove the chairman or vice-chairman from office which is passed at a meeting of the Directors shall not have effect unless—

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

ii) 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.

92. Before the Directors resolve at the relevant meeting on whether to confirm the resolution to remove the chairman or vice-chairman from office, the Director or Directors 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 DIRECTORS

93. Subject to provisions of the Companies Act 2006, the Articles and to any directions given by special resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Articles and no such direction shall invalidate any prior act of the Directors 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 Directors by the Articles and a meeting of Directors at which a quorum is present may exercise all the powers exercisable by the Directors.

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

(a) to expend the funds of the Company in such manner as they shall consider most beneficial for the achievement of the Objects and to invest in the name of the Company 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;

(b) to enter into contracts on behalf of the Company.

95. In the exercise of their powers and functions, the Directors may consider any advice given by the Chief Executive Officer and any other executive officer.

96. Any bank account in which any money of the Company is deposited shall be operated by the Directors in the name of the Company. All cheques and orders for the payment of money from such an account shall be signed by at least two signatories authorised by the Directors.

CONFLICTS OF INTEREST

97. Any Director who has or can have any direct or indirect duty or personal interest (including but not limited to any Personal Financial Interest) which conflicts or may conflict with his duties as a Director shall disclose that fact to the Directors as soon as he becomes aware of it. A Director must absent himself from any discussions of the Directors in which it is possible that a conflict will arise between his duty to act solely in the interests of the Company and any duty or personal interest (including but not limited to any Personal Financial Interest).

98. For the purpose of Article 97, a Director has a Personal Financial Interest in the employment or remuneration of, or the provision of any other benefit to, that Director as permitted by and as defined by Articles 6.5-6.9.

THE MINUTES

99. The minutes of the proceedings of a meeting of the Directors shall be drawn up and entered into a book kept for the purpose by the person acting as Secretary for the purposes of the meeting; and shall be signed (subject to the approval of the Directors) 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 Directors; and

    (b) all proceedings at meetings of the Company and of the Directors and of committees of Directors including the names of the Directors present at each such meeting.

COMMITTEES

100. Subject to these Articles, the Directors:

a) may appoint separate committees to be known as Local Governing Bodies for each Academy or grouping of Academies; and

b) may establish any other committee.

101. Subject to these Articles, the constitution, membership and proceedings of any committee shall be determined by the Directors. The establishment, terms of reference, constitution and membership of any committee of the Directors shall be reviewed at least once in every twelve months. The membership of any committee of the Directors may include persons who are not Directors, provided that (with the exception of the Local Governing Bodies) a majority of members of any such committee shall be Directors. Except in the case of a Local Governing Body, no vote on any matter shall be taken at a meeting of a committee of the Directors unless the majority of members of the committee present are Directors.

102. not used

103. not used

104. The functions and proceedings of the Local Governing Bodies shall be subject to regulations made by the Directors from time to time.

DELEGATION

105. The Directors may delegate to any Director, committee (including any Local Governing Body), the Chief Executive Officer or any other holder of an executive office under a Scheme of Delegation or otherwise, such of their powers or functions as they consider desirable to be exercised by them. Any such delegation shall be made subject to any conditions the Directors may impose, and may be revoked or altered.

106. Where any power or function of the Directors has been exercised by any committee (including any Local Governing Body), any Director, the Chief Executive Officer or any other holder of an executive office, that person or committee shall report to the Directors in respect of any action taken or decision made with respect to the exercise of that power or function at the meeting of the Directors immediately following the taking of the action or the making of the decision.

CHIEF EXECUTIVE OFFICER PRINCIPALS AND STAFF

107. The Directors shall appoint:-

(a) the Chief Executive Officer; and

(b) the Principals of the Academies

and in relation to these appointments the Directors shall ensure that at least one Foundation Director and one other Director are involved in the process of making these appointments.

In relation to the appointment of the Chief Executive Officer and the appointment of Principals for the Church Academies, the Directors (after having consulted with the Diocesan Director of Education and having regard to the Objects) may appoint a Chief Executive Officer and a Principal for each of the Church Academies having regard to those persons ability and fitness to preserve and develop the religious character of the Church Academies. The Directors shall determine at the time whether the Chief Executive Officer and whether each Principal of a Church Academy is to be a Reserved Teacher. The Directors may delegate such powers and functions as they consider are required by the Chief Executive Officer and the Principals for the internal organisation, management and control of the Academies (including the implementation of all policies approved by the Directors and for the direction of the teaching and curriculum at the Academies).

107A In appointing staff other than the Principal of each of the Church Academies the Directors shall use their powers further to the relevant Funding Agreement (being powers equivalent to the powers of Voluntary Controlled schools as set out sections 58 to 60 of the Schools Standards and Framework Act 1998):

(a) so as to ensure that at least two Reserved Teachers (although the Principal may be one of the two) are appointed in each Church Academy, and

(b) having regard to their entitlement under the relevant Funding Agreement to appoint up to one fifth of staff as Reserved Teachers in each Church Academy .

MEETINGS OF THE DIRECTORS

108. Subject to these Articles, the Directors may regulate their proceedings as they think fit.

109. The Directors shall hold at least three meetings in every school year. Meetings of the Directors shall be convened by the Secretary. In exercising his functions under this Article the Secretary shall comply with any direction—

a. given by the Directors; or

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

110. Any three Directors may, by notice in writing given to the Secretary, requisition a meeting of the Directors; and it shall be the duty of the Secretary to convene such a meeting as soon as is reasonably practicable.

111. Each Director shall be given at least fourteen clear days before the date of a meeting –

i) notice in writing thereof, signed by the Secretary, and sent to each Director at the address provided by each Director from time to time; and

ii) 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 thereof are given within such shorter period as he directs.

112. 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 thereof.

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

114. A meeting of the Directors shall be terminated forthwith if—

(a) the Directors so resolve; or

(b) the number of Directors present ceases to constitute a quorum for a meeting of the Directors in accordance with Article 117 , subject to Article 119 .

115. Where in accordance with Article 114 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 Secretary 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.

116. Where the Directors resolve in accordance with Article 114 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Directors 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 Secretary to convene a meeting accordingly.

117. Subject to Article 119 the quorum for a meeting of the Directors, and any vote on any matter thereat, shall be any three Directors, or, where greater, any one third (rounded up to a whole number) of the total number of Directors holding office at the date of the meeting. If the Secretary of State has appointed Additional or Further Directors then a majority of the quorum must be made up of Additional or Further Directors.

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

119. The quorum for the purposes of—

(a) appointing a parent Director under Articles 56;

(b) any vote on the removal of a Director in accordance with Article 66 or 66A;

(c) any vote on the removal of the chairman of the Directors in accordance with Article 90;

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

120. Subject to these Articles, every question to be decided at a meeting of the Directors shall be determined by a majority of the votes of the Directors present and voting on the question. Every Director shall have one vote.

121. Subject to Articles 117-119, where there is an equal division of votes, the chairman of the meeting shall have a casting vote in addition to any other vote he may have.

122. The proceedings of the Directors shall not be invalidated by

a. any vacancy among their number; or

b. any defect in the election, appointment or nomination of any Director.

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

124. Subject to Article 125, the Directors shall ensure that a copy of

a. the agenda for every meeting of the Directors;

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 every Academy to persons wishing to inspect them.

125. There may be excluded from any item required to be made available in pursuance of Article 124, any material relating to—

a. a named teacher or other person employed, or proposed to be employed, at any Academy;

b. a named pupil at, or candidate for admission to, any Academy; and

c. any matter which, by reason of its nature, the Directors are satisfied should remain confidential.

126. Any Director shall be able to participate in meetings of the Directors by telephone or video conference provided that:

a. he has given notice of his intention to do so detailing the telephone number on which he can be reached and/or appropriate details of the video conference suite from which he shall be taking part at the time of the meeting at least 48 hours before the meeting; and,

b. the Directors have access to the appropriate equipment if after all reasonable efforts it does not prove possible for the person to participate by telephone or video conference the meeting may still proceed with its business provided it is otherwise quorate.

PATRONS AND HONORARY OFFICERS

127. The Directors may from time to time appoint any person whether or not a Member of the Company to be a patron of the Company or to hold any honorary office and may determine for what period he is to hold such office.

THE SEAL

128. The seal, if any, shall only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the Secretary or by a second Director.

ACCOUNTS

129. Accounts shall be prepared in accordance with the relevant Statement of Recommended Practice as if the Company was a non-exempt charity and Parts 15 and 16 of the Companies Act 2006 and shall file these with the Secretary of State and the Principal Regulator by 31 December each Academy Financial Year.

ANNUAL REPORT

130. The Directors shall prepare its Annual Report in accordance with the Statement of Recommended Practice as if the Company was a non-exempt charity and shall file these with the Secretary of State and the Principal Regulator by 31 December each Academy Financial Year.

ANNUAL RETURN

131. The Directors shall comply with their obligations under Part 24 of the Charities Act 2006 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual return to the Registrar of Companies and in accordance with the Statement of Recommended Practice as if the Company was a non-exempt charity and to the Secretary of State and the Principal Regulator by 31 December each Academy Financial Year.

NOTICES

132. Any notice to be given to or by any person pursuant to the Articles (other than a notice calling a meeting of the directors) shall be in writing or shall be given using electronic communications to an address for the time being notified for that purpose to the person giving the notice. In these Articles, "Address" in relation to electronic communications, includes a number or address used for the purposes of such communications.

133. A notice may be given by the Company 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 or by giving it using electronic communications to an address for the time being notified to the Company by the Member. A Member whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, 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 Company.

134. A Member present, either in person or by proxy, at any meeting of the Company shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called.

135. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators 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 or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

INDEMNITY

136. Subject to the provisions of the Companies Act 2006 every Director or other officer or auditor of the Company shall be indemnified out of the assets of the Company 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 Company.

RULES

137. The Directors may from time to time make such rules or bye laws as they may deem necessary or expedient or convenient (provided that, to the extent that such rule or bye-law is in the reasonable opinion of the Foundation Directors relevant to the Church of England ethos and character of any Church Academy, such rules or bye laws shall be made after consultation with the Diocesan Board of Education) for the proper conduct and management of the Company, and in particular but without prejudice to the generality of the foregoing, they may by such rules or bye laws regulate:

a. the setting aside of the whole or any part or parts of the Company's premises at any particular time or times or for any particular purpose or purposes;

b. the procedure at general meetings and meetings of the Directors and committees of the Directors and meetings of the Local Governing Bodies in so far as such procedure is not regulated by the Articles; and,

c. generally, all such matters as are commonly the subject matter of company rules.

138. The Members by unanimous written consent may alter, add or to repeal the rules or bye laws but only after consultation with the Diocesan Board of Education (to the extent such alteration, addition or repeal is, in the reasonable opinion of the Foundation Directors, relevant to the Church of England ethos and character of any Church Academy) and the Directors shall adopt such means as they think sufficient to bring to the notice of Members of the Company all such rules or bye laws, which shall be binding on all Members of the Company. Provided that no rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in the Articles.

AVOIDING INFLUENCED COMPANY STATUS

139. Notwithstanding the number of Members from time to time, the maximum aggregate number of votes exercisable by Local Authority Associated Persons shall never exceed 19.9% of the total number of votes exercisable by Members in general meeting and the votes of the other Members having a right to vote at the meeting will be increased on a pro-rata basis.

140. No person who is a Local Authority Associated Person may be appointed as a Director if, once the appointment had taken effect, the number of Directors who are Local Authority Associated Persons would represent 20% or more of the total number of Directors. Upon any resolution put to the Directors, the maximum aggregate number of votes exercisable by any Directors who are Local Authority Associated Persons shall represent a maximum of 19.9% of the total number of votes cast by the Directors on such a resolution and the votes of the other Directors having a right to vote at the meeting will be increased on a pro-rata basis.

141. No person who is a Local Authority Associated Person is eligible to be appointed to the office of Director unless his appointment to such office is authorised by the local authority to which he is associated.

142. If at the time of either his becoming a Member of the Company or his first appointment to office as a Director any Member or Director was not a Local Authority Associated Person but later becomes so during his membership or tenure as a Director he shall be deemed to have immediately resigned his membership and/or resigned from his office as a Director as the case may be.

143. If at any time the number of Directors or Members who are also Local Authority Associated Persons would (but for Articles 139 to 142 inclusive) represent 20% or more of the total number of Directors or Members (as the case may be) then a sufficient number of the Directors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned as Directors or Members (as the case may be) immediately before the occurrence of such an event to ensure that at all times the number of such Directors or Members (as the case may be) is never equal to or greater than 20% of the total number of Directors or Members (as the case may be). Directors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned in order of their appointment date the most recently appointed resigning first.

144. The Members will each notify the Company and each other if at any time they believe that the Company or any of its subsidiaries has become subject to the influence of a local authority (as described in section 69 of the Local Government and Housing Act).

Arrangements for pupils with Special Educational Needs ('SEN') and disabilities at the Academies

Duties in relation to pupils with SEN

1. The Directors of the Company must, in respect of each Academy, comply with all of the duties imposed upon the governing bodies of maintained schools in;
   - Part 4 of the Education Act 1996 as amended from time to time[1];
   - The Education (Special Educational Needs) (Information) Regulations 1999 as amended from time to time;
   - The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2008 as amended from time to time[2].

2. Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Company to comply with an obligation described in this Annex where the Company has failed to comply with any such obligation.

3. Where a child who has SEN is being educated in an Academy, those concerned with making special educational provision for the child must secure that the child engages in the activities of the school together with children who do not have SEN, so far as is reasonably practicable and is compatible with:

   (a) the child receiving the special educational provision which his learning difficulty calls for,

   (b) the provision of efficient education for the children with whom he will be educated, and

   (c) the efficient use of resources.

4. In addition to complying with the duties imposed upon the governing bodies of maintained schools set out in The Education (Special Educational Needs) (Information) Regulations 1999 (as amended from time to time) the Company must ensure that the website for each Academy includes details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; and the facilities provided to assist access to the Academy by disabled pupils (disabled pupils meaning pupils who are disabled for the purposes of the Equality Act 2010[3]).

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[1] Currently these duties are in sections 313 (Duty to have regard to the Special Educational Needs Code of Practice 2001); 317 (Duties in relation to pupils with special educational needs), 317A (Duty to advise parents that special educational provision is being made); and 324(5)(b) (Duty to admit the child where a school is named in the statement).

[2] These Regulations are amended by The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2009 (SI 2009 No 1387).

[3] For the meaning of 'disabled', see section 6 of the Equality Act 2010.

Admissions

5. The Company must ensure that for each Academy pupils with SEN are admitted on an equal basis with others in accordance with the Academy's admissions policy.

6. Where a local authority ("LA") proposes to name the Academy in a statement of SEN made in accordance with section 324 of the Education Act 1996, it must give the Company written notice that it so proposes. Within 15 days of receipt of the LA's notice that it proposes to name the Academy in a statement, the Company must consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children; and where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Company must have regard to the relevant guidance issued by the Secretary of State to maintained schools.

7. If the Company determines that admitting the child would be incompatible with the provision of efficient education, it must, within 15 days of receipt of the LA's notice, notify the LA in writing that it does not agree that the Academy should be named in the pupil's statement. Such notice must set out all the facts and matters the Academy relies upon in support of its contention that: (a) admitting the child would be incompatible with efficiently educating other children; and (b) the Company cannot take reasonable steps to secure this compatibility.

8. After service by the Company on the LA of any notice (further to paragraph 7 above) stating that it does not agree with the LA's proposal that the Academy be named, the Company must seek to establish from the LA, as soon as is reasonably practicable, whether or not the LA agrees with the Company. If the LA notifies the Academy that it does not agree with the Company's response, and names the Academy in the child's statement, then the Company must admit the child to the school on the date specified in the statement or on the date specified by the LA.

9. Where the Company consider that the Academy should not have been named in a child's statement, they may ask the Secretary of State to determine that the LA has acted unreasonably in naming the Academy and to make an order directing the LA to reconsider.

10. The Secretary of State's determination shall, subject only to any right of appeal which any parent or guardian of the child may have to the First-tier Tribunal (Special Educational Needs and Disability), be final.

11. If a parent or guardian of a child in respect of whom a statement is maintained by the local authority appeals to the First-tier Tribunal (Special Educational Needs and Disability) either against the naming of an Academy in the child's SEN statement or asking the Tribunal to name an Academy, then the decision of the Tribunal on any such

appeal shall be binding and shall, if different from that of the Secretary of State under paragraph 9 above, be substituted for the Secretary of State's decision.

12. Where the Company, the Secretary of State or the First-tier Tribunal (Special Educational Needs and Disability) have determined that it should be named, the Company shall admit the child to the Academy notwithstanding any provision of Annex 1 of the Supplemental Agreement of that Academy.

Annex C

Serious incidents of misbehaviour leading to fixed period or permanent exclusion

1. Subject to the exceptions in paragraph 5, the Company shall act and shall ensure that the Principal and Local Governing Body of each Academy act in accordance with the law on exclusions as if each Academy were a maintained school. For this purpose, reference in the law on exclusions to the Head Teacher and Governing Body shall respectively be deemed to be the Principal and Local Governing Body of the relevant Academy.

2. Without limiting the generality of paragraph 1, the Company shall ensure that the Local Authority in which each Academy is located and, where the pupil concerned resides in the area of a different Local Authority, the Local Authority in which the pupil is ordinarily resident is informed of an exclusion decision in the same circumstances, and within the same timescale as a the head teacher of a maintained school is required to inform the Local Authority (or Local Authorities) of an exclusion.

3. Subject to the exception in paragraph 5, the Company shall ensure that each Principal and the Local Governing Body of the Academy have regard to the Secretary of State's guidance on exclusions when excluding, or reviewing the exclusion of a pupil and in relation to any appeals or review process as if each Academy were a maintained school[1].

4. The Company shall make arrangements for enabling appeals against, or review of any decision of the Local Governing Body to permanently exclude a pupil in accordance with the functions assigned to the Local Authority in relation to a maintained school. The Company shall ensure that appeal/review panels are impartial, and are constituted in accordance with the Secretary of State's guidance. The Company shall comply with any decision of an appeals panel, or direction of a review panel[2].

5. The exception to the duties imposed under paragraphs 1 and 3 is:

- the Local Governing Body is not expected to seek the advice of a Local Authority officer when considering an exclusion, although a

[1]References in this annex to the Secretary of State's guidance are to "Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units", which is published on the DfE website at: http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/2008guidance/. The guidance may be subject to amendment, and each Academy is required to have regard to the guidance as it stands at any given time.

[2] A parent may seek a judicial review of a decision of an appeal/review panel relating to their child. A parent of a child excluded from an Academy may not complain to the Commissioner for Local Administration (the Local Government Ombudsman) about maladministration. This is because the Commissioner's remit is limited to considering the conduct of appeal panels constituted by Local Authorities.

Local Authority officer may attend any meeting to consider an exclusion (including an appeal hearing or review) at the request of a parent; and

- subject to the Company's obligations under clause 31 of this Agreement relating to an agreement with the LA on the flow of funds following an exclusion, the arrangements for money to follow pupils who have been permanently excluded from school does not apply.

Multi Academy Model
Mainstream

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1 - 10 - 2011

BETWEEN

(1) **THE SECRETARY OF STATE FOR EDUCATION**; and

(2) **THE PRIMARY ACADEMIES TRUST**

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Hemyock Primary School established at Parklands, Hemyock, Cullompton, Devon, EX15 3RY;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Hemyock Primary School, Parklands, Hemyock, Cullompton, Devon, EX15 3RY and registered under Title Number DN512282.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Hemyock Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 163 in the age range 4 to 11 years.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "...,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**")

and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the

pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the

Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of

those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 **ENGLISH LAW**

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

This Agreement was executed as a Deed on 1-11 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/~~Secretary~~

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



Multi Academy Model
Mainstream

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO HEMYOCK PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Hemyock Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Hemyock Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

5. The Company shall ensure that parents and 'relevant children[2]' will

[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

[2] 'relevant children' means:

a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above

have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear,

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compulsory school age by the time they start to receive education at the school.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

Multi Academy Model
Mainstream

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1 - 11 - 2011

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) THE PRIMARY ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Salcombe Church of England Primary School established at Onslow Road, Salcombe, Devon, TQ8 8AG;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Salcombe Church of England Primary School, Onslow Road, Salcombe, Devon, TQ8 8AG and registered under title numbers DN539968, DN514481 and DN513266 from which the Academy operates.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Salcombe Church of England Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 90 in the age range 4 to 11 years.

TEACHERS AND OTHER STAFF

2.6 The Company shall in relation to:

(a) any person who may apply for a position as an employee or to be otherwise engaged by the Company, and

(b) any employee with whom the Company enters into a contract of employment or a contract for services

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "…,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

act in accordance with and hereby agrees to be bound by sub-sections 58(2), (3), (5), (6) & (9) and sections 59 to 60 of the Schools Standards and Framework Act 1998 ("SSFA") as modified below, so far as those provisions apply to, and as if the Company were, a voluntarily controlled or foundation school designated by an order under section 69(3) of the SSFA as a school having a religious character. For the avoidance of doubt, the Company agrees and acknowledges that section 124A of the SSFA shall not therefore apply to it in relation to the persons referred to at (a) and (b) above.

2.7 (1) Section 58 of the SSFA shall apply to the Company with the following modifications:

a) in subsection (3) for the words "head teacher" read "principal"

b) In subsection (5) & (6) for "foundation governors" read "Foundation Governors" as defined in the Articles of Association;

c) in subsection (6)(b) for the words "governing body" read "appropriate body";

d) in subsection (9) for (a) and (b) read the words "Company";

(2) Section 60(4) of the SSFA shall apply to the Company with the modification that for the words "head teacher" read "principal" each time they occur.

RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP

2.8 Clause 26 of the Master Agreement shall not apply and Clause 27 of the Master Agreement shall be replaced by the following:

The requirements for religious education and collective worship are as follows:

a) subject to clause 28 of the Master Agreement, the Company Trust shall ensure that 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 as if the

Academy were a foundation school or voluntary controlled school with a religious character;

b) subject to clause 28 of the Master Agreement, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school or voluntary controlled school with a religious character, and as if references to ' the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

c) the Company shall ensure that the quality of the Academy's collective worship given in accordance with the tenets and practice of the specific religion or religious denomination is inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary controlled school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the

conditions and requirements set out in clauses 14-35 of the Master Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company

may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that

question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable

control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 ENGLISH LAW

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

Multi Academy Model
Mainstream

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/~~Secretary~~

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



Multi Academy Model
Mainstream

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO SALCOMBE CHURCH OF ENGLAND PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Salcombe Church of England Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Salcombe Church of England Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

4A. Salcombe Church of England Primary School is a Church of England Academy in the diocese of Exeter.

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[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

Note: This is the body which (a) has to be consulted on admission arrangements (b) has the right to issue guidance on the adoption of faith criteria and (c) has the right of objection to admission arrangements. CE Dioceses also have to approve the disposal of land or premises of CE Academies.

5. The Company shall ensure that parents and 'relevant children[2]' will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

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[2] 'relevant children' means:

a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1-11- 2011

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) THE PRIMARY ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 DEFINITIONS AND INTERPRETATION

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Newton Ferrers Church of England VC Primary School established at Dillons, The Green, Newton Ferrers, Plymouth, PL8 1AS;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Newton Ferrers Church of England VC Primary School, Dillons, The Green, Newton Ferrers, Plymouth, PL8 1AS and registered under title numbers DN79651, DN613804 and DN514243 from which the Academy operates.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Newton Ferrers Church of England VC Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 105 in the age range 4 to 11 years.

TEACHERS AND OTHER STAFF

2.6 The Company shall in relation to:

(a) any person who may apply for a position as an employee or to be otherwise engaged by the Company, and

(b) any employee with whom the Company enters into a contract of employment or a contract for services

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "...,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

act in accordance with and hereby agrees to be bound by sub-sections 58(2), (3), (5), (6) & (9) and sections 59 to 60 of the Schools Standards and Framework Act 1998 ("SSFA") as modified below, so far as those provisions apply to, and as if the Company were, a voluntarily controlled or foundation school designated by an order under section 69(3) of the SSFA as a school having a religious character. For the avoidance of doubt, the Company agrees and acknowledges that section 124A of the SSFA shall not therefore apply to it in relation to the persons referred to at (a) and (b) above.

2.7 (1) Section 58 of the SSFA shall apply to the Company with the following modifications:

a) in subsection (3) for the words "head teacher" read "principal"

b) In subsection (5) & (6) for "foundation governors" read "Foundation Governors" as defined in the Articles of Association;

c) in subsection (6)(b) for the words "governing body" read "appropriate body";

d) in subsection (9) for (a) and (b) read the words "Company";

(2) Section 60(4) of the SSFA shall apply to the Company with the modification that for the words "head teacher" read "principal" each time they occur.

RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP

2.8 Clause 26 of the Master Agreement shall not apply and Clause 27 of the Master Agreement shall be replaced by the following:

The requirements for religious education and collective worship are as follows:

a) subject to clause 28 of the Master Agreement, the Company Trust shall ensure that 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 as if the

Academy were a foundation school or voluntary controlled school with a religious character;

b) subject to clause 28 of the Master Agreement, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school or voluntary controlled school with a religious character, and as if references to 'the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

c) the Company shall ensure that the quality of the Academy's collective worship given in accordance with the tenets and practice of the specific religion or religious denomination is inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary controlled school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the

conditions and requirements set out in clauses 14-35 of the Master Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company

may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that

question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable

control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 ENGLISH LAW

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



Multi Academy Model
Mainstream

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO NEWTON FERRERS CHURCH OF ENGLAND VC PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Newton Ferrers Church of England VC Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Newton Ferrers Church of England VC Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

4A. Newton Ferrers Church of England VC Primary School is a Church of

[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

England Academy in the diocese of Exeter.

Note: This is the body which (a) has to be consulted on admission arrangements (b) has the right to issue guidance on the adoption of faith criteria and (c) has the right of objection to admission arrangements. CE Dioceses also have to approve the disposal of land or premises of CE Academies.

5. The Company shall ensure that parents and 'relevant children[2]' will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

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[2] 'relevant children' means:
a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

Multi Academy Model
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SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1 - 11 - 2011

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) THE PRIMARY ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Chudleigh Knighton Church of England Primary School established at Chudleigh Knighton, Newton Abbot, Devon, TQ13 0EU;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Chudleigh Knighton Church of England Primary School, Chudleigh Knighton, Newton Abbot, Devon, TQ13 0EU and registered under title numbers DN261046, DN234529, DN459971, DN127163 and DN221952 from which the Academy operates.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Chudleigh Knighton Church of England Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 97 in the age range 4 to 11 years.

TEACHERS AND OTHER STAFF

2.6 The Company shall in relation to:

(a) any person who may apply for a position as an employee or to be otherwise engaged by the Company, and

(b) any employee with whom the Company enters into a contract of employment or a contract for services

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "...,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

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2.7 (1) Section 58 of the SSFA shall apply to the Company with the following modifications:

a) in subsection (3) for the words "head teacher" read "principal"

b) In subsection (5) & (6) for "foundation governors" read "Foundation Governors" as defined in the Articles of Association;

c) in subsection (6)(b) for the words "governing body" read "appropriate body";

d) in subsection (9) for (a) and (b) read the words "Company";

(2) Section 60(4) of the SSFA shall apply to the Company with the modification that for the words "head teacher" read "principal" each time they occur.

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2.8 Clause 26 of the Master Agreement shall not apply and Clause 27 of the Master Agreement shall be replaced by the following:

The requirements for religious education and collective worship are as follows:

a) subject to clause 28 of the Master Agreement, the Company Trust shall ensure that 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 as if the

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b) subject to clause 28 of the Master Agreement, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school or voluntary controlled school with a religious character, and as if references to 'the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

c) the Company shall ensure that the quality of the Academy's collective worship given in accordance with the tenets and practice of the specific religion or religious denomination is inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary controlled school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master

Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company

may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that

question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable

control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 ENGLISH LAW

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

Multi Academy Model
Mainstream

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



Multi Academy Model
Mainstream

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO CHUDLEIGH KNIGHTON CHURCH OF ENGLAND PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Chudleigh Knighton Church of England Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Chudleigh Knighton Church of England Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

4A. Chudleigh Knighton Church of England Primary School is a Church of

[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

England Academy in the diocese of Exeter.

Note: This is the body which (a) has to be consulted on admission arrangements (b) has the right to issue guidance on the adoption of faith criteria and (c) has the right of objection to admission arrangements. CE Dioceses also have to approve the disposal of land or premises of CE Academies.

5. The Company shall ensure that parents and 'relevant children[2]' will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

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[2] 'relevant children' means:
a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1-11- 2011

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) THE PRIMARY ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Blackpool Church of England Primary School established at Liverton, Newton Abbot, Devon, TQ12 6JB;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Blackpool Church of England Primary School, Liverton, Newton Abbot, Devon, TQ12 6JB and registered under title numbers DN260247, DN471329 and DN614272 from which the Academy operates.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Blackpool Church of England Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 315 in the age range 4 to 11 years.

TEACHERS AND OTHER STAFF

2.6 The Company shall in relation to:

(a) any person who may apply for a position as an employee or to be otherwise engaged by the Company, and

(b) any employee with whom the Company enters into a contract of employment or a contract for services

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "...,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

act in accordance with and hereby agrees to be bound by sub-sections 58(2), (3), (5), (6) & (9) and sections 59 to 60 of the Schools Standards and Framework Act 1998 ("SSFA") as modified below, so far as those provisions apply to, and as if the Company were, a voluntarily controlled or foundation school designated by an order under section 69(3) of the SSFA as a school having a religious character. For the avoidance of doubt, the Company agrees and acknowledges that section 124A of the SSFA shall not therefore apply to it in relation to the persons referred to at (a) and (b) above.

2.7 (1) Section 58 of the SSFA shall apply to the Company with the following modifications:

a) in subsection (3) for the words "head teacher" read "principal"

b) In subsection (5) & (6) for "foundation governors" read "Foundation Governors" as defined in the Articles of Association;

c) in subsection (6)(b) for the words "governing body" read "appropriate body";

d) in subsection (9) for (a) and (b) read the words "Company";

(2) Section 60(4) of the SSFA shall apply to the Company with the modification that for the words "head teacher" read "principal" each time they occur.

RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP

2.8 Clause 26 of the Master Agreement shall not apply and Clause 27 of the Master Agreement shall be replaced by the following:

The requirements for religious education and collective worship are as follows:

a) subject to clause 28 of the Master Agreement, the Company Trust shall ensure that 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 as if the

Academy were a foundation school or voluntary controlled school with a religious character;

b) subject to clause 28 of the Master Agreement, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school or voluntary controlled school with a religious character, and as if references to 'the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

c) the Company shall ensure that the quality of the Academy's collective worship given in accordance with the tenets and practice of the specific religion or religious denomination is inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary controlled school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master

Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company

may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that

question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable

control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 ENGLISH LAW

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

Multi Academy Model
Mainstream

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



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ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO BLACKPOOL CHURCH OF ENGLAND PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Blackpool Church of England Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Blackpool Church of England Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

4A. Blackpool Church of England Primary School is a Church of England Academy in the diocese of Exeter.

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[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

Note: This is the body which (a) has to be consulted on admission arrangements (b) has the right to issue guidance on the adoption of faith criteria and (c) has the right of objection to admission arrangements. CE Dioceses also have to approve the disposal of land or premises of CE Academies.

5. The Company shall ensure that parents and 'relevant children[2]' will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

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[2] 'relevant children' means:

a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

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SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1-11- 2011

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) THE PRIMARY ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Sidbury Church of England Primary School established at Church Street, Sidbury, Devon, EX10 0SB;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Sidbury Church of England Primary School, Church Street, Sidbury, Devon, EX10 0SB.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Sidbury Church of England Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 105 in the age range 4 to 11 years.

TEACHERS AND OTHER STAFF

2.6 The Company shall in relation to:

(a) any person who may apply for a position as an employee or to be otherwise engaged by the Company, and

(b) any employee with whom the Company enters into a contract of employment or a contract for services

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "...,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

act in accordance with and hereby agrees to be bound by sub-sections 58(2), (3), (5), (6) & (9) and sections 59 to 60 of the Schools Standards and Framework Act 1998 ("SSFA") as modified below, so far as those provisions apply to, and as if the Company were, a voluntarily controlled or foundation school designated by an order under section 69(3) of the SSFA as a school having a religious character. For the avoidance of doubt, the Company agrees and acknowledges that section 124A of the SSFA shall not therefore apply to it in relation to the persons referred to at (a) and (b) above.

2.7 (1) Section 58 of the SSFA shall apply to the Company with the following modifications:

a) in subsection (3) for the words "head teacher" read "principal"

b) In subsection (5) & (6) for "foundation governors" read "Foundation Governors" as defined in the Articles of Association;

c) in subsection (6)(b) for the words "governing body" read "appropriate body";

d) in subsection (9) for (a) and (b) read the words "Company";

(2) Section 60(4) of the SSFA shall apply to the Company with the modification that for the words "head teacher" read "principal" each time they occur.

RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP

2.8 Clause 26 of the Master Agreement shall not apply and Clause 27 of the Master Agreement shall be replaced by the following:

The requirements for religious education and collective worship are as follows:

a) subject to clause 28 of the Master Agreement, the Company Trust shall ensure that 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 as if the

Academy were a foundation school or voluntary controlled school with a religious character;

b) subject to clause 28 of the Master Agreement, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school or voluntary controlled school with a religious character, and as if references to 'the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

c) the Company shall ensure that the quality of the Academy's collective worship given in accordance with the tenets and practice of the specific religion or religious denomination is inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary controlled school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master

Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company

may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that

question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable

control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 **ANNEX**

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 **THE MASTER AGREEMENT**

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 **ENGLISH LAW**

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

Multi Academy Model
Mainstream

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



Multi Academy Model
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ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO SIDBURY CHURCH OF ENGLAND PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Sidbury Church of England Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Sidbury Church of England Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

4A. Sidbury Church of England Primary School is a Church of England Academy in the diocese of Exeter.

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[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

Note: This is the body which (a) has to be consulted on admission arrangements (b) has the right to issue guidance on the adoption of faith criteria and (c) has the right of objection to admission arrangements. CE Dioceses also have to approve the disposal of land or premises of CE Academies.

5. The Company shall ensure that parents and 'relevant children[2]' will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

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[2] 'relevant children' means:
a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1 · 11 · 2011

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) THE PRIMARY ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Sampford Peverell Church of England Primary School established at Sampford Peverell, Tiverton, Devon, EX16 7BR;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Sampford Peverell Church of England Primary School, Sampford Peverell, Tiverton, Devon, EX16 7BR.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Sampford Peverell Church of England Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 105 in the age range 4 to 11 years.

TEACHERS AND OTHER STAFF

2.6 The Company shall in relation to:

(a) any person who may apply for a position as an employee or to be otherwise engaged by the Company, and

(b) any employee with whom the Company enters into a contract of employment or a contract for services

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "…,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

act in accordance with and hereby agrees to be bound by sub-sections 58(2), (3), (5), (6) & (9) and sections 59 to 60 of the Schools Standards and Framework Act 1998 ("SSFA") as modified below, so far as those provisions apply to, and as if the Company were, a voluntarily controlled or foundation school designated by an order under section 69(3) of the SSFA as a school having a religious character. For the avoidance of doubt, the Company agrees and acknowledges that section 124A of the SSFA shall not therefore apply to it in relation to the persons referred to at (a) and (b) above.

2.7 (1) Section 58 of the SSFA shall apply to the Company with the following modifications:

a) in subsection (3) for the words "head teacher" read "principal"

b) In subsection (5) & (6) for "foundation governors" read "Foundation Governors" as defined in the Articles of Association;

c) in subsection (6)(b) for the words "governing body" read "appropriate body";

d) in subsection (9) for (a) and (b) read the words "Company";

(2) Section 60(4) of the SSFA shall apply to the Company with the modification that for the words "head teacher" read "principal" each time they occur.

RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP

2.8 Clause 26 of the Master Agreement shall not apply and Clause 27 of the Master Agreement shall be replaced by the following:

The requirements for religious education and collective worship are as follows:

a) subject to clause 28 of the Master Agreement, the Company Trust shall ensure that 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 as if the

Academy were a foundation school or voluntary controlled school with a religious character;

b) subject to clause 28 of the Master Agreement, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school or voluntary controlled school with a religious character, and as if references to 'the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

c) the Company shall ensure that the quality of the Academy's collective worship given in accordance with the tenets and practice of the specific religion or religious denomination is inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary controlled school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master

Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company

may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that

question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable

control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 ENGLISH LAW

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

Multi Academy Model
Mainstream

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



Multi Academy Model
Mainstream

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO SAMPFORD PEVERALL CHURCH OF ENGLAND PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Sampford Peverell Church of England Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Sampford Peverell Church of England Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

4A. Sampford Peverell Church of England Primary School is a Church of England Academy in the diocese of Exeter.

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[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

Note: This is the body which (a) has to be consulted on admission arrangements (b) has the right to issue guidance on the adoption of faith criteria and (c) has the right of objection to admission arrangements. CE Dioceses also have to approve the disposal of land or premises of CE Academies.

5. The Company shall ensure that parents and 'relevant children[2]' will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

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[2] 'relevant children' means:
a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

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(2) THE PRIMARY ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 DEFINITIONS AND INTERPRETATION

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Wilcombe Primary School established at Lazenby Road, Tiverton, Devon, EX16 4AL;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Wilcombe Primary School, Lazenby Road, Tiverton, Devon, EX16 4AL.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Wilcombe Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 157 in the age range 4 to 11 years.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "…,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**")

and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the

pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the

Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of

those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 **ENGLISH LAW**

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



Multi Academy Model
Mainstream

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO WILCOMBE PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Wilcombe Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Wilcombe Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

5. The Company shall ensure that parents and 'relevant children[2]' will

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[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

[2] 'relevant children' means:

a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above

have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear,

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compulsory school age by the time they start to receive education at the school.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1 - 11 - 2011

BETWEEN

(1) **THE SECRETARY OF STATE FOR EDUCATION**; and

(2) **THE PRIMARY ACADEMIES TRUST**

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the South Brent Primary School established at Totnes Road South Brent TQ10 9JN;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as South Brent Primary School, Totnes Road South Brent TQ10 9JN.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing South Brent Primary School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 293 in the age range 4 to 11 years.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "…,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**")

and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the

pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the

Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of

those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 **ENGLISH LAW**

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



Multi Academy Model
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ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO SOUTH BRENT PRIMARY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to South Brent Primary School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to South Brent Primary School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

5. The Company shall ensure that parents and 'relevant children[2]' will

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[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

[2] 'relevant children' means:

a) in the case of appeals for entry to a sixth form, the child, and;
b) in any other case, children who are above compulsory school age, or will be above

have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear,

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compulsory school age by the time they start to receive education at the school.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

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SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1-11- 2011

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) THE PRIMARY ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated [ ] 2011 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Orchard Vale Community School established at Westacott Road, Whiddon Valley, Barnstaple, North Devon, EX32 8QY;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Orchard Vale Community School, Westacott Road, Whiddon Valley, Barnstaple, North Devon, EX32.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement[1].

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.[2]

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on 1 November 2011 replacing Orchard Vale Community School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010[3].

2.5 The planned capacity of the Academy is 315 in the age range 3 to 11 years.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

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[1] If the Academy is to be a "selective school" then insert the following wording at the end of paragraph 2.1 – "…,save that clause 12(c) of the Master Agreement does not apply as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 and additionally clause 19 does not apply in so far as it provides for the Academy to be an all ability inclusive school".

[2] Insert specialism if the school provides secondary education

[3] Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

5 TERMINATION

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

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

5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.

5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body 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 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.

5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**")

and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the

pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.

5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the

Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company 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.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of

those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion 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; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets 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.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the LA.

6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company 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 Company and the LA from which the land was transferred before giving or withholding that consent.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

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) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 **ANNEX**

7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 **THE MASTER AGREEMENT**

8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 **ENGLISH LAW**

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

This Agreement was executed as a Deed on 1-11- 2011

Executed on behalf of the Primary Academies Trust by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised



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ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO ORCHARD VALE COMMUNITY SCHOOL

GENERAL

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

2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to "admission authorities" shall be deemed to be references to the Directors of the Company.

3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Agreement, the Secretary of State may:

(a) direct the Company to admit a named pupil to Orchard Vale Community School on application from an LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Company.

(b) direct the Company to admit a named pupil to Orchard Vale Community School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

(c) direct the Company to amend its admission arrangements where they fail to comply with the School Admission Code or the Admission Appeals Code.

5. The Company shall ensure that parents and 'relevant children[2]' will

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[1] Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

[2] 'relevant children' means:

a) in the case of appeals for entry to a sixth form, the child, and;

b) in any other case, children who are above compulsory school age, or will be above

have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;

b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group[3]. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Company should therefore make it clear,

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compulsory school age by the time they start to receive education at the school.

[3] 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.

when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.