

The Grammar School of King Edward VI at Stratford upon Avon

**DEED OF VARIATION OF FUNDING AGREEMENT
2024**

The Parties to this Deed are:

(1) **The Secretary of State for Education** of Sanctuary Buildings, Great Smith Street, London SW1P 3BT (the "**Secretary of State**");

- and -

(2) **The Grammar School of King Edward VI at Stratford upon Avon**, a charitable company incorporated in England and Wales with registered company number 07696173 whose registered address is at Church Street, Stratford-Upon-Avon, CV37 6HB (the "**Company**").

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

INTRODUCTION

- A. The Parties have entered into a funding agreement on or about 17th August 2011 as subsequently amended by a Deed of Variation dated 2012, a copy of which is contained in Schedule 1 (the "**Existing FA**").
- B. The Parties have agreed to amend and re-state the terms of the Existing FA, on the terms set out in this Deed.

LEGAL AGREEMENT

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

GOVERNING LAW AND JURISDICTION

- 3. This Deed, and any dispute or claim arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England and Wales.
- 4. The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this deed or its subject matter or formation (including non-contractual disputes or claims).

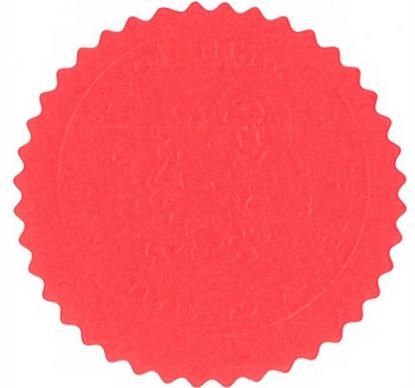
COUNTERPARTS

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

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

EXECUTED as a deed by affixing the corporate seal of the **Secretary of State for Education** authenticated by:-)
)
)

J. Miller
Duly authorised by the Secretary of State for Education
Date 30th October 2024



EXECUTED as a deed by **The Grammar School of King Edward VI at Stratford upon Avon** acting by:

V.F.M.
Director
Print name VICTOR GEORGEY FLAVELL MATTS
Date 17th October 2024
Witnessed by D.J. WALKER
Signature DJWalker
Full name
Address 1P DALE CLOSE, CV47 5SE
Occupation CONSULTANT

Schedule 1

Existing FA

shall be governed by and construed in accordance with English law.

3.2 The parties irrevocably agree that the English courts have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

4. Counterparts

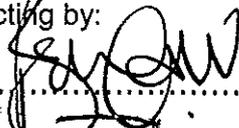
4.1 This Deed may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

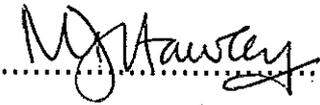
IN WITNESS whereof this Deed has been executed by the parties hereto and is intended to be and is hereby delivered on the date first above written.

EXECUTED as a deed by affixing the corporate seal of the **Secretary of State for Education** authenticated by:-)
)
)

.....
Duly authorised by the Secretary of State for Education

EXECUTED as a deed by KING EDWARD VI SCHOOL,
acting by:


.....
Director


.....
Director/Secretary

OR

EXECUTED as a deed by
KING EDWARD VI SCHOOL,
acting by:

FREEDOM OF INFORMATION REDACTION SHEET

KING EDVARD VI GRAMMAR SCHOOL

SUPPLEMENTAL AGREEMENT

<p>Exemptions in full</p> <p>n/a</p> <p>Partial exemptions</p> <p>Personal Information has been redacted from this document under Section 40 of the Freedom of Information (FOI) Act.</p> <p>Section 40 of the FOI Act concerns personal data within the meaning of the Data Protection Act 1998.</p>	
<p>Factors for disclosure</p>	<p>Factors for Withholding</p>
<ul style="list-style-type: none">▪ further to the understanding of and increase participation in the public debate of issues concerning Academies.▪ to ensure transparency in the accountability of public funds	<ul style="list-style-type: none">▪ To comply with obligations under the Data Protection Act
<p><u>Reasons why public interest favours withholding information</u></p> <p>Whilst releasing the majority of the King Edward VI Grammar School Supplemental Agreement will further the public understanding of Academies. The whole of the King Edward VI Grammar Supplemental Agreement cannot be revealed. If the personal information redacted was to be revealed under the FOI Act, Personal Data and Commercial interests would be prejudiced.</p>	

DfE 2010-12-16

SINGLE ACADEMY MODEL

THE GRAMMAR SCHOOL OF KING EDWARD VI SCHOOL
AT STRATFORD-UPON-AVON
ACADEMY

MODEL SUPPLEMENTAL AGREEMENT

17/08/2011

~~[insert date]~~

DfE 2010-12-16

**THE GRAMMAR SCHOOL OF KING EDWARD VI SCHOOL
AT STRATFORD-UPON-AVON**

ACADEMY

SUPPLEMENTAL AGREEMENT

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INTRODUCTION

- 1) This Agreement is being entered into in acknowledgement of the completion of a funding agreement (the "Funding Agreement") made under section 1 of the Academies Act 2010 between the Secretary of State for Education ("the Secretary of State") and The Grammar School of King Edward VI School at Stratford-upon-Avon a company limited by guarantee registered at Companies House with company number [] ("the Academy Trust").
- 2) This Agreement is made between the Secretary of State and The Trustees of King Edward VI Grammar School ("the Trustees").
- 3) The Academy Trust is also a party to this Agreement and acknowledges the commitments made by both the Secretary of State and the Trustees.
- 4) In this Agreement the following words and expressions shall have the following meanings:-

"DfE" means Department for Education;

"Insured Risks" means fire lightning explosion earthquake storm tempest flood subsidence landslip heave impact terrorism bursting or overflowing of water tanks and pipes earthquake damage by aircraft and other aerial devices or articles dropped there from riot and civil commotion labour disturbance and malicious damage and such other risks as the Trustees insure against from time to time subject in all cases to any exclusions or limitations as may from time to time be imposed by the insurers or underwriters;

"Land" means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) owned by the Official Custodian for Charities on behalf of the Trustees of King Edward VI School (the Official Custodian for Charities is a bare Trustee with no powers of management. The Trustees are entitled to act in the name and on behalf of the Official Custodian under the provisions of the Charities Act 1993) situated at and known as land at Church Street which is registered under title number WK425711, the Levi Fox Hall building registered under title number WK323219 and land at Manor Road (the playing fields) registered under title number WK455282 from which the Academy operates.

- 5) The Interpretation Act 1978 shall apply for the interpretation of this Agreement as it

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applies for the interpretation of an Act of Parliament, and references to:

“party” means any party to this Agreement;

“persons” includes a body of persons, corporate or incorporate;

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

- 6) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement.

LEGAL AGREEMENT FOR USE OF LAND

- 7) In consideration of:

a) the Academy Trust undertaking to the Secretary of State to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England to be known as The Grammar School of King Edward VI School at Stratford-upon-Avon (“the Academy”); and

b) the Secretary of State agreeing to make payments to the Academy Trust in accordance with the conditions and requirements set out in the Funding Agreement

the Trustees undertake to the Secretary of State to make the Land available for use by the Academy Trust in a manner consistent with any restrictions imposed on the Trustees at law and pursuant to any trust deed governing the Trustees’ ownership of the Land and with the terms of this Agreement.

- 8) This Agreement shall commence on the date hereof and shall subject to clause 9 (and except in respect of clause 14) continue in force until the earlier of:

a) the termination of the Funding Agreement; and

b) the date upon which any termination of this Agreement arises pursuant to clause 15.

- 9) The termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of any party hereto accrued prior to termination.

- 10) Clause 14 of this Agreement shall continue to apply for as long as the Secretary of State has power to exercise any discretion in relation to the Land pursuant to Schedule 1 of the Academies Act 2010.

PROTECTION OF PUBLIC INVESTMENT IN LAND

11) Whilst the Academy operates from the Land otherwise than pursuant to a lease between the Trustees and the Academy Trust and in recognition of the funding provided by the Secretary of State to the Academy Trust for the running costs of the Academy, including, but not limited to, grant advanced for the purposes of enabling repairs, servicing, maintenance and arranging for appropriate insurance of any buildings on the Land and its grounds, provided that the Academy Trust meets the cost of such repairs, servicing, maintenance and insurance, the Trustees will:

- a) facilitate any maintenance, upkeep or replacement of any buildings or facilities on the Land by the Academy Trust so that the Academy Trust may keep the Land clean and tidy and may make good any damage it causes to the Land and / or any deterioration to the condition of the Land consequent upon its use of the same that may arise from the date of this Agreement;
- b) keep the Land insured in the joint names of the Academy Trust and the Trustees with a reputable insurance office against loss or damage by the Insured Risks in the sum the Academy Trust is advised represents the reinstatement value of the Land from time to time;
- c) pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the Land;
- d) following the incidence of damage to or destruction of the Land and subject to receipt of all necessary consents licences permissions and the like apply the proceeds of the policy of the insurance received for those purposes in rebuilding and reinstating the Land (provided that this clause should be satisfied if the Academy Trust and/or the Trustees provides premises not necessarily identical to the Land as the same existing prior to such damage or destruction occurring) as soon as may be reasonably practicable;
- e) produce to the Secretary of State a copy of the insurance policy whenever reasonably requested and the receipt for the last or other evidence of renewal and up to date details of the amount of cover (but no more often than once in any period of 12 months in both cases);

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- f) not knowingly do anything whereby any policy of insurance relating to the Land may become void or voidable; and
 - g) insure against liability in respect of property owners' and third party risks including occupiers liability.
- 12) While the Academy operates from the Land or part of it pursuant to a lease between the Trustees and the Academy Trust in so far as clause 11 regulates occupation the terms of the lease shall prevail.
- 13) In so far as any Land qualifies as "publicly funded land" within the meaning of the Academies Act 2010 the Trustees hereby agree, for a period of 2 years from the date of this Agreement, not, without the prior written consent of the Secretary of State (such consent not to be unreasonably withheld), to dispose of all or part of the Land.
- 14) In the exercise of any discretion that the Secretary of State shall have either in relation to the Land as a consequence of this agreement or pursuant to Schedule 1 of the Academies Act 2010, the Secretary of State agrees to comply with any guidance issued by him in relation to the disposal of publicly funded land that is no longer to be used for the Academy.

TERMINATION

- 15) The Trustees may give not less than two years written notice to the Academy Trust and the Secretary of State to terminate this Agreement, such notice to expire on 31st August 2013 or any subsequent anniversary of that date.

MISCELLANEOUS

- 16) Any notice or other communication concerning this Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the Trustees at their registered office or such other addressee/address as may be notified in writing from time to time by the Trustees and, in the case of a notice or communication from the Trustees 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.

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17) No term of this Agreement is intended to give any entitlement as against any party to any person who is not a party to this Agreement and no term of this Agreement may be enforced by any person other than a party under the Contracts (Rights of Third Parties) Act 1999.

18) The obligations of the parties are several and for the avoidance of doubt none of the Academy Trust or the Trustees shall be deemed to be liable in respect of the acts or omissions of the other as between these parties and the Secretary of State.

19) For the avoidance of doubt nothing in this Agreement is intended to vary or amend any provision of the Funding Agreement or any obligation arising under it.

This Agreement was executed as a Deed on

~~11/8/11~~ 2010
17/8/11

Executed on behalf of [Academy Trust] by:

[Either

Kevin H...

Director

In the presence of:

Witness *D. Lewis*

Address

Occupation *Secretary*

[Or

.....
Director

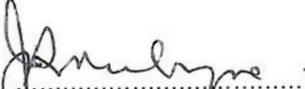
.....]
Director/Secretary

Executed on behalf of [Trustees] by:



DfE 2010-12-16


.....
Authorised Signatory


.....
Authorised Signatory

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


.....
Duly Authorised



Schedule 2
Amended Funding Agreement



Department
for Education

Mainstream academy and free school: single funding agreement

December 2020 v8

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SUMMARY

Information about the Academy:

Name of Academy Trust	The Grammar School of King Edward VI at Stratford upon Avon
Company number	07696173
Name of academy	King Edward VI School
Opening date	17 August 2011
Type of academy (indicate whether academy or free school)	Academy
Religious designation	N/A
Wholly or partly selective	Wholly
Name of predecessor school (where applicable)	King Edward VI School
Capacity (of statutory school age places) (if the Academy has a nursery provision, please provide a	850

breakdown of capacity for nursery pupils and statutory school aged places)	
Age range (including nursery provision where the nursery is part of the school)	11 to 18
Number of sixth form places	400
Number of boarding places	N/A
SEN unit / Resource provision	N/A
Land arrangements (Version 1-8 or other)	Version 3
Address and title number of Land (and Temporary Site)	<p>King Edward VI Grammar School, Church Street, Stratford upon Avon CV37 6HB Title number: WK425711</p> <p>Land on the east side of Manor Road, Stratford upon Avon Title number WK455282</p> <p>Land lying to the north west of Southern Lane, Stratford upon Avon Title number: WK323219</p>
Contact details for the Chair of Board of Charity Trustees	<p>Chair of Trustees Chapel Lane, Stratford-upon-Avon, Warwickshire, CV37 6BE</p>

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

Clause No	Descriptor	Applied	Not used
1.19	Only applies to free schools and new provision academies		X

Clause No	Descriptor	Applied	Not used
2.9A	Clause applies where an academy was previously a VC or foundation school designated with a religious character		X
2.12, 2.13	Only applies where the academy has an SEN unit or Resourced Provision		X
2.21.1	Only applies to Free schools with nursery provision		X
2.23	Only applies where there was a predecessor independent school		X
2.24	Only applies where the academy provides boarding		X
2.26	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies	X	
2.32	Clause applies only to academies and free schools designated with a religious character		X
2.33	Clause applies only to academies that were formerly wholly selective grammar schools	X	
2.34	Clause applies only to academies that were formerly partially selective grammar schools		X
2.35.a	Clause only applies to free schools or academy converter schools where there was a predecessor maintained school	X	
2.39	Clause applies to free schools and new provision academies designated with a religious character		X
2.50	Clause only applies where the academy is designated with a religious character but was not previously a Voluntary Controlled (VC) school or foundation school designated with a religious character (in which case use clause 2.52 instead). Also use 2.50 where an academy was previously a VC school but has gone through a significant change process to adopt VA characteristics in parallel with converting to an academy.		X
2.51	Clause only applies where the academy has not been designated with a religious character	X	

Clause No	Descriptor	Applied	Not used
2.52	Clause only applies where an academy was previously a VC school or foundation school designated with a religious character and should be used instead of clause 2.50. Where an academy was previously a VC school has gone through a significant change process to adopt VA characteristics in parallel with converting to an academy, use clause 2.50 instead.		X
2.52c)	Sub-clause applies if the academy is designated with a denominational religious character – CE etc. rather than ‘Christian’		X
3.16 – 3.21	Option 1 applies to converter and sponsored academies: if used delete option 2	X	
3.16.1	Only applies to Free schools with nursery provision		X
3.16 – 3.21	Option 2 applies to free schools and new provision academies: if used delete option 1		X
3.23	Clause does not apply to academy converters		X
3.33	Clause only applies to full sponsored and intermediate sponsored academies with approved Academy Action Plans		X
3.34	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies	X	
4.5	Clause applies where the academy has 16-19 provision	X	
4.5A	Clause only applies to free schools		X
4.11	Clause to be included where relevant circumstances apply – and only in relation to academy converters		
4.16	Clause only applies where a Start-Up period applies to the academy		X
6.1 – 6.4	Clauses do not apply to free schools and new provision academies	X	

Clause No	Descriptor	Applied	Not used
7.6A	Clause applies only to a boarding academy/free school		X
7.8	Clause only applies to sponsored academies		X
7.15	Clause applies to free schools and may be applied to new provision academies		X
7.16	Clause applies to free schools and may be applied to new provision academies		X
7.17	Clause applies to free schools and may be applied to new provision academies		X
7.18	Clause applies to free schools and may be applied to new provision academies		X
7.19	Clause applies to free schools and may be applied to new provision academies		X
8.12	Clause only applies to schools which are designated with a Church of England or Roman Catholic character		X

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

Descriptor	Clause No.	Applied	Not used

1 ESTABLISHING THE ACADEMY

Introduction to this agreement

- 1.1. This Agreement is between the Secretary of State for Education (the “**Secretary of State**”) and The Grammar School of King Edward VI at Stratford upon Avon (the “**Academy Trust**”), and is an academy agreement as defined by section 1 of the Academies Act 2010.
- 1.2. The Academy Trust is a company limited by guarantee incorporated in England and Wales with company number 07696173. The Academy Trust is a charity and its directors are the Charity Trustees of the Academy Trust.
- 1.3. In order for the Academy Trust to establish and run an independent school in England, according to the provisions of the Academies Act 2010, to be known as King Edward VI School (the “**Academy**”), and in order for the Secretary of State to make payments to the Academy Trust, the Academy Trust must meet the requirements in this Agreement.
- 1.4. In this Agreement these capitalised words and expressions will have the following meanings:

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

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

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

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

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

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

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

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

“**ESFA**” means the Education and Skills Funding Agency.

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

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

“**LA**” means a local authority.

“**Parents**” means parents¹ or guardians.

“**Predecessor School**” means the school which the Academy has replaced, where applicable.

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

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

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

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

¹ Parent has the meaning set out in section 576 of the Education Act 1996

“SEN” means special educational needs and has the meaning set out in sections 20(1) of the Children and Families Act 2014.

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

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

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

- 1.5. The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament.
- 1.6. A reference in this Agreement to any party or body includes its successors.
- 1.7. Any words following the terms ‘include’, ‘including’ or ‘in particular’ are by way of illustration, not limitation.
- 1.8. A reference in this Agreement to land includes any buildings or structures on the land.
- 1.9. References to this Agreement include any and all annexes.
- 1.10. Where any legislation, legal requirement or published guidance is referred to, unless otherwise stated, the following terms should be interpreted as follows:
 - a) the “school” refers to the Academy;
 - b) the “head teacher” may refer to the Academy’s head teacher or principal;
 - c) the Academy Trust will be deemed to be the “responsible authorities”;
and
 - d) references to registered pupils will be treated as references to registered pupils at the Academy.

- 1.11. References in this Agreement to any named legislation, legal requirement or published guidance, should be taken to include any amendment to or replacement of it.
- 1.12. If any questions arise about how this Agreement should be interpreted, the answer will be decided by the Secretary of State, after discussion with the Academy Trust.

General Obligations of the Academy Trust

- 1.13. The Academy Trust must ensure that the Academy meets the requirements in section 1A of the Academies Act 2010.
- 1.14. To the extent that it is compatible with the Academy Trust fulfilling its charitable purpose of advancing education in the United Kingdom for the public benefit, the Academy Trust must ensure that the Academy is at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community.
- 1.15. The Academy Trust must conduct the Academy within the terms and requirements of:
- a) the Articles;
 - b) any legislation or legal requirement that applies to academies, including the Independent School Standards and legislation about meeting the needs of pupils with SEN and disabilities;
 - c) the Academies Financial Handbook, as stated in clauses 4.6–4.8; and
 - d) this Agreement.
- 1.16. The Academy Trust must, as soon as is reasonable, establish an appropriate mechanism for receiving and managing donations for the purpose of its aims as specified in the Articles.
- 1.17. The Academy Trust must obtain the Secretary of State's consent before applying for the Academy to be designated as a school with religious

character. The Secretary of State may at his discretion refuse or consent to the Academy Trust making such an application.

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

1.19. Not used.

1.20. The Academy Trust is not required to publish information under this Agreement if to do so would breach its obligations under data protection legislation.

Academy opening date

1.21. The Academy Trust opened the Academy on 17 August 2011.

Governance

1.22. The Academy will be governed by a board comprising the Charity Trustees of the Academy Trust (the “**Board of Charity Trustees**”).

1.23. The Board of Charity Trustees must have regard to any Guidance on the governance of Academy Trusts.

1.24. The Academy Trust must provide to the Secretary of State the names of all new or replacement members of the Academy Trust, stating the date of their appointment and, where applicable, the name of the member they replaced as soon as is practicable and in any event within 14 days of their appointment.

1.25. The Academy Trust must not appoint any new or replacement members until it has first informed them, and they have agreed, that their names will be shared with the Secretary of State to enable him to assess their suitability.

1.26. The Academy Trust must not amend or remove the provisions in its Articles relating to the appointment or election or the resignation or removal of Charity

Trustees or members (“the Governance Articles”) without the Secretary of State’s consent.

1.27. Before any change to the Governance Articles is proposed the Academy Trust must give notice to the Secretary of State of:-

- a) the proposed amendment or removal; and
- b) the reason for it.

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

2. **RUNNING OF THE ACADEMY**

Length of school day and year

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

Teachers and staff

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

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

2.4. Subject to clause 2.5 and section 67 of the Children and Families Act 2014, the Academy Trust may, in accordance with any relevant Guidance, employ anyone it believes is suitably qualified or is otherwise eligible to plan and prepare lessons and courses for pupils, teach pupils, and assess and report on pupils’ development, progress and attainment.

- 2.5. The Academy Trust must designate a staff member at the Academy as responsible for promoting the educational achievement of registered pupils at the Academy who are being looked after by a LA, or are no longer looked after by a LA because of an adoption, special guardianship or child arrangements order, or because they have been adopted from 'state care' outside England and Wales, and in doing so must comply with the law, regulations and Guidance that apply to maintained schools. The Academy Trust must ensure the designated person undertakes appropriate training and has regard to any Guidance.
- 2.6. Teachers' pay and conditions of service are the responsibility of the Academy Trust.
- 2.7. The Academy Trust has a statutory duty to ensure that all Teaching Staff employed at the Academy have access to the Teachers' Pension Scheme (TPS) and, in so doing, must comply with the TPS Regulations. That includes ensuring that only staff who predominantly carry out teaching work are enrolled in the TPS – teaching work is planning and preparing lessons and courses for pupils; delivering lessons to pupils; assessing the development, progress and attainment of pupils; and reporting on the development, progress and attainment of pupils. The Board of Charity Trustees will need to give careful consideration as to whether or not executive leaders meet the TPS eligibility requirements. Details of the full range of employer duties are on the [TP Employer Hub](#) .
- 2.7.1.a. Access to the TPS must also be in accordance with HM Treasury's published [Fair Deal guidance](#) which sets out how pensions' issues are to be dealt with when Teaching Staff are compulsorily transferred from the public sector to independent providers. The Academy Trust has a crucial role in the successful administration of the TPS and must comply with the requirements of the scheme administrator to provide accurate and timely information and also to provide pension contributions.
- 2.8. The Academy Trust must ensure that all affected staff employed by the Academy Trust other than teachers have access to the Local Government Pension Scheme and, in doing so, the Academy Trust must comply with the

requirements of the scheme and with Fair Deal for staff pensions guidance published by HM Treasury. These requirements do not apply if an individual chooses to opt out in line with the relevant legal provisions.

2.9. Where a member of the Teaching Staff employed at the Academy applies for a teaching post at another Academy, a maintained school, or a further education institution, the Academy Trust must at the request of the board of governors or Academy Trust of that other educational institution:

- a) advise in writing whether or not, in the previous two years, there have been any formal capability considerations or proceedings for that teacher at the Academy or the Predecessor School;
- b) give written details of the concerns which gave rise to any such consideration of that teacher's capability, the duration of the proceedings and their outcome.

2.9A Not used.

Pupils

2.10. The planned capacity of the Academy is 850 and the age range is 11 to 18, including a sixth form of 400 places. For the avoidance of doubt, notwithstanding that an individual applicant's age might be outside the specified age range of the Academy, the Academy is not prevented from considering an application made by the child's Parent(s) in order to comply with the relevant paragraph of the Schools Admissions Code ('Admission of children outside their normal age group'), to request that the child be admitted to the school outside of the child's normal age group. Where such a request is agreed, the child should be educated in an existing year group. The Academy will be a wholly selective single sex school.

2.11. The Academy Trust must ensure that the Academy meets the needs of individual pupils, including pupils with SEN and disabilities.

SEN unit or Resourced Provision

2.12. Not used.

2.13. Not used.

School meals

2.14. The Academy Trust must provide school lunches and free school lunches in accordance with the provisions of sections 512(3) and 512ZB(1) of the Education Act 1996 as if references in sections 512 and 512ZB to a LA were to the Academy Trust and as if references to a school maintained by the LA were to the Academy.

2.15. The Academy Trust must comply with school food standards legislation as if it were a maintained school.

2.16. Where the Academy Trust provides milk to pupils, it must be provided free of charge to pupils who would be eligible for free milk if they were pupils at a maintained school.

Pupil Premium

2.17. For each Academy Financial Year the Academy Trust must publish, on the Academy's website, information about:

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

2.18. For each Academy Financial Year the Academy Trust must, where applicable, publish, on the Academy's website, information about:

- a) the amount of year 7 literacy and numeracy catch-up premium grant that it will receive during the Academy Financial Year;

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

Charging

- 2.19. The Academy Trust must comply with sections 402, 450-457 and 459-462 of the Education Act 1996 with regard to public examinations, charging, providing information, inviting voluntary contributions and recovering civil debts, as if the Academy were a maintained school.
- 2.20. There must be no charge for admission to or attendance at the Academy and the Academy will only charge pupils where the law allows maintained schools to charge.
- 2.21. Clause 2.20 does not prevent the Academy Trust receiving funds from a LA or a charity in respect of the admission and attendance of a pupil with SEN to the Academy.
 - 2.21.1.a. Not used.
- 2.22. Notwithstanding clause 2.20, the Academy Trust may charge people who are not registered pupils at the Academy for education provided or use of facilities.
- 2.23. Not used.
- 2.24. Not used.

Admissions

- 2.25. Subject to clauses 2.31 and 2.32 the Academy Trust will act in accordance with, and will ensure that its Independent Appeal Panel is trained to act in accordance with, the School Admissions Code and School Admission Appeals

Code published by the Department for Education (the “Codes”) and all relevant admissions law as they apply to foundation and voluntary aided schools, and with equalities law. Reference in the Codes or legislation to “admission authorities” will be deemed to be references to the Academy Trust.

2.26. Pupils on roll in a Predecessor School which was a maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at that Predecessor School must be admitted to the Academy.

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

2.28. Not used.

2.29. Not used.

2.30. Not used.

2.31. The Secretary of State may:

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

- 2.32. Not used.
- 2.33. Where the Academy is a former maintained grammar school designated as such under section 104 of the School Standards and Framework Act 1998 and the Education (Grammar School Designation) Order 1998, then it may continue to select its intake by reference to ability. Annex B sets out the procedures for removing selective arrangements.
- 2.34. Not used.
- 2.35. The Academy Trust must make arrangements to ensure an independent appeals panel is established for the Academy and its clerk and members are trained to act in accordance with the Codes. The Academy Trust must ensure that Parents and ‘relevant children’ (as described in the Codes) are informed of their right to appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Academy Trust. The arrangements for appeals must comply with the Codes as they apply to foundation and voluntary aided schools. The determination of the Independent Appeal Panel is binding on all parties.
- 2.35.1.a. The Academy Trust will treat any decision of an Independent Appeal Panel constituted further to arrangements made by the admission authority of a Predecessor School under section 94 of the School Standards and Framework Act 1998 as binding on the Academy Trust, as though the Academy Trust had made the decision subject to the appeal
- 2.36. Subject to clause 2.37, the meaning of “**relevant area**” for the purposes of consultation requirements in relation to admission arrangements is that determined by the relevant LA for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.
- 2.37. If the Academy does not consider the relevant area determined by the LA for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August before the academic year in question for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consult the Academy

Trust and the LA in whose area the Academy is situated in reaching a decision.

2.38. The Office of the Schools Adjudicator (“OSA”) will consider objections to the Academy’s admission arrangements (except objections against any agreed derogations from the provisions of the Codes specified in this funding agreement, over which it has no jurisdiction). The Academy Trust must therefore make it clear, when determining the Academy’s admission arrangements, that objections should be submitted to the OSA. The OSA’s determination of an objection is binding on the Academy and the Academy Trust must make appropriate changes to its admission arrangements to give effect to the Adjudicator’s decision within two months of the decision (or by 28 February following the decision, whichever is sooner), unless an alternative timescale is specified by the Adjudicator.

2.39. Not used.

Exclusions

2.40. If asked to by a LA, the Academy Trust must enter into an agreement with that LA that has the effect that where:

- a) the Academy admits a pupil who has been permanently excluded from a maintained school, the Academy itself or another Academy with which the LA has a similar agreement; or
- b) the Academy Trust permanently excludes a pupil from the Academy;

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

Curriculum

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

2.42. The Academy Trust must ensure that the curriculum provided to pupils up to the age of 16 is balanced and broadly based, and includes English,

mathematics, science and (subject to the provisions in clause 2.49) religious education.

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

- a) the content of the curriculum;
- b) its approach to the curriculum;
- c) where applicable, the names of any phonics or reading schemes in operation for Key Stage 1;
- d) where applicable, the GCSE options and other Key Stage 4 qualifications, or other future qualifications specified by the Secretary of State, offered by the Academy; and
- e) how Parents (including Parents of prospective pupils) can obtain more information about the Academy's curriculum.

2.44. The Academy Trust must not allow any view or theory to be taught as evidence-based if it is contrary to established scientific or historical evidence and explanations. This clause applies to all subjects taught at the Academy.

2.45. The Academy Trust must provide for the teaching of evolution as a comprehensive, coherent and extensively evidenced theory.

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

2.47. The Academy Trust must ensure the Academy actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.

2.47A The Academy Trust must ensure the Academy promotes principles that support equality of opportunity for all.

- 2.48. The Academy Trust must provide for the teaching of religious education and a daily act of collective worship at the Academy.
- 2.49. The Academy Trust must comply with section 71(1)-(6) and (8) of the School Standards and Framework Act 1998 as if the Academy were a community, foundation or voluntary school, and as if references to “religious education” and “religious worship” in that section were references to the religious education and religious worship provided by the Academy in accordance with clause 2.51.
- 2.50. Not used.
- 2.51. Subject to clause 2.49, where the Academy **has not been designated with a religious character** (in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010):
- a) provision must be made for religious education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998;
 - b) the Academy must comply with section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a community school or foundation school without a religious character, except that paragraph 4 of that Schedule does not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule.
- 2.52. Not used.
- 2.53. The Academy Trust must comply with paragraph 2A of the Schedule to The Education (Independent School Standards) Regulations 2014 in relation to the provision of Relationships Education, Relationships and Sex Education and Health Education.

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

- a) Provide independent careers guidance in accordance with Department for Education statutory guidance that has been developed in line with the eight Gatsby benchmarks of Good Career Guidance.
- b) Ensure that there is an opportunity for a range of education and training providers to access registered pupils in years 8-13 for the purpose of informing them about approved technical education qualifications or apprenticeships.
- c) Publish information about their careers programme and details of their named careers leader in accordance with the School Information (England) Regulations and the accompanying Department for Education guidance, "What academies, free schools and colleges should publish online.

Assessment

2.55. The Academy Trust must:

- a) ensure that pupils are entered for examinations in line with the requirements on maintained schools in section 402 of the Education Act 1996;
- b) comply with the relevant Guidance, as it applies to maintained schools, to ensure that pupils at the Academy take part in assessments, and in teacher assessments of pupils' performance;
- c) report on assessments as the Secretary of State requires, or provide any information on assessments, on the same basis that maintained schools are required to provide the information;
- d) for all Key Stages, allow monitoring and moderation of the Academy's assessment arrangements as required by the Secretary of State.

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

2.57. Unless informed by the Secretary of State that alternative information must be published, the Academy Trust must ensure that the following information is published on the Academy's website:

- a) where applicable, the Academy's most recent Key Stage 2 performance measures as published by the Secretary of State in the School and College Performance Tables, broken down as follows:
 - i. progress score in reading
 - ii. progress score in writing
 - iii. progress score in mathematics
 - iv. percentage of pupils who achieved the expected standard in reading, writing and mathematics
 - v. percentage of pupils who achieved at a higher standard in reading, writing and mathematics
 - vi. average 'scaled score' in reading
 - vii. average 'scaled score' in mathematics

- b) where applicable, the Academy's most recent Key Stage 4 performance measures as published by the Secretary of State in the School and College Performance Tables, broken down as follows:
 - i. Progress 8 score
 - ii. percentage of pupils entering the English Baccalaureate (EBacc)
 - iii. English Baccalaureate (EBacc) Average Point Score (APS)

- iv. Attainment 8 score
 - v. percentage of pupils achieving grade 5 or above in GCSE English and mathematics
 - vi. percentage of pupils staying in education or going into employment after Key Stage 4 (pupil destinations)
- c) where applicable, the Academy's most recent 16-18 performance measures, as published by the Secretary of State in the School and College Performance Tables, broken down as follows:
- i. progress
 - ii. attainment
 - iii. English and mathematics progress
 - iv. retention
 - v. destinations
- d) information about where and how Parents (including Parents of prospective pupils) can access the most recent report about the Academy published by the Chief Inspector; and
- e) information about where and how Parents (including Parents of prospective pupils) can access the School and College Performance Tables published by the Secretary of State.

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

3. **GRANT FUNDING**

Recurrent Expenditure grants

3.1. The Secretary of State will pay grants towards Recurrent Expenditure and may pay grants towards Capital Expenditure for the Academy.

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

Capital Grant

- 3.5. The Secretary of State may pay a grant (**“Capital Grant”**) to the Academy Trust for the purpose of spending on items of Capital Expenditure.
- 3.6. **“Capital Expenditure”** means expenditure on:
 - a) acquiring land and buildings;
 - b) erecting, enlarging, improving or demolishing any building including any fixed plant, installation, wall, fence or other structure, or any playground or hard standing;
 - c) installing electrical, mechanical or other services other than necessary repairs and maintenance due to normal wear and tear;
 - d) buying vehicles;
 - e) installing and equipping premises with furnishings and equipment, other than necessary repairs and maintenance due to normal wear and tear;
 - f) installing and equipping premises with computers, networking for computers, operating software and ICT equipment, other than necessary updates or repairs and maintenance due to normal wear and tear;

- g) providing and equipping premises, including playing fields and other facilities for social activities and physical recreation other than necessary repairs and maintenance due to normal wear and tear;
- h) works of a permanent character other than the purchase or replacement of minor day-to-day items;
- i) any major repairs or replacements which are specified as capital expenditure in any grant letter relating to them;
- j) such other items (whether like or unlike any of the foregoing) of a substantial or enduring nature which the Secretary of State agrees are capital expenditure for the purposes of this Agreement;
- k) professional fees properly and reasonably incurred in connection with the provision of any of the above; and
- l) VAT and other taxes payable on any of the above.

3.7. Any Capital Grant funding that may be made available to the Academy Trust will be notified to it by the Secretary of State.

3.8. The Academy Trust must spend Capital Grant only on items of Capital Expenditure approved by the Secretary of State and in accordance with conditions specified by the Secretary of State. Further, the Academy Trust must provide evidence that it has obtained all planning and other consents required for any proposed building and infrastructure development to be funded using Capital Grant.

3.9. In order to receive payments of Capital Grant, the Academy Trust must provide supporting invoices and certificates in the format specified by the Secretary of State.

3.10. The Academy Trust must provide an account of Capital Grant received, and associated spending on Capital Expenditure using Capital Grant, in the Academy Trust's financial statements and any other financial reports or returns that the Secretary of State may require.

3.11. If in its use of Capital Grant the Academy Trust does not comply with this Agreement or any of the conditions specified by the Secretary of State, or the project does not accord with the original specification or has not been completed, the Secretary of State may at his discretion not make any further payments of Capital Grant and require the Academy Trust to repay all or part of the Capital Grant.

General Annual Grant (GAG)

3.12. The Secretary of State will pay GAG to the Academy Trust to cover the Academy's normal running costs or capital expenditure, including:

- a) teachers' salaries and related costs (including pension contributions, full- and part-time Teaching Staff and payments in respect of seconded teachers);
- b) non-teaching staff salaries and related costs (including pension contributions);
- c) employees' expenses;
- d) buying, maintaining, repairing and replacing teaching and learning materials and other educational equipment, including books and stationery;
- e) buying, maintaining, repairing and replacing other assets including ICT equipment and software, sports equipment and laboratory equipment and materials;
- f) examination fees;
- g) repairs, servicing and maintenance of buildings (including redecoration, heating, plumbing and lighting); maintenance of grounds (including boundary fences and walls); insurance; cleaning materials and contract cleaning; water and sewerage; fuel and light (including electricity and gas); rents; rates; purchase, maintenance, repairs and replacement of furniture and fittings;
- h) medical equipment and supplies;

- i) staff development (including in-service training);
- j) curriculum development;
- k) the costs of providing school meals for pupils (including the cost of providing free school lunches to pupils who are eligible to receive them), and any discretionary grants to pupils to meet the cost of pupil support, including support for pupils with SEN and disabilities;
- l) administration; and
- m) establishment expenses and other institutional costs.

3.13. GAG for each Academy Financial Year for the Academy will include:

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

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

3.15. In particular, the Academy Trust must not use GAG for:

- a) education and training for adults who are not pupils of the Academy, other than staff professional development and governance training and development;

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

Calculation of GAG

3.16 – 3.19. Not used.

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

3.21. For Academy Financial Years after that referred to in clause 3.20, the basis of the pupil count for determining GAG will be:

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

3.22. The Secretary of State may, at his discretion, adjust the basis of the pupil count to take account of any diseconomies of scale which may affect the Academy if it is operating below the planned capacity in clause 2.10. If such an adjustment is made in any Academy Financial Year, this will not change the basis of the pupil count for calculating the following Academy Financial Year's GAG. If the Secretary of State has indicated that additional grant may be payable in such circumstances, the Academy Trust will bid for this additional grant based on need and providing appropriate supporting

evidence. The Secretary of State may accept or refuse the bid at his discretion.

3.23. Not used.

3.24. The Secretary of State recognises that if a Termination Notice or a Termination Warning Notice is served, the intake of new pupils during the notice period may decline and therefore payments based on the number of pupils attending the Academy may be insufficient to meet the Academy's needs. In these circumstances the Secretary of State may pay a larger GAG in the notice period, to enable the Academy to operate effectively.

Earmarked Annual Grant (EAG)

3.25. The Secretary of State may pay EAG to the Academy Trust for specific purposes, agreed between the Secretary of State and the Academy Trust, and described in the relevant funding letter. The Academy Trust must spend EAG only in accordance with that letter.

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

Arrangements for paying GAG and EAG

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

3.28. The amount of GAG for an Academy Financial Year will be decided annually by the Secretary of State, and notified to the Academy Trust in a funding letter sent before the relevant Academy Financial Year begins (the "**Annual Letter of Funding**").

3.29. Amounts of EAG will be notified to the Academy Trust wherever possible in the Annual Letter of Funding or as soon as is practicable afterwards.

- 3.30. The Annual Letter of Funding will, as well as stating the grant amounts, set out how they have been calculated. It will not include grants which cannot be calculated in time because there is not enough information, or for other administrative reasons. Any such grants will be notified as soon as practicable.
- 3.31. The Secretary of State will pay GAG in monthly instalments on or before the first day of each month (“the relevant month”), to fund the salaries and other payroll costs of all monthly paid employees and all other costs payable during the relevant month. The detailed arrangements for payment will be set out in the Annual Letter of Funding, or an equivalent.
- 3.32. If GAG or EAG is miscalculated:
- a) because of a mistake by the Secretary of State, which leads to an underpayment to the Academy Trust, the Secretary of State will correct the underpayment in the same or subsequent Academy Financial Years;
 - b) because the Academy Trust provided incorrect information, which leads to an underpayment to the Academy Trust, the Secretary of State may correct the underpayment in the same or subsequent Academy Financial Years;
 - c) for any reason which results in an overpayment to the Academy Trust, the Secretary of State may recover any overpaid grant in the same or subsequent Academy Financial Years, having considered all the relevant circumstances and taking into account any representations from the Academy Trust.

Other relevant funding

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

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

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

4. **FINANCIAL AND ACCOUNTING REQUIREMENTS**

General

- 4.1. In order for the Secretary of State to provide grant funding to the Academy Trust, the Academy Trust must be fulfilling the financial and reporting requirements in this Agreement.
- 4.2. In its conduct and operation, the Academy Trust must apply financial and other controls which meet the requirements of regularity, propriety and value for money.
- 4.3. The Academy Trust must appoint an accounting officer and must notify the Secretary of State of that appointment. The Academy Trust must assign to the accounting officer the responsibilities of the role set out in the Academies Financial Handbook and HM Treasury's publication 'Managing Public Money'.
- 4.4. The Academy Trust must abide by the obligations of, and have regard to the guidance for, charities and charity trustees issued by the Charity Commission and, in particular, the Charity Commission's guidance on 'Protecting Charities from Harm'. Any references in this document which require charity trustees to report to the Charity Commission should instead be interpreted as reporting to the body or person prescribed as the principal regulator under the Charities Act 2011.
- 4.5. The Academy Trust must comply with the 16 -19 Funding Guidance published by the Secretary of State, in respect of its provision for pupils above compulsory school age until the academic year in which they reach the age of 19.

4.5A Not used.

Application of the Academies Financial Handbook

- 4.6. In relation to the use of grant paid to the Academy Trust by the Secretary of State, the Academy Trust must follow the requirements of, and have regard to the guidance in, the Academies Financial Handbook.
- 4.7. The Academy Trust must have adequate insurance cover or opt into the Department for Education's arrangements as set out in the Academies Financial Handbook.
- 4.8. The Academy Trust must submit information about its finances to the Secretary of State in accordance with the Academies Financial Handbook, or as otherwise specified by the Secretary of State.

Budgeting for funds

- 4.9. The Academy Trust must balance its budget from each Academy Financial Year to the next. For the avoidance of doubt, this does not prevent the Academy Trust from:
- a) subject to clause 4.14, carrying a surplus from one Academy Financial Year to the next; or
 - b) carrying forward from previous Academy Financial Years sufficient cumulative surpluses on grants from the Secretary of State to meet an in-year deficit on such grants in a subsequent financial year, in accordance with clauses 4.14-4.17; or
 - c) incurring an in-year deficit on funds from sources other than grants from the Secretary of State in any Academy Financial Year, provided it does not affect the Academy Trust's responsibility to ensure that the Academy balances its overall budget from each Academy Financial Year to the next.
- 4.10. The Academy Trust may spend or accumulate funds from private sources or public sources, other than grants from the Secretary of State. Any surplus

from private or public sources other than grants from the Secretary of State must be separately identified in the Academy Trust's accounts.

4.11. Not used.

4.12. The Academy Trust's budget must be approved for each Academy Financial Year by the Board of Charity Trustees.

4.13. The approved budget must be submitted to the Secretary of State in a form, and by a date, to be notified by the Secretary of State.

Carrying forward of funds

4.14. At the end of any Academy Financial Year the Academy Trust may carry forward unspent GAG from previous Academy Financial Years without limit (unless a limit is specified in the Academies Financial Handbook, or otherwise specified in writing by the Secretary of State, in which case that limit will apply).

4.15. The Academy Trust must use any GAG carried forward only for the purposes of GAG as set out in this Agreement, or otherwise as specified in the Academies Financial Handbook or in writing by the Secretary of State.

4.16. Not used.

4.17. Any additional grant made in accordance with clause 3.24, for a period after the Secretary of State has served a Termination Notice or a Termination Warning Notice, may be carried forward without limitation or deduction until the circumstances set out in clause 3.24 cease to apply, or the Academy closes.

4.18. Any unspent grant not allowed to be carried forward under clauses 4.14-4.17 may be taken into account in the payment of subsequent grant.

Annual accounts and audit

- 4.19. The Academy Trust must prepare and file with Companies House the annual reports and accounts required by the Companies Act 2006.
- 4.20. In addition, the Academy Trust must prepare its annual reports and accounts for each Academy Financial Year:
- a) in accordance with the Charity Commission's 'Accounting and Reporting by Charities: Statement of Recommended Practice', as if the Academy Trust were a registered charity; and
 - b) additionally as the Secretary of State directs.
- 4.21. The Academy Trust's accounts must be audited annually by independent auditors appointed in line with the Academies Financial Handbook.
- 4.22. The accounts must carry an audit report stating whether, in the auditors' opinion, the accounts show a true and fair view of the Academy Trust's affairs. The accounts must also be accompanied by such other audit reports, relating to the use of grants and other matters, as the Secretary of State directs.
- 4.23. The Academy Trust's annual report must include the names of all members of the Academy Trust who served during the year.
- 4.24. The Academy Trust's annual reports and accounts, and the auditor's reports, must be submitted to the Secretary of State by 31 December each Academy Financial Year, or as otherwise specified by the Secretary of State.
- 4.25. The Academy Trust must publish on its website its annual reports and accounts, current memorandum of association, Articles and Funding Agreement and the names of its Charity Trustees and members. The Secretary of State may also publish the Academy Trust's annual reports and accounts, and the audit report, as he sees fit.

Keeping financial records

- 4.26. The Academy Trust must keep proper accounting records. Statements of income and expenditure, statements of cash flow and balance sheets must be

produced in such form and frequency as the Secretary of State directs.

Access to financial records

4.27. The books of accounts and all relevant records, files and reports of the Academy Trust, including those relating to financial controls, must be open at all reasonable times to officials of the Department for Education and the National Audit Office, and to their agents and contractors, for inspection or carrying out value for money assessments. The Academy Trust must give those officials and contractors reasonable assistance with their enquiries. For the purposes of this clause 'relevant' means in any way relevant to the provision and use of grants provided by the Secretary of State under this Agreement.

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

Acquiring and disposing of Publicly Funded Assets

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

- a) acquire or dispose of freehold land;
- b) take up or grant a lease of land;
- c) dispose of any other class of capital asset,

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

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

Retaining proceeds from the disposal of capital assets

- 4.31. Except as permitted in the Academies Financial Handbook, if the Academy Trust sells capital assets which were acquired or enhanced wholly or partly using payments made by or on behalf of HM Government, the Academy Trust must pay to the Secretary of State, at his request, an amount of the sale proceeds equivalent to the proportion of the original cost of the acquisition or enhancement which was met by or on behalf of HM Government.
- 4.32. If the Academy Trust sells a capital asset which was transferred to it for no or nominal consideration from a LA, the Predecessor School or the Predecessor School's foundation, the Academy Trust must, if required by the Secretary of State, pay all or part of the sale proceeds to the LA or to the Secretary of State, taking into account the amount of the proceeds to be reinvested by the Academy Trust.

Transactions outside the usual planned range

- 4.33. In relation to Publicly Funded Assets, the Academy Trust must not, without the Secretary of State's consent:
- a) give any guarantees, indemnities or letters of comfort, except such as are given in normal contractual relations; or
 - b) write off any debts or liabilities owed to it; or
 - c) offer to make any special payments as defined in HM Treasury's publication 'Managing Public Money' (including ex gratia payments, staff severance payments and compensation payments)
- if the value of those transactions would be above any threshold specified in the Academies Financial Handbook.
- 4.34. The Academy Trust must give the Secretary of State 30 days' notice (or such shorter period as the Secretary of State may agree) of its intention to take any of the actions in clause 4.33 (a) – (c) regardless of whether the Secretary of State's consent is required.

4.35. The Academy Trust must promptly notify the Secretary of State of any loss arising from suspected theft or fraud in line with the requirements in the Academies Financial Handbook, or otherwise specified by the Secretary of State.

Borrowing

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

5. LAND CLAUSES

The parties' rights and obligations in respect of the Land are set out in the supplemental agreement dated 17 August 2011 and made between (1) the Secretary of State and (2) The Trustees of King Edward VI School at Stratford upon Avon. For the purposes of this clause, the Land has the meaning given in the supplemental agreement.

6. COMPLAINTS

- 6.1. If a complaint is made about matters arising wholly or partly before the Academy opened, and all or part of that complaint was investigated by the Local Government Ombudsman under Part III of the Local Government Act 1974 ("**Part III**"), or could have been investigated under Part III if the Predecessor School had remained a maintained school, the Academy Trust:
- a) must abide by the provisions of Part III as if the Academy were a maintained school;
 - b) agrees that the Secretary of State will have the power to investigate the subject of the complaint as if it had taken place after the Academy opened; and
 - c) must act in accordance with any recommendation from the Secretary of State as if that recommendation had been made under Part III and the Academy were a maintained school.

- 6.2. If the Secretary of State could have given an order or a direction under sections 496 or 497 of the Education Act 1996 to the governing body of the Predecessor School relating to matters occurring within the 12 months immediately before the Academy opened, the Academy Trust:
- a) agrees that the Secretary of State may give orders or directions to the Academy Trust as though the Academy were a maintained school and sections 496 and 497 applied to the governing body of that maintained school; and
 - b) must act in accordance with any such order or direction from the Secretary of State.
- 6.3. If a complaint made to the governing body of the Predecessor School has not been fully investigated when the Academy opens, the Academy Trust must continue to investigate that complaint in accordance with the complaints procedures established by that governing body.
- 6.4. If a complaint is made to the Academy Trust about matters arising wholly or partly during the 12 months before the Academy opened, the Academy Trust agrees to investigate that complaint as if the matter complained of had taken place after the Academy opened.

7. TERMINATION

Termination by either party

- 7.1. Either party may give at least seven Academy Financial Years' notice to terminate this Agreement. Such termination would take effect on 31 August of the relevant year.

Termination Warning Notice

- 7.2. The Secretary of State may serve a Termination Warning Notice where he considers that:
- a) the Academy Trust has breached the provisions of this Agreement; or

- b) the standards of performance of pupils at the Academy are unacceptably low; or
- c) there has been a serious breakdown in the way the Academy is managed or governed; or
- d) the safety of pupils or staff is threatened, including by a breakdown of discipline; or
- e) the Academy is Coasting provided he has notified the Academy Trust that it is Coasting.

7.3. A Termination Warning Notice served under clause 7.2 will specify:

- a) the action the Academy Trust must take;
- b) the date by which the action must be completed; and
- c) the date by which the Academy Trust must make any representations, or confirm that it agrees to undertake the specified action.

7.4. The Secretary of State will consider any representations from the Academy Trust which he receives by the date specified in the Termination Warning Notice. The Secretary of State may amend the Termination Warning Notice to specify further action which the Academy Trust must take, and the date by which it must be completed.

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

Termination by the Secretary of State after inspection

7.6. If the Chief Inspector gives notice to the Academy Trust that:

- a) special measures are required to be taken in relation to the Academy;
- or

b) the Academy requires significant improvement,

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

7.6A Not used.

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

a) has not received any representations from the Academy Trust by the date specified in the notice; or

b) having considered the representations made by the Academy Trust remains satisfied that this Agreement should be terminated,

he may serve a Termination Notice.

7.8. Not used.

Termination by the Secretary of State

7.9. If the Secretary of State has determined that the Academy will be removed from the Register of Independent Schools and no appeal against the determination is pending, he may serve a Termination Notice.

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

a) the Academy Trust calls a formal or informal meeting of its creditors or enters into any formal or informal composition or arrangement with its creditors; or

b) the Academy Trust proposes a voluntary arrangement within section 1 of the Insolvency Act 1986; or

c) the Academy Trust cannot pay its debts within the meaning of section 123 of the Insolvency Act 1986 with, for the purposes of this clause, section 123 (1)(a) of this Act having an effect as if £10,000 were

substituted for £750. The Academy Trust will not be considered unable to pay its debts for the purposes of this clause if it is contesting any such demand in good faith; or

- d) the Academy Trust has a receiver and manager (except those appointed by the Charity Commission under the Charities Act 2011), administrator or administrative receiver appointed over all or part of its undertakings, assets or income; or
- e) any distraint, execution or other process is levied or enforced on any of the Academy Trust's property and is not paid out, withdrawn or discharged within 15 Business Days; or
- f) the Academy Trust has passed a resolution for its winding up; or
- g) an order is made for the winding up or administration of the Academy Trust.

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

7.12. If

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

the Secretary of State may:

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

7.13. For the purposes of clause 7.12 a Charity Trustee or member of the Academy Trust will be “unsuitable” if that Charity Trustee or member:

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

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

7.14. For the purposes of clause 7.13:

- a) a Charity Trustee or member of the Academy Trust will be subject to a “relevant finding” in respect of an offence if:
 - i. that Charity Trustee or member has been found not guilty of the offence by reason of insanity;
 - ii. that Charity Trustee or member has been found to be under a disability and to have done the act charged against them in respect of the offence; or
 - iii. a court outside the United Kingdom has made a finding equivalent to that described in paragraphs (i) and (ii) above.
- b) “relevant conduct” is conduct by a Charity Trustee or member of the Academy Trust which is:
 - i. aimed at undermining the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or
 - ii. found to be in breach of professional standards by a professional body; or

- iii. so inappropriate that, in the opinion of the Secretary of State, it makes that Charity Trustee or member unsuitable to take part in the management of the Academy.

7.15. Not used.

7.16. Not used.

7.17. Not used.

7.18. Not used.

7.19. Not used.

Change of Control

7.20. The Secretary of State may at any time, subject to clause 7.21, serve a Termination Notice if there is a change:

- a) in the Control of the Academy Trust; or
- b) in the Control of a legal entity that Controls the Academy Trust.

7.21. Where a person ('P') is a member or director of a body corporate (as a corporation sole or otherwise) by virtue of an office, no change of Control arises merely by P's successor becoming a member or director in P's place.

7.22. The Academy Trust must promptly notify the Secretary of State if there is a proposed or actual change of Control of the Academy Trust, or of a legal entity that Controls the Academy Trust.

7.23. When notifying the Secretary of State under clause 7.22, the Academy Trust must seek his agreement that, if he is satisfied with the change of Control, he will not exercise his right to terminate this Agreement under clause 7.20.

Funding and admission during notice period

7.24. If the Secretary of State serves a Termination Notice under clause 7.1, the Academy Trust may continue during the notice period to admit pupils to the Academy, and to receive GAG and EAG, in accordance with this Agreement.

7.25. If the Secretary of State serves a Termination Warning Notice or a Termination Notice otherwise than under clause 7.1, the Academy Trust may continue during the notice period to admit pupils to the Academy (unless the Secretary of State specifies otherwise), and to receive GAG and EAG, in accordance with this Agreement.

Effect of Termination

7.26. If this Agreement is terminated, the Academy will cease to be an Academy within the meaning of sections 1 and 1A of the Academies Act 2010.

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

7.28. The amount of any such indemnity or compensation will be determined by the Secretary of State, having regard to representations made to him by the Academy Trust, and will be paid as and when the Secretary of State considers appropriate.

7.29. The categories of expenditure incurred by the Academy Trust in consequence of termination, for which the Secretary of State may indemnify the Academy Trust under clauses 7.27, may include:

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

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

- a) transfer a proportion of those capital assets, equal to the proportion of the original financial contribution made by HM Government, to a nominee of the Secretary of State to use for educational purposes; or
- b) if the Secretary of State directs that a transfer under clause 7.30(a) is not required, pay to the Secretary of State at the termination date (or, by agreement with the Secretary of State, at the date of their subsequent disposal) a sum equivalent to the proportion of the original financial contribution made by HM Government.

7.31. The Secretary of State may:

- a) waive all or part of the repayment due under sub-clause 7.30(b) if the Academy Trust obtains his permission to invest the sale proceeds for its charitable purposes; or
- b) direct the Academy Trust to pay all or part of the sale proceeds to the relevant LA.

8. OTHER CONTRACTUAL ARRANGEMENTS

Information

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

Access by the Secretary of State's Officers

- 8.3. The Academy Trust must allow Department for Education officials to enter the Academy at any reasonable time. All records, files and reports relating to the running of the Academy must be available to them at any reasonable time. Two Department for Education officials may attend and speak at any meetings of the Board of Charity Trustees or any other meetings of Charity Trustees of the Academy Trust, but will withdraw from any discussion of the Academy's or

the Academy Trust's relationship with the Secretary of State or any discussion of bids for funding to the Secretary of State.

- 8.4. The following documents must be provided to the Secretary of State or any person nominated by the Secretary of State on request:
- a) the agenda for every meeting of the Board of Charity Trustees or any committee to which it delegates any of its functions;
 - b) the draft minutes of every such meeting, if they have been approved by the chairman of that meeting;
 - c) the signed minutes of every such meeting; and
 - d) any report, document or other paper considered at any such meeting.
- 8.5. The Academy Trust may exclude from items provided under clause 8.4 any content relating to:
- a) a named teacher or other person employed, or proposed to be employed, at the Academy;
 - b) a named pupil at, or candidate for admission to, the Academy; and
 - c) any matter which, the Academy Trust reasonably believes should remain confidential.

Information Sharing with Local Authorities – Statutory Responsibilities

8.5.1. The Academy Trust must provide:

- a) the name, address and date of birth of the pupil or student;
- b) the name and address of a parent of the pupil or student;
- c) information in the institution's possession about the pupil or student (except if the pupil or student concerned (in the case of a pupil or student who has attained the age of 16) or a parent of the pupil or student concerned (in the case of a pupil or student who has not attained the age of 16) has instructed the Academy Trust not to provide information of that kind);

upon request under section 14 of the Education and Skills Act 2008 from a LA (for the purpose of enabling or assisting it to exercise its functions under Part 1 of that Act); or

upon request under section 72 of that Act from a body providing services under sections 68 or 70(1)(b) of the Act (for the purposes of providing such services).

Notices

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

Name of party	Position of contact	Address
Secretary of State	Head of Academies Division	Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT
Academy Trust	Chair of Board of Charity Trustees	Chapel Lane, Stratford-upon-Avon, Warwickshire, CV37 6BE

General provisions

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

This Agreement was executed as a Deed on

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

.....

Director

in the

presence of

Witness

Name:

Address:

The Corporate Seal of

THE SECRETARY OF STATE FOR EDUCATION

affixed to this deed is authenticated by:

.....

Duly Authorised

ANNEXES

Annex A

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

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

The Children and Families Act 2014 imposes duties directly on Academies in respect of pupils with SEN, including the admission of pupils with EHC plans. If an Academy Trust considers that a LA should not have named the Academy in an EHC plan, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Academy Trust must admit the pupil if such a determination is pending. The Secretary of State’s determination as to whether the LA acted unreasonably will be final, subject to any right of appeal which a parent of the pupil or the pupil (if over compulsory school age) may have to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.

Annex B

11 Removal of selection at wholly selective Academies.

Whereas the joint intention of the parties to this agreement through this Annex is to provide for the removal of selective admission arrangements by the Academy Trust and to replicate (once the school converts into an Academy) provisions in relation to group ballots as would have applied to the maintained school prior to this agreement, it is hereby agreed:

This annex applies to the Academy which, prior to its entering into Academy arrangements with the Secretary of State under section 1 of the Academies Act 2010, was designated as a grammar school and was part of a prescribed group of grammar schools ("prescribed group") as set out in Schedule 2 to the Education (Grammar School Ballots) Regulations 1998.

This Academy is in a prescribed group for the purposes of this Annex with Stratford upon Avon Grammar School for Girls.

Proposals by the Academy Trust to remove selection

1. Where an Academy Trust for a wholly selective Academy which was part of a prescribed group wishes to remove the Academy's selective admission arrangements it will follow the process set out below.
2. The Academy Trust will ballot all parents of registered pupils at the school on the question 'are you in favour of the Academy removing selection by ability and introducing admission arrangements which admit children of all abilities?'
3. If a simple majority of parents vote to remove selection, the Academy will determine admission arrangements that do not provide for selection by ability.
4. The ballot must allow parents a minimum of five weeks within which to vote. The ballot must be initiated prior to 25 January and the ballot result must be declared by 1 March in the determination year².
5. If a ballot is in favour of the removal of selection, non selective admission arrangements must be determined by 15 April in the determination year.
6. If a ballot does not vote in favour of the removal of selection the Academy Trust must retain the Academy's selective admission arrangements.

² A 'determination year' is the Academy Financial Year *beginning two years before the Academy Financial Year which the admissions arrangements will be for* e.g. consultation to end in March 2011 and determination to be in April 2011 for admissions in September 2012

Parental Ballots to remove selection at an Academy which was part of a prescribed group.

7. The Ballot regulations prescribe that King Edward VI School (the former name of this Academy) is grouped with Stratford upon Avon Grammar School for Girls and may be subject to a group ballot to remove selective admission arrangements at the prescribed group of schools.

8. The Academy is required to be grouped with any of these schools that become Academies. The Academy will conduct the ballots process jointly with the other Academies within the group or they will jointly agree to appoint a contractor to conduct the process on their behalf. The Academy will abide by the result of any grouped ballot in relation to the Academy group and will change its admission arrangements accordingly.

9. For the purposes of this Annex the "Academy group" consists of all of the prescribed group of schools which have converted to become an Academy.

Moratorium

10. Where the result of a group ballot is that the Academies in the group to which the ballot relates should retain selective admission arrangements, no further ballot shall be held or petition raised within the period of 5 years from the ballot result date for that group. This moratorium does not apply to the procedures in paragraphs 1-6 of this annex.

Petitions for a ballot -general

11. The following paragraphs govern the procedure for ballots to remove selection from Academies which were formerly designated as maintained grammar schools and were part of a prescribed group of schools.

12. Eligible parents for the relevant group of schools will first need to petition for the removal of selection. If a petition is valid then the Academy will be required to jointly conduct a ballot with other Academies within its group. If a ballot is successful the Academy will be required to remove selection in accordance with paragraph 5.

Restriction on publication of material etc relating to ballots

13. The same restrictions as apply to the governing body of a maintained school under section 107 of the School Standards and Framework Act 1998 shall be applied to the Academy Trust/proprietor of the Academy in relation to a ballot under this Annex.

Meaning of "eligible parent"

14. A parent is eligible to sign a petition and vote in a ballot if that person is a registered parent of a child who is a pupil at a feeder school for the prescribed group of Academies in respect of which the ballot is being held or the petition raised.

15. A parent of the following description is not an eligible parent

- a. a parent who is not an individual (such as a corporate parent);
- b. a parent who is resident outside the United Kingdom;
- c. if their child is over compulsory school age on the date in question;
- d. if, on the date in question their child is over the transfer age group for the Academy in question.

16. A parent's residence shall be determined by reference to the address contained in the list of parents returned to the relevant academies by the relevant feeder schools.

17. "Transfer age group" means the highest relevant age group for that Academy, disregarding any relevant age group in which the majority of the pupils admitted to the school are over compulsory school age.

Meaning of "feeder school"

18. The feeder schools for a group of Academies are each school from which at least 5 pupils have transferred to an Academy within the group or any predecessor grammar schools during the period consisting of the school year in question and the two preceding school years.

19. Any pupils who were over the age of the transfer age group for the Academy or its predecessor grammar school when they transferred to the Academy or its predecessor grammar school shall be disregarded.

Petitions for a Ballot

Petitions for a ballot—general

20. No ballot shall be held unless a request for a ballot is made by means of a petition relating to the prescribed group of Academies, and unless this petition is sent to the Academy Trust of each Academy in the prescribed group, the Secretary of State, and EFA.

21. If there is doubt over whether a ballot is necessary, the EFA or the Secretary of State will notify the Academy.

22. The Academy Trusts of each of the prescribed group of Academies, working jointly, and if there is a dispute, the Secretary of State or EFA, will determine whether a petition is a valid petition. A petition is valid if it complies with paragraphs 20-36.

23. A petition must be received by the Secretary of State, the EFA, and the Academy Trusts of each Academy in the prescribed group during a petition period. "Petition period" means the period from 1st September in one year to 31st July in the next year.

24. Subject to paragraph 27, a petition must be signed by a number of relevant el-

eligible parents which, when taken together with the number of relevant eligible parents who have signed any previous petition relating to the group of Academies (or their predecessor maintained grammar schools) received by the Academy Trusts (or designated body as set out in regulation 3 of the Education (Grammar School Ballots) Regulations 1998 during the same petition period, is at least 20% of the eligible parent population, or is equal to a previous petition threshold where this has been set within the last five years.

25. Where in paragraph 24 above, a petition relates to the predecessor grammar schools, eligible parents who have signed that petition must agree to the petition going forward in relation to the ballot to remove selection at the group of Academies for their name to continue to count for that purpose.

26. Where an Academy has previously been required to determine the eligible parent population and set a petition threshold, this threshold shall remain in place for any petition received in the following five years.

27. If a parent signs a petition on a date before the beginning of the petition period in which the petition is received, the parent's signature shall be disregarded for the purposes of paragraph 24.

28. The question of whether an eligible parent is a "relevant" eligible parent shall be determined in accordance with paragraph 24.

29. If the same parent signs a petition more than once or signs more than one petition relating to the same prescribed group of Academies any petition period, any signature in excess of one shall be disregarded; and

30. Where a parent signs a petition but the information referred to in paragraph 34 is not included, or not included in a legible form, that parent's signature shall be disregarded.

31. The Academy (working jointly with other Academies within the group) will request a list of the names and addresses of relevant eligible parents from the feeder schools for the prescribed group of Academies. It will also request a list of eligible parents which may be made public to the petition organisers. Eligible parents must be asked for consent for their details to be used for the purpose of the ballot, and given the opportunity by the relevant feeder schools to remove their names from the public list if they do not want their details passed to petition organisers. The Academies will supply a copy of the public list of parents to any petition organiser who requests it.

Form of petition

32. A petition shall on each sheet state the group of Academies to which it relates

33. A petition shall, on each sheet, contain the following words:--

"We the undersigned, being eligible parents, seek a ballot on whether the listed Academies which select by academic ability should continue to do so."

34. In relation to each parent who signs a petition the following information shall be given—

- a. the first name, surname and address of the parent;
- b. the name of a child of that parent who is a pupil at a school which is a feeder school for the group of Academies to which the petition relates and who, at the date on which the petition is signed, is of compulsory school age; and
- c. the name of the school which the child named in the petition is attending; and
- d. the date on which the parent signs the petition.

35. The petition shall give the name and address of the person ("petition organiser") to whom notification should be given as to whether the petition is valid.

36. Where the Academy group has given the notification required by paragraph 35 that a valid petition has been received, any subsequent petition relating to the same group of Academies shall not be valid unless

- a. the subsequent ballot is in favour of retaining selective admission arrangements for those Academies; and
- b. no person signs it before the end of the moratorium period for the group of Academies.

Meaning of "relevant eligible parent" and "parent population"

37. A parent is a relevant eligible parent if the feeder school confirms he is an 'eligible parent' or if the Academy Trust is satisfied by other means that a parent is an 'eligible parent'.

38. Parent population means the total of eligible parents for the group of Academies.

Notification of result of petition

39. Where the petition is a valid petition the Academy shall work jointly with other Academies in the group to notify the persons referred to in paragraph 40 of this fact and that a ballot will be held.

40. The persons to be notified are—

- a. the local authority in which the group of Academies is situated;
- b. the Secretary of State and EFA
- c. the petition organiser(s);

- d. the governing body or proprietor of each feeder school for the group of Academies.

41. Where the petition is not a valid petition the Academy shall work jointly with other Academies in the group to notify the petition organiser and ask the petition organiser to inform other petitioners.

Ballots

Eligibility to vote in a ballot

42. The persons eligible to vote in a ballot are the persons who are "relevant eligible parents".

Question on which ballot is to be held

43. Each ballot paper shall include the following wording--

"Are you in favour of the **group of Academies/ all Academies listed** introducing admission arrangements which admit children of all abilities?"

Place a cross (X) in the box of your choice.

YES	
-----	--

NO	
----	--

Ballots--supplementary

44. The Academy working jointly with other Academies in the group will ensure that ballot papers are sent to all parents who are eligible to vote for whom they have been provided with details by the relevant feeder schools. Academies will take all reasonable steps to ensure eligible parents are identified and given the opportunity to vote.

45. Each ballot shall be a secret postal ballot.

46. Each ballot paper shall include the name of the Academies to which it relates.

47. Each parent who falls within paragraph 42 shall have one vote (irrespective of the number of children which a parent may have and the number of schools they attend).

48. The Academy working jointly with other Academies in the group shall secure that the date by which ballot papers must be returned to them shall be—

- a. no later than 10 weeks from the date on which the Academies notified the persons in paragraph 40 that the petition is valid; and

- b. at least 5 weeks from the date on which ballot papers were sent to parents (or if ballot papers were sent on more than one date, the last such date).

49. Where the Academy working jointly with other Academies in the group has determined the result of a ballot it will forthwith notify the persons mentioned in paragraph 40 of that fact, and, where the ballot is in favour of retaining selective admission arrangements for the group of Academies, the date on which the moratorium period will expire.

Declaring a ballot void

50. Subject to paragraph 51 below the Secretary of State may declare a ballot void if it appears that—

- a. any requirement of this annex has been contravened
- b. persons other than those falling within paragraph 42 have purported to vote in the ballot;
- c. persons who fall within paragraph 42 have been prevented from voting or hindered from doing so freely in accordance with their own opinion by any other person; or
- d. material has been provided, or meetings have been held, in a manner which does not comply with the principles for the production of such material or the standards for the holding of such meetings or debates contained in the Ballot Information Code specified in Schedule 4 of the Education (Grammar School Ballots) Regulations 1998; and
- e. that voting in a ballot is likely to have been influenced to a significant extent as a result of any of those matters.

51. Paragraph 50 shall not apply unless before the date which is two weeks after the ballot result date any person or body referred to in paragraph 52 have requested the Secretary of State in writing to declare a ballot void; specifying the reason for such a request and the grounds on which the person or body considers the ballot should be declared void.

52. The persons or bodies mentioned in paragraph 51 are—

- a. the local education authority within which the group of Academies is located
- b. any of the Academies in the group of Academies or the governing body or proprietor of any feeder school for the group of Academies;
- c. any 20 or more parents who were eligible to vote in the ballot.

53. Where a request is received under paragraph 51, the Secretary of State shall notify each Academy in the prescribed group and the local authority.

54. Where a request is received under paragraph 51 but the Secretary of State determines not to declare a ballot void he shall notify the persons or body who made the request, the group of Academies to which the ballot relates, and the local authority.

55. Where the Secretary of State declares a ballot void he shall notify the persons mentioned in paragraph 40 of that fact.

56. Where the Secretary of State declares a ballot void, a fresh ballot shall be held and the date by which ballot papers must be returned is no later than 10 weeks from the date of the notification under paragraph 55 above.

Implementation of decision that an Academy should cease to have selective admission arrangements

57. In the case of a successful group ballot which includes the Academy, the Academy Trust will secure that its admission arrangements are revised so that the Academy no longer has selective admission arrangements.

- a. where the ballot result date is on or before 31st December in any school year – or where the Secretary of State has chosen not to declare a ballot void -, it will determine non selective admission arrangements by the date in paragraph 5 of this annex; and
- b. where the ballot result date is after 31st December in any school year, it will determine non selective admission arrangements in the following determination year, by the 15 April

Information to be given by the Academy

58. If—

- a. 10 or more persons jointly notify the Academy in writing that they are considering raising a petition; and
- b. the notification nominates one of those persons as the person to receive information from the Academy group,

the Academy shall, as soon as practicable and working jointly with other Academies in the group, give that person the following information

- c. the names of the feeder schools for the group of Academies and
- d. the transfer age groups for the Academies in question;
- e. the number of parents who would need to sign the petition for it to comply with paragraph 24;
- f. the words to be contained in a petition in accordance with paragraph 33;

- g. where requested, the details of eligible parents who have consented to those details being made available to petition organisers.

59. To the extent that either party to this Funding Agreement (including all Annexes) considers that the terms of this Annex do not replicate the relevant statutory provisions, so far as is possible, to apply group ballot provisions to the converted Academy, the parties agree: to make all such amendments to this Annex as may be required in order to achieve, so far as is possible, equivalent provision for the Academy post conversion as it would have had as part of a group of grammar schools subject to a group ballot.

Further, the parties agree that where a school which was part of the prescribed group of schools converts to become an Academy that Academy, subject to their Academy arrangements, shall be included in this group.



Department
for Education

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Reference: DfE-00219-2020



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