

NORTHERN ACADEMIES TRUST

DEED OF VARIATION OF FUNDING AGREEMENT

[17^m May] 2013

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) **Northern Academies Trust**, a charitable company incorporated in England and Wales with registered company number 05067702 whose registered address is at North Liverpool Academy, 120 Heyworth Street, L5 0SQ and which was previously called 'North Liverpool Academy Limited' (the "**Company**").

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

INTRODUCTION

- A. The Parties entered into a funding agreement on 22 July 2005, a copy of which is contained in **Schedule 1** (the "**Existing Funding Agreement**").
- C. The Parties now wish to vary and amend the terms of the Existing Funding Agreement in accordance with the terms of 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 New 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 Funding Agreement shall be replaced in its entirety by the New Funding Agreement contained in **Schedule 2** (the "**New Funding Agreement**").

GOVERNING LAW AND JURISDICTION

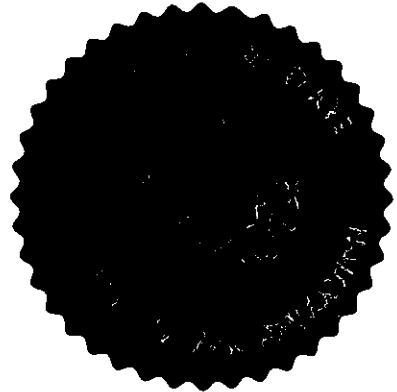
3. This Deed, and any dispute or claim arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England and Wales.
4. The Parties irrevocably agree that the courts of England 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 11th day of May 2013.

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



[Handwritten signature]

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

EXECUTED as a deed by **Northern Academies Trust** acting by:

N Ward

.....
Director

Print name..... *NIGEL WARD*.....

Witnessed by *[Signature]*
.....
Signature

Full name..... *CIARA CAMPBELL*.....

Address..... *210 Stone King LLP
16 St John's Lane, EC1M 4RS*.....

Occupation..... *Lawyer*.....

Schedule 1

Existing Funding Agreement

**ANNEXES RELATED TO BUILDING PROGRAMME FOR
NORTH LIVERPOOL ACADEMY**

Capital Cash limit calculation, established by SBDU	Annex 5
Capital expenditure incurred for the purposes of or in connection with the establishment of the Academy prior to the execution of the funding agreement	Annex 6A
Capital cashflow programme for monthly capital expenditure during the Academy's implementation phase	Annex 6B
Implementation phase cashflow programme	Annex 6C
Architect drawings / specification of the Academy new build / refurbishment as prepared up to RIBA stage D	Annex 6D
Schedule of approvals by Secretary of State required in relation to Capital Programme to establish North Liverpool Academy	Annex 7

INTRODUCTION

- 1) This Agreement is made under section 482 of the Education Act 1996, as substituted by the Education Act 2002, between the Secretary of State for Education and Skills and the North Liverpool Academy hereafter "North Liverpool Academy Ltd".
- 2) North Liverpool Academy Ltd is a charitable company incorporated in England and Wales, limited by guarantee with registered no. 1103623
- 3) The following expressions used in this Agreement have the respective meanings assigned to them by the numbered clauses of this Agreement referred to immediately after the reference to the expressions -
 - a) "Accounting Officer" - clause 67;
 - b) "admission arrangements" - clause 4 of Annex 2;
 - c) "annual letter of funding" - clause 61;
 - d) "GAG" - clauses 50-57;
 - e) "capital expenditure" - clause 36;
 - f) "the Academy" - clause 7
 - g) "North Liverpool Academy Ltd " - clause 1;
 - h) "EAG" - clauses 58-59;
 - i) "Financial Handbook" - clause 68;
 - j) "financial year" - clause 62;
 - k) "Governing Body" - clause 10
 - l) "recurrent expenditure" - clause 35;
 - m) "School Development Plan" - clause 13-15
 - n) "start up period" - clause 55a;
 - o) "the company" - clause 2;
 - p) "the Memorandum and Articles" - Annex 1
- 4) In this Agreement the following words and expressions shall have the following meanings:-
 - "LEA" means local education authority;
 - "headteacher" means the Principal of the Academy

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

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

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

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

6) Section 482 (1) of the Education Act 1996 as substituted states that -

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

(a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England with the characteristics mentioned in subsection (2), and such other characteristics as are specified in the agreement, and

(b) the Secretary of State agrees to make payments to that person in consideration of those undertakings."

LEGAL AGREEMENT

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

CHARACTERISTICS OF AN ACADEMY

8) The characteristics of an Academy set down in section 482 (2) of the Education Act 1996 as substituted by the Education Act 2002, are that the school:

a) has a broad curriculum with an emphasis on a particular subject area, or particular subject areas, specified in the agreement, and

b) provides education for pupils of different abilities and who are wholly or mainly drawn from the area in which the school is situated.

CONDITIONS OF GRANT

General

- 9) Section 482(4) of the Education Act 1996 provides for the agreement to specify other conditions and requirements. These conditions in respect of the North Liverpool Academy are that:
- a) the school will be at the heart of its community, sharing facilities with other schools and the wider community;
 - b) there will be assessment in the core subjects of the national curriculum at Key Stage 3, and the opportunity to study for external qualifications as defined by section 96 of the Learning and Skills Act 2000;
 - c) the admissions policy and arrangements for the school will be consistent with admissions law, and the DfES Codes of Practice, for maintained schools;
 - d) teachers will be required to have qualified teacher status; levels of pay and conditions of service for all employees will be the responsibility of the Governing Body;
 - e) there will be an emphasis on the needs of the individual pupils including pupils with special educational needs (SEN) both those with and without statements of SEN;
 - f) there will be no charge in respect of admission to the school and the school will only charge pupils where the law allows maintained schools to charge.

Governance

- 10) The North Liverpool Academy will be governed by a governing body ("the Governing Body") who are the directors of the company constituted under the Memorandum and Articles of the North Liverpool Academy Ltd. The Governing Body shall exercise its powers and functions with a view to fulfilling a largely strategic role in the running of the school and shall consider any advice given by the headteacher. The Governing Body may exercise its powers and fulfil its functions through its servants or agents.
- 11) Subject to the Memorandum and Articles, and to this Agreement, the Governing Body may regulate its own procedure and that of any of its committees.

Conduct

- 12) The Academy shall be conducted in accordance with:
- a) the memorandum and articles of the company (attached as Annex 1 to this Agreement) which memorandum or articles shall not be amended by the Academy Trust without the explicit consent of the Secretary of State, such consent not to be unreasonably withheld;
 - b) all provisions by or under statute which confer rights or impose obligations on Academies;

- c) the terms of this Agreement.

North Liverpool Academy Development Plan and target setting

- 13) The Academy shall draw up a School Development Plan each year in accordance with a format and timetable to be advised by the Secretary of State. The School Development Plan shall, in particular:
- a) in accordance with a format and timetable to be advised by the Secretary of State set out plans for ensuring that all pupils are supported to reach the highest standards of which they are capable;
 - b) describe the Academy's proposals to work with other schools and with the wider community.
- 14) The Academy shall set such targets in areas to be specified by the Secretary of State each year. The target areas for the initial year shall be:
- a) percentage of pupils achieving five or more GCSEs at grades A* - C; and
 - b) percentage of pupils achieving level 5 or above at Key Stage 3 in English, maths science and ICT.
- 15) The Academy shall consult the Secretary of State and the LEA in whose area it is situated each year before setting these targets and shall take into account but not be bound by any comments received from the Secretary of State and/or the LEA. The Academy shall set its targets in accordance with the timetable for target setting which applies to maintained schools.

Pupils

- 16) The Academy is an all ability and inclusive school. The arrangements for:
- a) the admission of pupils to the Academy; and
 - b) the admission of and support for pupils with Special Educational Needs and with disabilities (for pupils who have and who do not have statements of Special Educational Needs) (including the appointment of a responsible person);

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

Teachers and other staff

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

open to the Academy to employ persons (otherwise than as teachers) with other qualifications and experience.

- 18) The Governing Body shall ensure that all teachers employed at the Academy have access to the Teachers Pension Scheme and, in so doing, will comply with the statutory provisions underlying the scheme.
- 19) The Governing Body shall ensure that all employees other than teachers have access to the Local Government Pension Scheme.
- 20) It shall be the responsibility of the Governing Body to agree levels of pay and conditions of service with its employees, and to determine and employ such numbers of staff as may be appropriate. The Governing Body shall approve policies for:
 - a) staffing structure, and staff remuneration; and
 - b) staff discipline and performance management.

Curriculum, curriculum development and delivery and RE and collective worship

- 21) The curriculum provided by North Liverpool Academy to pupils up to the age of 16 shall be broad and balanced with an emphasis on Business and Enterprise. The core subjects of the National Curriculum must be taught to all pupils in years 7 - 11 except where, in the opinion of the principal, it is inappropriate for an individual pupil or groups of pupils to be taught one or more of those subjects.
- 22) The Academy shall make provision for the teaching of Religious Education and for a daily act of collective worship.
- 23) Subject to clause 25, provision shall be made for Religious Education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998, and having regard to the requirements of the Qualifications and Curriculum Authority's national framework for religious education in schools.
- 24) Subject to clause 25, the Academy shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a community, foundation or voluntary school which does not have a religious character, except that the provisions of paragraph 4 of that Schedule do not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule, the Secretary of State's consent to such an application not to be unreasonably withheld or delayed.
- 25) Section 71(1) - (4) of the School Standards and Framework Act 1998 shall apply as if the Academy were a community, foundation or voluntary school, and as if references to "religious education" and to "religious worship" in that section were references to the religious education and religious worship provided at the Academy in accordance with clauses 23 and 24 respectively.
- 26) The Academy shall have regard to any guidance issued by the Secretary of State on Sex and Relationship Education to ensure that children are protected from

inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children.

Assessment

- 27) The Academy shall register with the Qualifications and Curriculum Authority for the purposes of arranging for all eligible pupils to take part in the national curriculum assessment system at the end of the Key Stage 3 programmes of studies. This includes arranging for pupils to take the English, Maths and Science tests and for teacher assessments of pupils' performance in those subjects.
- 28) The Academy may not offer courses which lead to external qualifications, as defined in section 96 of the Learning and Skills Act 2000, unless they are either approved under section 98 of that Act, or, in respect of individual pupils, groups of pupils or all pupils in Key Stage 4, the Secretary of State gives specific consent for such courses to be offered.

School meals

- 29) The Academy shall, if requested to do so by or on behalf of any pupils at the Academy provide school lunches for those pupils unless it would be unreasonable for them to do so. Subject to the provisions of clause 30 charges may be levied for lunches.
- 30) In relation to a pupil who is himself or whose parents are in receipt of benefits mentioned in section 512(3)B of the Education Act 1996 (or equivalent provision governing the entitlement to free school lunches of pupils at maintained schools), the Academy shall ensure that a school lunch is provided for such a pupil, which shall be provided free of charge.

Charging

- 31) Sections 402 (Obligation to enter pupils for public examinations), 450 - 457 (charges), 459 (regulations about information about charges and school hours) and 460 (voluntary contributions), 461 (recovery of sums as civil debt) - 462 (Interpretation re charges) of the Education Act 1996 shall be deemed to apply to the North Liverpool Academy with the following modifications:
- a) references to any maintained school shall be treated as references to the North Liverpool Academy;
 - b) references to registered pupils shall be treated as references to registered pupils at the North Liverpool Academy;
 - c) references to the governing body or the local education authority shall, in each case, be treated as references to the governing body of the North Liverpool Academy;
 - d) the charging and remissions policies required to be determined under section 457, and any amendment thereto, shall require the approval of the Secretary of State; and
 - e) the Academy may charge persons who are not registered pupils at the North Liverpool Academy for education provided or for facilities used by them at the Academy.

Provision of Information to parents and others

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

- a) details of the curriculum offered, of assessment arrangements and of the results of attainment tests and public examinations at school level, but this shall not include details of individual pupils' attainment and examination results;
- b) details of any religious affiliation of the school; policy on providing for children with SEN; arrangements for pupils with disabilities (as specified in Annex 3 to this agreement); pupil absence rates; and destination of school leavers; and
- c) such other information as the Governing Body may determine;
- d) any further information as set out in Schedule 3 of the Education (School Information) (England) Regulations 2002 (SI 2002/2897) as applies to maintained schools.

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

GRANTS TO BE PAID BY THE SECRETARY OF STATE

General

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

35) "Recurrent expenditure" means any expenditure on the establishment, conduct, administration and maintenance of the Academy which does not fall within the categories of capital expenditure set out at clause 36. The Secretary of State shall pay two separate and distinct grants under the Agreement in respect of recurrent expenditure: General Annual Grant (GAG) and Earmarked Annual Grant (EAG).

CAPITAL GRANT

36) "Capital expenditure" means expenditure on:

- a. the acquisition of land and buildings;
- b. the erection, enlargement, improvement or demolition of any building including fixed plant, installation, wall, fence or other structure, or any playground or hard standing;
- c. the installation of electrical, mechanical or other services;
- d. the purchase of vehicles and other self-propelled mechanical equipment;
- e. the installation and equipping of premises with furnishings and equipment, other than necessary replacements, repairs and maintenance due to normal wear and tear;
- f. the installation and equipping of premises with computers, networking for computers, operating software and information and communication technology equipment, other than necessary updates or necessary replacements, repairs and maintenance due to normal wear and tear;
- g. the provision and equipping of premises, including playing fields and other facilities for social activities and physical recreation;
- h. works of a permanent character other than the purchase or replacement of minor day-to day items;
- i. any major repairs or replacements which are specified as constituting capital expenditure in any grant letter relating to them;
- j. such other items (whether of a like or dissimilar nature to any of the foregoing) of a substantial or enduring nature as the Secretary of State may agree shall constitute capital expenditure for the purposes of the Agreement;
- k. all professional fees properly and reasonably incurred in connection with the provision of any of the above;
- l. VAT and other taxes payable on any of the above.

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

37) North Liverpool Academy Ltd has agreed with the Secretary of State the Capital Cost Spreadsheet attached as Annex 5 to the Agreement. The Capital Cost Spreadsheet shows the limit of the capital costs which the parties have agreed North Liverpool Academy Ltd may incur in order to establish the Academy. Annex 5 includes capital costs incurred prior to the execution of the Agreement and capital costs to be incurred after execution of the Agreement and before the

Academy opens. The Academy opens on the first day that its pupils attend school at the Academy.

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

39) Both parties recognise that as the project develops it may be necessary to revise costs in the Capital Cost Spreadsheet (Annex 5) and to move costs between spreadsheet elements in order to ensure that the project remains within its approved budget. Where North Liverpool Academy Ltd wishes to make such adjustments of over £10,000, it must submit the requested adjustment with the reasons for it to the Secretary of State for approval.

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

Capital Expenditure Necessary to Establish the Academy

41) The Secretary of State and North Liverpool Academy Ltd hereby agree that the Academy will be constructed in accordance with the architect's drawings and specification on materials set out at Annex 6D of the Agreement and that:

a. the amount of capital expenditure necessary to establish the Academy is £32.552 million ("the Cash Limit"). The Cash Limit includes capital expenditure incurred for the purposes of or in connection with the establishment of the Academy prior to the date of this agreement as described in Annexes 6A and 6B;

b.

N.L.A.
21/11/06

c. the arrangements (including timing) for payments for these costs are set out in clause 44 and Annex 6B of the Agreement. Payment by the Secretary of State will be dependent on his approval of the matters set out in Annex 7 to the Agreement;

- d. if the costs finally incurred for the purposes set out in clause 41(a) above are less than the cash limit, the costs borne by the Secretary of State shall be reduced accordingly and North Liverpool Academy Ltd shall pay the same amount as indicated in clause 41(b);
- e. if at any stage it appears that the costs incurred for the purposes set out in clause 41(a) are likely to exceed the cash limit, the parties to the Agreement shall urgently consider how to reduce those costs, if necessary by amending the specification of the Academy;
- f. if the costs incurred for the purposes set out in clause 41(a) exceed the cash limit these additional costs shall be the responsibility of the North Liverpool Academy Ltd except that the Secretary of State shall contribute up to 80% of any agreed necessary additional costs the need for which could not reasonably have been foreseen at the time the cash limit was set;
- g. if the parties agree that additional capital expenditure to establish the Academy, other than that specified in clause 41(a) may be incurred then the parties shall divide such additional costs between them in such proportions as may be agreed between them. No such additional expenditure is to be incurred without prior agreement in writing between the parties.

Other Capital Expenditure

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

Conditions on Capital Grant

43) Any payment of capital grant under the Agreement is subject to the fulfilment of the following conditions:

- a. such grants are used to provide accommodation constructed and equipped to standards agreed by the Secretary of State as described in Annex 7, or to defray other expenditure approved by the Secretary of State;

- b. the payment of such grants is subject to North Liverpool Academy Ltd certifying and providing evidence that all planning and other consents necessary for the development and all related infrastructure to be completed have been obtained or put in place.

Arrangements for Payment of Capital Grant

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

Implementation Grant

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

Arrangements for Payment of Implementation Grant

- 48) The Secretary of State will pay implementation grant in accordance with the approved Implementation Budget. Payments will be made by monthly instalments. North Liverpool Academy Ltd shall submit to the Secretary of State by the 10th of each month a grant claim in a form specified by the Secretary of State. If the grant claim is acceptable the Secretary of State undertakes to pay the amount due by the 25th of the month. If a dispute arises over whether a grant claim or part of it is acceptable, both parties undertake to attempt to resolve the dispute in good faith.

49) Any amount of approved implementation grant in respect of which the expenditure has not been incurred by North Liverpool Academy Ltd, by the date on which the Academy opens, will lapse and no implementation grant will be payable in respect of that part of the approved implementation budget. Any amount of implementation grant which has been paid but remains unexpended on relevant expenditure by the date on which the Academy opens will, without prejudice to any other mode of recovery, be taken into account in determining the total amount of grant to be paid to the Academy after it has opened. Any amount of implementation grant which is found to have been used on ineligible expenditure will, without prejudice to any other mode of recovery, be taken into account in determining the total amount of grant to be paid to the Academy.

General Annual Grant

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

- a. teachers' salaries and related costs (including full and part time teaching staff and seconded teachers);
- b. non-teaching staff salaries and related costs (including educational support staff, administrative and clerical staff and manual and premises related staff);
- c. employees' expenses;
- d. the purchase, maintenance, repair and replacement of teaching and learning materials and other educational equipment including books, stationery, ICT equipment and software, sports and laboratory equipment and materials, other supplies and services;
- e. examination fees;
- f. repairs, servicing and maintenance of buildings (including redecoration, heating, plumbing, lighting etc); maintenance of grounds (including boundary fences and walls); cleaning materials and contract cleaning; water and sewage; fuel and light (including fuel oil, solid and other fuel, electricity and gas); rents; rates; purchase, maintenance, repairs and replacement of furniture and fittings;
- g. insurance;
- h. medical equipment and supplies;
- i. staff development (including in-service training);
- j. curriculum development;

- k. the costs of providing school meals for pupils (including the cost of providing free school meals to pupils who are eligible to receive them) and discretionary grants to pupils to meet the cost of pupil support, including support for pupils with special educational needs or disabilities (taking account of the fact that separate additional money will be available for pupils with statements of special educational needs);
- l. administration;
- m. establishment expenses and other institutional costs.

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

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

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

- a. LGPS contributions: Whilst it is necessary for the Academy to incur extra costs in order to be a member of the LGPS scheme due to having a small number of employees partaking in the scheme, the Secretary of State will pay an extra amount of grant in respect of these costs each financial year. Both parties acknowledge that new ways of working are being explored to lessen these costs and if these are successful this element of GAG will reduce or cease accordingly;
- b. School Standards Grant: Whilst this direct grant for maintained schools (Direct Grant to Schools) is paid by DfES, the Academy will receive an equivalent amount as part of its GAG each financial year;
- c. Teachers Threshold Payments: Whilst maintained schools receive a separate grant from DfES in respect of teachers threshold payments, the Academy will receive funding on the same basis as maintained schools for all of its teachers which are entitled to threshold payments.

- d. Relevant New Grants for Maintained Schools: Where the Secretary of State starts to pay new grants (which are not standards fund grants) for specific programmes in maintained schools which are relevant to Academies, the Academy will receive funding on a similar basis.

53) The basis of the pupil number count for the purposes of determining the Academy's GAG will be the Governing Body's estimate in November for numbers on roll in the following September. The basis of the GAG calculation, including any annual re-pricing which may be necessary, will be set out in the annual letter of funding except that the level of Teachers Threshold Payments will not be included in the letter and will depend on the information provided by the Academy in that financial year regarding how many teachers are entitled to the payments and at what level. It is however agreed that if during the first five years of the Academy's operation Liverpool LEA provides a level of funding based on previous years' pupil numbers in respect of its maintained schools then the GAG will be calculated on a similar basis.

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

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

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

55) The Secretary of State recognises that:

- a. in relation to Academies which open with intakes representing only a proportion of the final planned size of the Academy, payments based simply upon the number of pupils present are unlikely to be sufficient to meet the Academy's needs in the years before all age groups are present at their planned size (the "start-up period") because of a lack of economies of scale. The Secretary of State undertakes to pay an appropriately larger GAG in the start-up period than would be justified solely on the basis of the methods set out in clauses 51 and 52, in order to enable the Academy to operate effectively. The Academy will make a bid to the Secretary of State for this addition to GAG, based upon need and providing appropriate supporting evidence;
- b. in relation to North Liverpool Academy, which will open with pupils transferred from 2 LEA-maintained schools which have closed, additional GAG resources will be required to take account of transitional costs

including any costs associated with supporting the integration of pupils from the closed schools and - where necessary - to offer a dual curriculum.

56) During the start-up period or during the period when year groups are present who have transferred from a predecessor school or schools, the Secretary of State will pay a further element of GAG additional to that calculated in accordance with the methods set out in clauses 51 and 52 to allow the Academy to:

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

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

57) The Secretary of State recognises that if he serves notice of intention to terminate this Agreement under clause 88 the intake of new pupils during the 7 year notice period is likely to decline and that in such circumstances payments based simply upon the number of pupils attending the Academy are unlikely to be sufficient to meet the Academy's needs during the notice period. The Secretary of State undertakes to pay a reasonable and appropriately larger GAG in the notice period than would be justified solely on the basis of the methods set out in clauses 51 and 52, in order to enable the Academy to operate effectively.

Earmarked Annual Grant

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

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

Arrangements for Payment of GAG and EAG

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

61) The amount of GAG for an Academy financial year will be determined annually by the Secretary of State. The amount of GAG will be notified to North Liverpool Academy Ltd in a funding letter not later than 1 April preceding that financial year

("the annual letter of funding"). The annual letter of funding will not include the amount that North Liverpool Academy Ltd will receive in respect of Teacher Threshold Payments whilst that grant is paid as a separate payment that will be notified later in the year on a date to be agreed. Amounts of EAG will be notified to the Company according to an agreed programme.

62) For the purposes of this Agreement, the North Liverpool Academy's financial year shall be deemed to run from September to August, in order to align it to the school academic year. The Secretary of State undertakes to pay GAG in monthly instalments on or before the twenty fifth day of each month, each such instalment to fund the salaries and other payroll costs for the relevant month of all monthly paid employees and all other costs payable during the next following month. The detailed arrangements for payment will be set out in the annual letter of funding.

Other relevant funding

63) The Secretary of State shall meet a proportion of the costs arising from the inclusion of North Liverpool Academy in the Schedules to the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999. The Secretary of State shall meet the costs of the employee's prior eligible service and North Liverpool Academy Ltd shall meet the costs of service in the Academy. The Academy shall seek the Secretary of State's consent for these redundancies, such consent not to be unreasonably withheld, before committing to the redundancies.

64) The Secretary of State may meet costs incurred by North Liverpool Academy Ltd in connection with the transfer of employees from a predecessor school under the Transfer of Undertakings (Protection of Employment) Regulations 1981. Payment of grant in respect of such costs is to be agreed between the parties on a case by case basis and North Liverpool Academy Ltd shall not budget on the basis that it will receive any grant in respect of such costs unless it is specifically notified that such grant will be paid.

65) North Liverpool Academy Ltd may also receive funding from LEAs in respect of the provision detailed in statements of special educational needs for pupils attending the Academy in accordance with the provisions of Section 483A of the Education Act 1996 and regulations made under that section. The Academy shall ensure that all provision detailed in statements of SEN is provided for such pupils.

66) North Liverpool Academy Ltd should also receive funding from the LEA in whose area it is located, from the Standards Fund. The scheme under which the Standards Fund money is to be distributed by the Secretary of State to LEAs and schools will permit LEAs to receive grants on behalf of Academies in the same way as they can do for maintained schools. The Academy must use any grants received under the Standards Fund in accordance with any conditions specified in relation to that grant. Grants paid to North Liverpool Academy Ltd from the Standards Fund are not paid under this Agreement.

Financial and Accounting Requirements

- 67) The headteacher shall be the Academy's Accounting Officer. The Accounting Officer will be personally responsible to the Directors for ensuring regularity and propriety, and for the economic, efficient and effective use of resources (i.e. ensuring value for money), and administration of the financial affairs of the Academy. The Accounting Officer may delegate or appoint others, such as a Finance Director, to assist in carrying out these responsibilities.
- 68) The North Liverpool Academy shall abide by the provisions within the Academies Financial Handbook, as published by the Department for Education and Skills and amended from time to time, which sets out in detail provisions for the financial management of the Academy including guidance on financial systems and controls and accounting and reporting requirements.
- 69) The formal budget plan must be approved each year by the Governing Body.
- 70) Any payment of grant by the Secretary of State is subject to his being satisfied as to the fulfilment by the Academy of the following conditions:
- a) that in its conduct and operation the Academy shall apply financial and other controls which conform with the requirements both of propriety and of good financial management;
 - b) that arrangements have been made to maintain proper accounting records and that statements of income and expenditure and balance sheets may be produced in such form and frequency as the Secretary of State may from time to time reasonably direct;
 - c) that such financial statements are published at the end of each financial year (as defined in clause 62) in such form and manner as the Secretary of State may reasonably direct and a copy sent to him by 31 December each year. These should carry an audit report stating that, in the opinion of the auditors, the statements show a true and fair view of the North Liverpool Academy Ltd affairs and that the grants were used for the purposes intended;
 - d) that the North Liverpool Academy Ltd prepares and files with the Companies Registry such annual accounts as are required by the Companies Act 1985;
 - e) that a statement of the accounting policies used is sent to the Secretary of State with the financial statements;
 - f) that the North Liverpool Academy Ltd insures or procures insurance by another person of its assets in accordance with normal commercial practice or under the terms of any subsisting leases in respect of the leasehold interest of the site upon which the Academy is situated;
 - g) (i) that the North Liverpool Academy Ltd prepares and files with the Charity Commission annual accounts prepared in accordance with the Statement of Recommended Practice;

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

h) The Governing Body shall secure that the North Liverpool Academy Ltd accounts are audited annually by independent auditors appointed under arrangements approved by the Secretary of State.

71) In addition, and at his expense, the Secretary of State may instruct auditors to report to him on the adequacy and effectiveness of the accounting systems and internal controls to standards determined by the Secretary of State and to make recommendations for improving the financial management of the Academy.

72) The books and accounts and all relevant records, files and reports of the North Liverpool Academy Ltd including those relating to financial controls, shall be open at all reasonable times to officials of the Department for Education and Skills and the National Audit Office and to contractors retained by the Department for Education and Skills or the National Audit Office for inspection or the carrying out of value for money studies; and the Academy shall secure that those officials and contractors are given reasonable assistance with their enquiries. For the purposes of this clause, relevant means in any way relevant to the provision and use of grants provided by the Secretary of State under this Agreement.

73) The Governing Body shall submit indicative budgets to the Secretary of State not later than by 15 February before the start of each Academy financial year. Such budgets shall set out clearly the prospective income and expenditure of the North Liverpool Academy Ltd and shall differentiate, and give adequate details of:

- a) a statement of expected income for that year including cash donations and gifts in kind from sources other than GAG, EAG and grants from the Secretary of State towards capital expenditure, distinguishing between income from public funds including the national lottery and income from other sources;
- b) a statement of proposed recurrent expenditure for that financial year;
- c) a statement of proposed capital expenditure for that financial year.

74) The North Liverpool Academy Ltd will be permitted to carry forward savings from GAG from one year to the next:

- a) equivalent to 2% of the total GAG received in the preceding year, which it may use for any of the purposes for which GAG is paid including all expenditure permitted under sub-clause (b) below;
- b) equivalent to a further 10% of the total GAG received in that year, or such higher figure as may from time to time be agreed, which it may use on the upkeep and improvement of premises including the costs of equipment and routine repairs and maintenance and on capital expenditure.

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

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

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

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

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

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

Borrowing Powers

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

DISPOSAL OF ASSETS

81)Where North Liverpool Academy Ltd acquires assets for a nil consideration or at an under value it shall be treated for the purpose of this Agreement as having incurred expenditure equal to the market value of those assets at the time that they were acquired. This provision shall not apply to assets transferred at nil or nominal consideration and which were previously used for the purposes of a school or where

transferred from an LEA; the value of which assets shall be disregarded.

82) The sale, or disposal by other means, or reinvestment of proceeds from the disposal, of a capital asset by North Liverpool Academy Ltd shall require the consent of the Secretary of State where:

- a) the Secretary of State paid capital grant in excess of £20,000 for the asset; or
- b) the asset was transferred to North Liverpool Academy Ltd from the Local Education Authority for no or nominal consideration

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

83) This clause applies in the event, during the lifetime of this agreement, of the disposal of a capital asset for which capital grant of any amount was paid, where the asset was acquired by North Liverpool Academy Ltd at market value. In this event, North Liverpool Academy Ltd shall repay to the Secretary of State the same proportion of the proceeds of the disposal as equates with the proportion of the original cost met by the Secretary of State, unless the Secretary of State agrees to some or all of the proceeds being retained by North Liverpool Academy Ltd for its charitable purposes.

84) This clause applies in the event, during the lifetime of this agreement, that the Secretary of State consents to the disposal of an asset which was transferred to the North Liverpool Academy Ltd from a Local Education Authority for no or nominal consideration. In this event the Secretary of State may give consent on the basis that all or part of the proceeds of the disposal should be made over to the Local Education Authority from which the asset was transferred, taking into account the amount of the proceeds to be reinvested by North Liverpool Academy Ltd. The Secretary of State will have regard to any representations from North Liverpool Academy Ltd and the Local Education Authority from which the asset was transferred before giving a consent under this clause.

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

TERMINATION

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

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

88) If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 8 or that the conditions and requirements set out in clauses 9 - 33 are not being met, or is otherwise in breach of the provisions of this Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

- a) North Liverpool Academy Ltd calls a meeting of its creditors (whether formal or informal) or enters into any composition or arrangement (whether formal or informal) with its creditors; or
- b) North Liverpool Academy Ltd proposes a voluntary arrangement within Section 1 of the Insolvency Act 1986; or
- c) North Liverpool Academy Ltd is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 provided that, for the purposes of this Clause. Section 123 (1)(a) of the Insolvency Act 1986 shall have effect as if the amount of £10,000 was substituted for £750. North Liverpool Academy Ltd shall not be deemed unable to pay its debts for the purposes of this clause if any such demand as is mentioned in the said Section is being contested in good faith by the Academy; or
- d) North Liverpool Academy Ltd has a receiver (and manager with the exception of Receivers and Managers appointed by the Charity Commission under the Charities Act 1993 or any subsequent re-enactment of that Act), administrator or administrative receiver appointed over all or any part of its undertakings, assets or income; or
- e) any restraint, execution or other process is levied or enforced on any of North Liverpool Academy Ltd's property and is not paid out, withdrawn or discharged within fifteen Business Days; or
- f) North Liverpool Academy Ltd has passed a resolution for its winding up; or
- g) North Liverpool Academy Ltd has a petition presented to any Court for its winding up or for an administration order; or
- h) the North Liverpool Academy has ceased to operate as an Academy (except where such cessation occurs temporarily by reason of an event of Force Majeure).

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

Effect of Termination

95) In the event of termination of this agreement, however occurring, the school shall cease to be an Academy.

96) If the Secretary of State terminates this Agreement for reasons other than that the Academy no longer has the characteristics set out in clause 8, or is no longer meeting the conditions and requirements set out in clauses 9 - 33 or is otherwise in breach of the provisions of this Agreement, the Secretary of State shall indemnify North Liverpool Academy Ltd.

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

- 98) The amounts and categories of expenditure incurred by North Liverpool Academy Ltd in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify North Liverpool Academy Ltd include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.
- 99) In the event of the termination of this Agreement however occurring the Secretary of State shall procure that his nominee shall resign as a member of North Liverpool Academy Ltd and shall co-operate in making any associated amendments to the North Liverpool Academy Ltd Articles of Association.
- 100) Subject to clause 101, on the termination of this agreement, however occurring, North Liverpool Academy Ltd shall repay to the Secretary of State a sum in respect of the capital contribution made by him under clauses 41-42 above. The amount to be repaid to the Secretary of State shall be a percentage of the value of the assets belonging to North Liverpool Academy Ltd at the date of termination (or by agreement with the Secretary of State) at the date of subsequent disposal of those assets, such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.
- 101) The Secretary of State may waive in whole or in part the repayment due under the above clause if:
- a) North Liverpool Academy Ltd is unable to realise the market value of land or premises because they are returned to the Local Education Authority at less than market value; or
 - b) North Liverpool Academy Ltd obtains her permission to invest the proceeds of sale for its charitable objects; or
 - c) The Secretary of State directs all or part of the repayment to be paid to the Local Education Authority.
- 102) If any land or premises of the North Liverpool Academy were acquired from the Local Education Authority by a scheme under Schedule 35A of the Education Act 1996 or otherwise at less than the market price, and the Secretary of State does not make a scheme as provided for in Schedule 35A (Paragraph 8) of the Education Act 1996, North Liverpool Academy Ltd may dispose of its interest in that land or premises but only with the consent of the Secretary of State, who shall have regard to any representations from North Liverpool Academy Ltd and the Local Education Authority from which the land was transferred before giving or withholding that consent.

GENERAL

103) Without prejudice to any other provision of this Agreement, the Secretary of State acting reasonably may from time to time call for information on, inter alia, the Academy's:

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

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

Access by the Secretary of State's Officers

105) The Governing Body shall allow access to the premises of the North Liverpool Academy at any reasonable time to DfES officials. All records, files and reports relating to the running of the Academy shall be available to them at any reasonable time. The Governing Body shall provide the Department in advance with papers relating to all meetings of the Governing Body of the Academy and of members of the Academy. Two DfES officials shall be entitled to attend and to speak at all such meetings, but shall withdraw from any discussion of the Academy's relationship with the Secretary of State or any discussion of bids for funding to the Secretary of State. The Academy shall take any steps which are required to secure its compliance with the obligations imposed by this clause of the agreement.

106) The North Liverpool Academy shall ensure that:

- i) the agenda for every meeting of the Governing Body;
- ii) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
- iii) the signed minutes of every such meeting; and
- iv) any report, document or other paper considered at any such meeting,

are made available for inspection at the Academy and, as soon as is reasonably practicable, sent to the DfES.

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

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

Notices

108) Any notice or other communication concerning this Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the Governing Body at the Registered Office - Granada Television, Quay Street, Manchester, M60 9EA, or such other addressee/address as may be notified in writing from time to time by the North Liverpool Academy and, in the case of a notice or communication from the Academy to the Secretary of State to Head of Academies Division, Department for Education and Skills, Sanctuary Buildings, Great Smith Street, London SW1P 3BT; or such other address as may be notified from time to time by the Secretary of State and where any such notice or communication is sent by post, unless the contrary is proved, it shall be deemed, subject to satisfactory proof of posting, to be effected at the time at which the letter would be received in the ordinary course of post.

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

110) The service by the Secretary of State of a notice of termination under any clause of this Agreement shall not prejudice the ability of the Academy (if it wishes to do so) during the notice period to admit pupils in accordance with the provisions of clause 16 and Annex 2 to this Agreement and to receive GAG and EAG in respect of them.

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

This document is executed as a Deed on: 22 JULY 2005 date

EXECUTED as a Deed of the North Liverpool Academy

Nigel Ward *N. Ward*

John Latham *[Signature]*

In the presence of: - *[Signature]*

Name [insert witness name] *E. BRASSAL*

Address. *[Redacted]* *NGS 22/4/06*

[Redacted]

.....

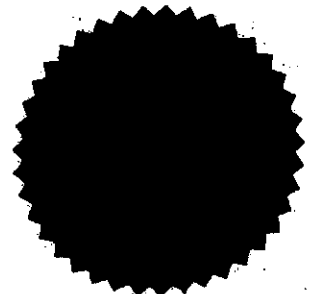
.....

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

[Signature]

(F D W CLARKE)

Authorised by the Secretary of State for Education and Skills



Annex 2

ARRANGEMENTS FOR THE ADMISSION OF STUDENTS TO THE NORTH LIVERPOOL ACADEMY

Our admissions arrangements are consistent with the law on admissions and the Statutory Codes of Practice as they apply to maintained schools. This document sets out the admission arrangements for *The North Liverpool Academy*. Any changes to the arrangements set out in this document, with the exception of setting a published admission number higher than the agreed admission number for a specific year, must be approved in advance by the Secretary of State.

For the purposes of this Annex, references in admission law and in the statutory Codes of Practice to admission authorities shall be deemed to be references to the Governing Body of *The North Liverpool Academy*

c) ADMISSION ARRANGEMENTS APPROVED BY SECRETARY OF STATE

The admission arrangements for *The North Liverpool Academy* for the year **2005/06** and subject to any changes approved by the Secretary of State, for subsequent years are:

- a) The admission number for Year 7 is **270**
- b) *The North Liverpool Academy* may set a higher admission number as its published admission number for any specific year. Before setting an admission number higher than its agreed admission number, *The Academy* will consult those listed at clause 9 below. Students will not be admitted above the published admission number unless exceptional circumstances apply and such circumstances shall be reported to the Secretary of State.

d) PROCESS OF APPLICATION

The North Liverpool Academy will use the following timetable for applications each year in line (exact dates within the months may vary from year to year):

- a) **September** - *The Academy* will publish in its prospectus information about the arrangements for admission, including over subscription criteria. This will include details of open evenings and other opportunities for prospective students and their parents to visit the school. Applications must be received by October and *The Academy* will use the LEA's standard form. *The Academy* will also provide information to the LEA for inclusion in the composite prospectus, as required;
- b) **September/October** - *The Academy* will hold open evenings/ opportunities for parents to visit the Academy;
- c) **October** closing date for application form in line with other schools in the LEA;
- d) **December** - *The Academy* and the LEA have agreed to exchange information about applications and to avoid double counting have agreed that the processing of preferences should be co-ordinated through the LEA);
- e) **December – February** - applications considered and parents notified of offers, whenever possible, at same time as those applying to other admission authorities;

- f) **March** - offers and rejections of places will be notified in writing to parents on 1 March.

These timetables reflect the practice in Liverpool LEA and are intended to secure a co-ordinated approach to admissions for parents and students.

e) **CONSIDERATION OF APPLICATIONS**

- a) **The North Liverpool Academy** will consider all applications for places. Where less than (the looked for number of) applications are received, **The Academy** will offer places to all those who have applied.
- b) Notwithstanding clause 3(a) above, **The Academy** may refuse admission to particular applicants in cases where fewer than the published admission number have applied. These are applicants who have been permanently excluded from two or more other schools and the ability to refuse admissions runs for a period of two years from the last permanent exclusion. One of the exclusions must have occurred after 1 September 1997. Exclusions which took place before the child concerned reached compulsory school age do not count for this purpose.
- c) **The Academy** may also refuse admission to students (other than in the normal year of entry) in the specific and limited circumstances described in paragraph 7.7 of the statutory Code of Practice. In all the circumstances described in this paragraph, however, the Secretary of State may direct **The North Liverpool Academy** to admit such a student and that direction shall be binding on **The Academy**.
- d) Use of banding: students will be tested using an NFER non verbal reasoning test and placed into five ability bands each to contain so far as possible the same number of children. Where there are more children in each band than places, children will be admitted from each band on the basis of the oversubscription criteria. An equal number of children will be admitted from each band.

4. **PROCEDURES WHERE THE NORTH LIVERPOOL ACADEMY IS OVERSUBSCRIBED**

The Academy will admit students representative of all levels of ability among applicants for admission to **The Academy**.

Where the number of applications for admission is greater than the published admissions number, applications will be considered against the criteria set out below. The criteria will be applied in the order in which they are set out below:

- a) admission of students in public care (looked-after children);
- b) siblings (including stepchildren, half brothers and sisters and foster children living in at the same address) currently at **The Academy**;
- c) children whose permanent residence is in the admission area for the school
- d) the academy will admit pupils with statements of special educational need that name the academy. These pupils are not tested under the banding arrangements but are counted against the admission number. This means that the number of remaining places to be allocated from each band may be lower than the published admission number.

e) after children whose permanent residence is in the admission area for the school preference will be given to those children living nearest to **The Academy**. Distance will be measured by the shortest suitable walking route between the child's permanent home

address and the main entrance of *The Academy*.

f) notwithstanding the provisions of clauses 3 (b), (c) above, the Secretary of State may direct the Academy to admit a named pupil to the Academy on application from an LEA. The Secretary of State shall in such circumstances consult *The Academy* before making such a direction and have regard to its comments.

5. OPERATION OF WAITING LISTS

- a) Where in any year *The Academy* receives more applications for places than there are places available, a waiting list will operate. The Academy will maintain this and it will be open to any parent to ask for his or her child's name to be placed on the waiting list, following an unsuccessful application and appeal for the school.
- b) Children's position on the waiting list will be determined solely in accordance with the over-subscription criteria set out in clauses of this Annex.

6. ARRANGEMENTS FOR APPEALS PANELS

There will be an independent Appeals Panel appointed in accordance with the provisions of the statutory Code of Practice on School Admission Appeals as it applies to voluntary aided schools. The Secretary of State has the power to direct *The Academy* to admit any student following consultation with the Academy.

7. ARRANGEMENTS FOR ADMISSION TO POST 16 PROVISION - WHERE APPROPRIATE.

The North Liverpool Academy expects that the great majority of its post sixteen students will comprise students transferring from Year 11 at *The Academy*. When offering places to other students priority will be given to those living nearest to *The Academy*.

8. ARRANGEMENTS FOR ADMITTING STUDENTS TO OTHER YEAR GROUPS, INCLUDING TO REPLACE ANY STUDENTS WHO HAVE LEFT THE ACADEMY.

Where places become vacant they will be offered to children who rank highest on the waiting list.

9. ANNUAL PROCEDURES FOR DETERMINING ADMISSION ARRANGEMENTS **Consultation**

The North Liverpool Academy will play a full role in the LEA's Admissions Forum and will consult each year on its proposed admission arrangements by 1 March. As a minimum consultees will include:

- a) Liverpool LEA;
- b) any other admission authorities for primary and secondary schools located within the relevant area for consultation set by the LEA;
- c) the governing bodies of schools in the relevant area that are not admissions authorities.

10. DETERMINATION AND PUBLICATION OF ADMISSION ARRANGEMENTS

Following consultation, **The North Liverpool Academy** must consider comments made by those consulted. **The Academy** shall then determine its admission arrangements by 15 April of the relevant year and notify those consulted what has been determined.

11. PUBLICATION OF ADMISSION ARRANGEMENTS

The Academy will publish its admission arrangements each year once these have been determined, by arranging with the LEA for the LEA to publish this information on its behalf. The Academy shall provide the LEA with information for the composite prospectus.

The published arrangements will set out:

- a) the name and address of the school and contact details;
- b) a summary of the admissions policy, including over-subscription criteria;
- c) numbers of places and applications for those places in the previous year;
- d) arrangements for hearing appeals (these must be consistent with the provisions of the statutory Code of Practice on School Admission Appeals as it applies to foundation and voluntary aided schools).

12. REPRESENTATIONS ABOUT ADMISSION ARRANGEMENTS

- a) Where other admissions authorities in the relevant area make representations to **The North Liverpool Academy** about its admission arrangements, **The Academy** will consider such representations. Where **The Academy** and other admission authorities cannot reach agreement locally, any admission authority in the Liverpool area may make representations to the Secretary of State. The Secretary of State will consider the representation and in so doing will consult **The North Liverpool Academy**. Where he judges it appropriate, the Secretary of State may direct **The Academy** to amend its admission arrangements.
- b) Other admission authorities in the Liverpool area have the right to ask **The North Liverpool Academy** to increase its proposed published admissions number for any year. Where such a request is made, but agreement cannot be reached locally, an admission authority may ask the Secretary of State to direct **The Academy** to increase its proposed published admissions number. The Secretary of State will consult **The North Liverpool Academy** and will then determine the published admission number.
- c) The Secretary of State may direct changes to **The North Liverpool Academy** proposed admission arrangements where this is necessary to provide for those arrangements to be consistent with the provisions of admission law and the Statutory Code of Practice as they relate to maintained schools.

13. PROPOSED CHANGES TO ADMISSION ARRANGEMENTS BY THE NORTH LIVERPOOL ACADEMY AFTER ARRANGEMENTS HAVE BEEN PUBLISHED

Once the admission arrangements have been determined and published, **The Academy** should propose changes only if there is a major change of circumstances. In such cases, **The North Liverpool Academy** must consult those consulted under clause 9 above and must then apply to the Secretary of State setting out:

- a) the proposed changes;

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

14. NEED TO SECURE SECRETARY OF STATE'S APPROVAL FOR CHANGES TO ADMISSION ARRANGEMENTS

- a) The Secretary of State will [usually] consider applications from ***The North Liverpool Academy*** to change its admission arrangements only when ***The Academy*** has consulted on the proposed changes as outlined at 13 above.
- b) Where ***The North Liverpool Academy*** has consulted on proposed changes and there have been no objections from other admissions authorities ***The Academy*** must still secure the agreement of the Secretary of State before any such changes can be implemented. ***The Academy*** must seek the Secretary of State's approval in writing, setting out the reasons for the proposed changes and passing to him any comments or objections from other admission authorities/other persons.
- c) The Secretary of State can approve, modify or reject proposals from an Academy to change its admission arrangements.
- d) Records of applications and admissions shall be kept by ***The North Liverpool Academy*** for a minimum period of ten years and shall be open for inspection by the Secretary of State.

Annex 3

SEN Policy for North Liverpool Academy

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

1. The Academy shall have regard to the Code of Practice on the Identification and Assessment of Special Educational Needs and any guidance issued by the Secretary of State relating to sections 316 and 316A of the Education Act 1996 and the Special Educational Needs Code of Practice, 2001. The Academy will put in place arrangements to review its special educational needs policy once it has opened.

Duties in relation to students with SEN

2. The governors of the Academy shall designate a person, who may be the principal, the chair of governors or another governor as appropriate, who shall be the responsible person for the purposes of the following duties in relation to students with SEN.
3. The governors of the Academy shall:
 - use their best endeavours, in exercising their functions in relation to the school, to secure that, if any registered student has special educational needs, the special educational provision which the student's learning difficulty calls for is made;
 - secure that, where the responsible person has been informed by the local education authority that a registered student has special educational needs, those needs are made known to all who are likely to teach the student;
 - secure that the teachers in the school are aware of the importance of identifying, and providing for, those registered students who have special educational needs; and
 - consult the local education authority and the governing bodies of other schools in the area, to the extent that this is necessary for co-ordinating provision for students with SEN.
4. Where a child who has special educational needs is being educated in the Academy, those concerned with making special educational provision for the child shall secure, so far as is reasonably practicable and is compatible with:
 - the child receiving the special educational provision which his/her learning difficulty calls for;
 - the provision of efficient education for the children with whom he/she will be educated and the efficient use of resources;
 - that the child engages in the activities of the school together with children who do not have SEN.
5. Governors will put in place a developing, progressive 3-year access plan. The Academy prospectus shall include details of the governing body's policy for students with SEN as specified below. It shall also include details of the arrangements for the admission of disabled students; the steps taken to prevent disabled students from being treated less favourably than other students; and the facilities provided to assist access to the Academy by disabled students (disabled students meaning students who are disabled for the purposes of the Disability Discrimination Act 1995).

Information to be included in the governors' report

- The objectives of the governing body in making provision for students with SEN, and a description of how the governing body's SEN policy will contribute towards meeting those objectives.
- The name of the person who is responsible for co-ordinating the day-to-day provision of education for students with SEN at the Academy (whether or not the person is known as the SEN co-ordinator).
- The arrangements that have been made for co-ordinating the provision of education for students with SEN.
- The arrangements for students with SEN on school action plus.
- The admission arrangements for students with SEN who do not have a statement in so far as they differ from the arrangements for other students (the presumption being that they should not differ).
- The kinds of provision for SEN in which the Academy specialises and any special units.
- Facilities for students with SEN at the Academy including facilities that increase or assist access to the school by students who are disabled.
- Information about the Academy's policies for the identification, assessment and provision for all students with SEN.
- How resources are allocated to and amongst students with SEN.
- How students with SEN are identified and their needs determined and reviewed.
- Arrangements for providing access by students with SEN to a balanced and broadly based curriculum.
- How students with SEN engage in the activities of the school together with students who do not have special educational needs.
- How the governing body evaluate the success of the education which is provided at the school to students with SEN.
- Any arrangements made by the governing body relating to the treatment of complaints from parents of students with SEN concerning the provision made at the Academy.
- Information about the Academy's staffing policies and partnership with external bodies.
- Any arrangements made by the governing body relating to in-service training for staff in relation to SEN.
- The use made of teachers and facilities from outside the Academy including links with support services for SEN.
- The role played by the parents of students with SEN.
- Any links with other schools, including special schools, and the provision made for the transition of students between the Academy and the next stage of life or education.

- Links with child health services, social services and educational welfare services and any voluntary organisations that work on behalf of children with SEN.

6. Admissions

- The Academy shall ensure that students with SEN are admitted on an equal basis with others in accordance with its admissions policy.
- Where a local education authority proposes to name the Academy in a statement of SEN made in accordance with section 324 of the Education Act 1996, the Academy shall consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children; and where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Academy shall have regard to the relevant guidance issued by the Secretary of State to maintained schools. In the event of any disagreement between the Academy and the local education authority over the proposed naming of the Academy in a statement, the Academy may ask the Secretary of State to determine whether the Academy should be named. The Secretary of State's determination shall be final.

Annex 4

LEARNING BEHAVIOUR & EXCLUSIONS POLICY FOR NORTH LIVERPOOL ACADEMY

Section 1

1. LEARNING BEHAVIOUR POLICY

The Academy is committed to creating a happy and supportive community where there is an atmosphere of trust, mutual understanding and good order. We will expect the highest standards from our students and encourage them to be self-disciplined at all times. The whole community should respect other people, their property and the environment in which they work and learn. This will be achieved if the following guidance is observed.

General conduct

Students have a lot of freedom at The Academy and are trusted to behave like young adults. The future for all students, to a large extent, will be greatly influenced by how they spend their time at the Academy. They should be encouraged to recognise that this is the one chance they have at school, so they will only harm themselves if they do not do their best. If students behave in a way that makes it difficult for teachers to teach and other students to learn, then steps have to be taken to prevent such selfish actions, and parents will be informed. The single most important rule at The Academy is that all students are required to respect the feelings and property of others. We rely on each individual to take responsibility for their actions and to create an atmosphere of trust if we are to create a caring, relaxed and happy community.

All students are therefore expected to:

- do their best at all times, inside and outside the classroom
- behave in a respectful way towards all members of staff, other students and visitors
- maintain a high standard of personal appearance
- avoid rowdy behaviour which is a distraction or danger to others
- take pride in The Academy environment by keeping it litter free and avoiding damage to Academy property
- use appropriate language at all times (swearing is not acceptable)

2. CLASSROOM CONDUCT

Learning managers should be able to concentrate on teaching. Students should be reminded that they share learning managers' time with other learners. Should one or two misbehave in a class, they distract the learning manager and valuable teaching time is wasted.

All students are therefore expected to:

- arrive on time and be ready to work
- line up quietly and in an orderly fashion outside the classroom until the teacher is ready for them, unless directed otherwise by the teacher or support staff
- be prepared for each lesson and if required bring all necessary equipment
- avoid disturbing the lesson or doing anything to distract others
- refrain from chewing, eating (sweets etc) or drinking in class
- pay attention throughout the lesson and do the required work as well as they can
- wait until the class is dismissed by the teacher or support staff

3. HOMEWORK

Students are expected to complete all homework that is set in accordance with the Academy's published homework timetables.

4. REWARDS POLICY

The Academy aims to promote high standards of behaviour, self-discipline and learning through positive encouragement and reward. When students do something well, all staff are to recognize this. Academic tasks are to be rewarded using the marking policy and by speaking to the student. A range of rewards will also be available, through the Academy's Recognition of Achievement Scheme.

What should be rewarded?

Rewards should be used to encourage good behaviour as well as academic effort and success. To be a motivating factor and for the rewards to have currency in the eyes of the students, there should be clear, but wide varying criteria which would be worthy of reward e.g.

- Full attendance for a term
- 100% punctuality to registration over a term
- Meeting a specific target agreed between student and learning manager
- Evidence that a particular skill or quality has been achieved or is improving
- Evidence that a particular whole school, year or area target has been met
- Prolonged or particular effort
- Prolonged or particular achievement in class work/ homework
- Assisting with in-school or out-of-school activities
- Representing the Academy in some capacity

Incentives

There will be a hierarchical system of rewards to recognise student achievement and to celebrate success.

Credits

All student link books will have a section where credits can be recorded. Credits can be awarded for good behaviour, a good piece of work, being helpful or being creative. Every 10 credits = 1 merit. Form tutors will monitor the accumulation of credits and convert them to merits on a regular basis.

Merits

Merits are more prestigious than credits and can be awarded for an accumulation of credits or for a one off example of excellent work or a show of excellent services to the Academy.

Diploma Certificate

Any member of staff can issue a one off Academy diploma for any out-standing contribution to Academy life. It is intended that students retain all certificates for collation in a Record of Achievement, and for final inclusion in an Academy Diploma.

Attendance Award

Every student who gains 100% attendance in a term will be given a ticket. In an academic year, every student can obtain 6 tickets, which then will be entered into a draw for each year group.

In addition to the 'formal' rewards, we should not forget the significance of: an approving look/ smile, private praise, public praise, notes to parents/ tutors, display of work, a quick phone call home.

5. DISCIPLINE PROCEDURES

General action when misconduct occurs:

As soon as unacceptable behaviour occurs, staff should make it clear to students that it is not acceptable. If the misconduct is serious they should initiate disciplinary action immediately. If the misconduct is less serious they should explain why it is not permitted. Having explained, they should warn the student clearly that action will follow any further misconduct. Should further misconduct occur appropriate sanctions should be given.

Note: Corporal Punishment is expressly forbidden in the Academy

SANCTIONS AND STRATEGIES FOR ADDRESSING INAPPROPRIATE BEHAVIOUR

Types of Sanction

The sanctions which can be imposed fall into three categories:

Reflective: Encouraging students to reflect on inappropriate behaviour

Constructive: Community service - requiring students to provide a service to the wider community

Deterrent: Withdrawal of freedom of privileges to deter inappropriate behaviour

Sanctions

Descriptions of sanctions in order that staff are aware of their graduated nature.

Level 1: Containable Issues

Independent action to be taken by staff as an immediate response to inappropriate behaviour.

- Verbal reprimand
- Moving to another seat in class
- Small punishment such as helping to tidy up or apologising
- Short detention by the learning manager in which the activity could involve a small punishment as mentioned above or discussion and resolution of the issue

Level 2: Issues where the learning manager enlists the aid of the Form tutor. Where problems appear not to be resolved by level 1 sanctions, the problem persists or there are problems in a number of lessons. The learning manager and tutor can consult and agree action. Sanctions will include:

- Setting the student a target or goal that will be monitored by the tutor
- Longer detention
- Community Service or withdrawal of privilege
- Learning Manager/Form tutor subject report
- Tutor refers student to AP for interview.
- Contact with parents initiated by letter or phone

Level 3: Persistent Issues unresolved by less formal approach or more serious Incident where the AP (year or Key Stage) becomes involved.

- Work or behaviour contract agreed
- After hours' detention - home must be notified 24 hours in advance

- Formal involvement of AP - possible temporary removal from part or all timetabled lessons and restricted access to whole Academy facilities and privileges.
- Referral to the student referral unit
- Parents invited in for interview with the appropriate AP (year or Key Stage) and Form tutor
- AP report

Level 4: Issues still unresolved.

- Involvement of AP (pastoral) or Principal
- Referral to the student referral unit
- Work or behaviour contract agreed
- Parents invited in for interview with AP (Pastoral) or Principal

Notes:

- Entry and exit criteria for the student referral unit will be reviewed on an annual basis and will be available from the Principal
- Detention is one of the sanctions the Academy will use in cases of serious misbehaviour. When this course of action is decided upon, parents and carers will be given at least 24 hours written notice of the detention, why it has been given and when, where and for how long the student will have to remain at school. On receipt of the letter, parents may make representations to the Academy and the detention may be deferred or revoked as a consequence.

Contact with Parents

It is important for parents to be made aware of potential disciplinary issues at an appropriate stage in order that they are fully informed and that their support is enlisted if possible. This must be done in a controlled manner in order to ensure consistency.

Guidance for Support and Administration Staff

Alongside our teaching staff, the support and administration staff are also a valuable adult presence in the Academy and come into regular contact with students. In the event of this leading to a problem, support and administration staff should use the guidelines above.

6. ANTI-BULLYING POLICY

Bullying is a form of anti-social behaviour that the Academy considers inappropriate and unacceptable. It is the willful, conscious desire to frighten, dominate or hurt someone else by the use of words or gestures, even just a look, or by actual physical violence – thereby damaging their self-confidence or self-esteem. Bullying can have potentially long-lasting and damaging psychological effects on the victim, and is harmful to the whole Academy community. We provide an environment where bullying is seen by all to be unacceptable. To this end, it will be given a high profile in the PSHE programme, in tutor time and in assemblies. The Student Councils are encouraged to discuss bullying. We will not tolerate any incidents of bullying. Teachers and non-teaching staff are encouraged to be vigilant and to report any concerns. We are committed to student-centred learning, which focuses on the need of individuals, and we promote teaching and learning styles that encourage co-operative working. Classroom management has a key part to play in ensuring that students can work in a variety of groupings and thus extend their relationships beyond a small group of friends.'

Dealing with bullying

Principles

We try to create a supportive atmosphere in which all students feel able to talk about their problems. They will always be listened to by an appropriate member of staff when reporting incidents of bullying, and what they say will be taken seriously. Allegations of bullying are dealt with swiftly. The tutor is the first point of contact and will discuss incidents of suspected bullying with the students and if appropriate the parents. Where problems persist the tutor will work with their AP. Should serious problems still exist, other staff and possibly the Principal will be involved. Every effort is made to resolve problems between students through the counselling of both parties; both may need support in addressing and modifying their behaviour. Parents will be kept informed at each stage in any incident of bullying.

Procedure

Students involved will be interviewed individually and their statements recorded. They will be given the opportunity to talk about their perceptions of the incident and their feelings. The member of staff will then arrange for the students to meet together with them to agree a set of targets to prevent bullying occurring again. The situation will be monitored carefully. Any further incidents will be followed up immediately. Parents will be informed of the incidents and any action taken. Bullying will always be treated as a problem and a 'problem solving' approach adopted. If there are repeated incidents, sanctions will be employed. Students must recognise that the Academy will not accept bullying.

Section 2

Policy on Exclusions SERIOUS INCIDENTS OF MISBEHAVIOUR LEADING TO FIXED PERIOD OR PERMANENT EXCLUSION

Action to be invoked by Senior Staff in Serious Disciplinary Matters

1. Over serious matters a senior member of staff, i.e. an Assistant Principal or coordinator, must interview students. If the nature of the incident is very serious then two staff members should be present to conduct the interview, e.g. two Assistant Principals or an Assistant Principal and the tutor. The student should be questioned fairly and be given ample opportunity to give a response. The student should be asked to write down a record of what happened and sign it. At this stage this statement will help the Principal to decide on what further action should be taken. Students who witnessed what happened should also be asked to write down a record and sign it. Such written statements may be used as evidence.
2. In discharging their duties the Principal and Governors of The Academy will have regard to DfES guidance on exclusions.
3. A decision to exclude a student will only be taken
 - In response to serious breaches of The Academy Behaviour and Discipline Policy;
 - If allowing the student to remain in the Academy would seriously harm the learning or welfare of the student or other students in the school
 - In cases where there has been a major breach of normal expectations of

conduct or a breach of the criminal law.

4. Before excluding a child, in most cases a range of alternative strategies will have been tried.

Responsibilities of the Principal

5. **The Principal alone (or a nominated Assistant Principal if the Principal is absent) has the power to exclude students.**

6. In considering excluding a student the Principal should carry out a range of activities including:

- Undertaking a thorough investigation
- Considering all the relevant facts and firm evidence to support the allegation(s)
- Taking into account the Academy's behaviour policy including the equal opportunities and anti-bullying policies
- Checking whether an incident appeared to be provoked by racial or sexual harassment
- Ensuring that all students involved including those students with learning difficulties have the opportunity to give their version of events
- Consulting other people or agencies, but not anyone who may be involved in any subsequent formal review of the exclusion
- Ensuring time has been given to addressing and supporting the student's individual problems

7. Before deciding to exclude a student permanently the Principal will normally first try a range of strategies including fixed period exclusion. Normally only when other strategies have been tried without success will the Principal consider permanent exclusion.

8. There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of poor behaviour.

9. The Principal may exclude a student for one or more fixed periods up to and including 45 school days in any one academic year or permanently. However, before a permanent exclusion is considered the Principal will have held discussions with Liverpool LEA with a view to looking at alternative arrangements such as a placement in another school or a Pupil Referral Unit (PRU).

10. The Principal will aim for the shortest possible period of exclusion but, however brief, an exclusion plan will be made

- To enable the student to continue his or her education
- To use the time to address the student's problems
- To plan the process of reintegration

Informing Parents about the Exclusion

11. The Principal will make sure the parent is notified immediately, ideally by telephone, and that the telephone call is followed by a letter within one school day. An exclusion will normally begin on the next school day, but can begin immediately if

circumstances warrant this.

12. Letters about fixed period and permanent exclusions will explain: -

- Why the Principal decided to exclude the student and the steps taken to try to avoid the exclusion.
- The arrangements for enabling the student to continue his/her education, including setting and marking the student's work.
- That a meeting of the Governing Body will be set up and parents will be informed of the details.
- The parents' right to put their views to the Governing Body.
- Whom the parents should contact if they wish to put their views (usually the Clerk to the Governing Body).
- The latest date by which the parent can put a written statement to the Governing Body.
- The parents' right to see, and have a copy of, their child's school record.
- If the exclusion is for a **fixed period**, the precise period of the exclusion and the precise date and time the student should return to The Academy.
- If the exclusion is **permanent**, the date the permanent exclusion takes effect, and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident.

13. If the Principal wishes to extend a fixed period exclusion or, exceptionally, converts a fixed period exclusion into a permanent exclusion, the Principal will again write to the parent explaining the reasons and making the other points above. Where an exclusion is extended there will be a renewed right for the parent to put their views to the Governing Body.

Informing the Governing Body

14. The Principal will inform the Chairman of the Governing Body of-

- All permanent exclusions
- All fixed period exclusions which would mean the student being excluded for more than five school days in total in one term
- All exclusions that would result in the student losing the opportunity to take a public examination.

15. Fixed period exclusions of up to and including 5 school days in any one term will be reported termly, unless the Governing Body asks for more frequent reports.

16. The Principal will inform the student's "home" LEA of his or her permanent exclusion, so that the LEA can make preparations to provide him/her with suitable full-time education if he/she remains excluded after 15 school days.

Responsibilities of the Governing Body

17. Governors have no powers to exclude a student. Governors will review the use of exclusion in The Academy regularly. The Governing Body may establish a Committee to consider exclusions and will establish, when the need arises, an independent Appeal Panel.

18. If the Governing Body decides to establish a committee to consider exclusions, which it may call the Discipline Committee, this will consist of at least 3 Governors who will review the use of exclusion within The Academy, including considering the views of the parents of an excluded student, and deciding whether or not to confirm exclusions of more than 5 school days in any one term or those where a student would miss an opportunity to take a public examination. The Governing Body will appoint a clerk to any such Committee to provide advice on the exclusions process and to handle the administrative arrangements for considering exclusions.

19. If the exclusion is for five school days or fewer in one term the Governing Body will consider any statement submitted by the Parent. If any exclusion would cause the student to miss a public examination the Governing Body will try to meet before the date of the public examination. Where a public examination is concerned, if it is not practical for the Governing Body to meet, the Chair of the Governing Body may consider the exclusion. Alternative arrangements to allow an excluded student to take public examinations will be considered.

20. For exclusions of more than 15 school days in one term the Governing Body will consider the exclusion and decide whether the student should be reinstated. If a student has been excluded on a number of occasions the Governing Body will meet once the student has been excluded for more than 15 school days in the term. The parent can request a meeting with the Governing Body in respect of one or more exclusions amounting to more than 5 school days in a term.

21. For permanent exclusions the Governing Body will consider the exclusion and decide whether the student should be reinstated. Such consideration will take account of the student's disciplinary record and the interests of the whole school community of The Academy, as well as the severity of the offence.

22. On receiving notice from the Principal that a student has been excluded for more than 5 school days, the clerk to the Governing Body should:

- for an exclusion of between 6 school days and 15 school days in a term, set up a meeting, only if requested by the parent, between the 6th and the 50th school day to consider the exclusion
- for an exclusion of over 15 school days, set up a meeting between the 6th and 15th school day after that notice to consider the exclusion; invite the parent to the meeting, at a time and place convenient to all parties as far as possible. The parent may be accompanied by a friend or a legal representative at their request
- ask for any written statements in advance of any meeting
- circulate any written statements and a list of those who will be present at the meeting to all parties attending

23. The chair of the Governing Body should normally allow the excluded student to attend the meeting and speak if the parent and the student ask for this. If the student is 18 or over, he/she presents his/her own case.

Procedure at the meeting

24. If the student is back at school before the Governing Body meets, the meeting still enables the parent to give their views. The Governing Body may decide that a written statement of their views about the exclusion should be added to the student's record.

25. If the student is still excluded when the meeting takes place, the Governing Body should decide whether to direct re-instatement. In reaching their decision the Governing Body should:

- consider the parents' statements;
- have regard to DfES guidance on the appropriate use of exclusion and The Academy Learning Behaviour Policy. Also, they should consider whether the Principal has tried sufficient approaches to improve a student's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion;
- for permanent exclusion, the Governing Body should normally satisfy itself that all possible strategies to improve a student's behaviour were tried without success. Strategies should include those in DfES guidance, including a Pastoral Support Programme. For children with statements of SEN, asking the LEA to review the statement might be better than resorting to exclusion.

26. The Governing Body may not attach conditions to the re-instatement of a student.

27. If the Governing Body upholds the Principal's decision to exclude a student permanently, it will write within one school day to the parent:

- giving the reasons for the decision
- explaining the parents' right to appeal to an Independent Appeal Panel to which the parents can make oral and written representations
- giving the name and address of the person the parents should contact if they wish to appeal, explaining that any notice of appeal should give the grounds of appeal and stating the latest date for giving notice (15 school days from the date of notification of the Governing Body's decision). The parent has the right to appeal to the panel even if they did not make representations to the Governing Body

28. If the Governing Body upholds a decision to exclude a student permanently it will notify the student's "home" LEA in writing of this decision within one school day of the meeting. The Governing Body's decision on fixed period exclusions is final. In the case of permanent exclusions, parents may appeal to an independent Appeal Panel.

After the meeting

29. A note of the Governing Body's views on the exclusion should normally be placed on the student's record with a copy of the Principal's exclusion letter.

Appeal Hearings

30. Parents whose child is excluded permanently from The Academy have the right to appeal against the Governing Body's decision to uphold the exclusion. This appeal is made to the Appeal Panel. The right of appeal is unrestricted subject to the time limit.

31. An appeal must be lodged in writing to the Clerk to the Appeal Panel within 15 school days from the date the parent receives notice of the Governing Body's decision. The panel should meet within 15 school days of the notification of appeal

32. In the event of a permanent exclusion the student's "home" LEA will be notified if the exclusion is confirmed

Arranging an Appeal Hearing

33. The letter from the Clerk to the Governing Body will inform the parents of their right to appeal against the decision of the Governing Body not to re-instate the permanently excluded student. The letter will give the name and contact details of the Clerk to the Appeal Panel (who should not be the same person as the Clerk to the Governing Body) and explain that the parents' notice of appeal must be in writing and set out the grounds of appeal. The letter will tell the parents that the final date for lodging an appeal will be 15 school days from the date the parent receives notice.

34. The day on which the parent is given notice will be taken to be the second school day after the date of posting by first class post, or, where the notice is hand-delivered, the date of delivery (unless a different date of receipt can be demonstrated). No appeal will be accepted if it is made after the final date for lodging an appeal.

35. The Independent Appeal Panel will comprise three or five members plus a clerk appointed by the Governing Body.

36. No Governor, employee of The Academy or person who has had any connection with The Academy or with the excluded student or with the incident leading to the exclusion, shall serve on the Appeal Panel. The members of a three member Panel will be: a serving or recently retired (within the previous 5 years) Principal of a school; a serving or recently serving (within the previous 6 years) governor of a school with at least one year's unbroken service and who has not been a teacher or Principal within the previous 5 years; and a lay member who takes the Chair. The members of a 5 member Panel will be two Principals, two Governors and a lay member who takes the Chair. A lay member is a person without personal experience in the management of any school or the provision of education in any school disregarding any experience as a governor or in any other voluntary capacity.

37. The Appeal Panel may not reinstate students purely on the basis of minor technicalities relating to prior procedure, where they are persuaded on the merits of the case that the exclusion was justified and would not otherwise direct that the student should be reinstated. The Appeal Panel will rather consider afresh the question of whether the student should be reinstated.

38. The Appeal Panel will meet within 15 school days of the date the parent lodges notice of appeal.

39. Those entitled to attend a hearing and present their case are: -

- The parent (or the student, if aged 18 or over), who may be represented by a legal or other representative.
- The Principal, who may make oral representations.
- A nominated member of the Governing Body, who may make oral representations.
- A legal or other representative of the Governing Body.

40. The Principal and Governing Body may also make written representations.

Wherever possible, the Clerk will make available all written evidence to the panel members and the parent 5 working days in advance of the hearing. The student, if the parent requests, will normally be allowed to attend the hearing and speak on his/her own behalf.

Role of the clerk

41. The Appeal Panel will have a clerk who will serve as an independent source of advice on procedure for all parties to the appeal. The Governing Body will use its best endeavours to ensure that the clerk has some legal training and experience in the conduct of appeal hearings. They should not be the same person who served as a clerk to the prior Governing Body hearing.

42. When the panel withdraws, or invites the parties to do so, when it wishes to consider its decision, the clerk may remain with the panel, but only for the purpose of offering advice on procedure or law, and recording decisions and reasons.

Procedure at the hearing

43. The appeal hearing will not be held at The Academy. The Appeal Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.

44. The remit of the Appeal Panel is to consider whether the student should be reinstated

45. In considering an appeal, the panel will decide whether the student actually did what he or she is accused of doing, if the allegation of misconduct is disputed. If more than one incident of misconduct is alleged, the panel will decide on each incident. If satisfied on the balance of probabilities that the student did what s/he is alleged to have done, the panel will decide whether, considering all relevant factors, reinstatement is appropriate. Relevant factors must include:

- The broader interests of other students and staff in The Academy, as well as those of the excluded student
- The Academy's published discipline policy
- Where other students were involved in the same incident and were also disciplined, the fairness of the permanent exclusion in relation to the sanctions imposed on the other students involved

46. To reach a decision, the panel may need to hear evidence from those directly or indirectly involved, including the student. The Principal and Governing Body may not introduce new reasons for the exclusion. However, the parent may put forward new information that may not previously have been available. If this happens, the Principal and Governing Body should be given an opportunity to respond.

47. The order of hearing will be notified in advance to the parties. At the start of the hearing the chair or clerk will welcome the parties and introduce those present, pointing out that the panel is independent of The Academy and its Governing Body and that its decision is binding on them. The clerk will explain the order in which the parties entitled to be heard will state their case and that there will be an opportunity for questioning by the other parties afterwards.

48. The panel members may also ask questions of the other parties to the appeal or of any witnesses who appear, in order to clarify an issue or to elicit more information.

The aim will be for panel members to ask their questions at the end of each party's statement and following questions by the other parties.

49. The clerk may be called on to give legal or procedural advice to the Appeal Panel during the course of the hearing and when they retire to consider their decision.

50. The chair will order proceedings and lead the panel in establishing the relevant facts. If the parent appears to be having difficulty in presenting their case, the chair should intervene to assist them to ensure that their case is established and that factual matters not in dispute are clearly identified. The chair will assist parents who have English as a second language or who have literacy problems, and who may not have understood all the paperwork.

51. If the Appeal Panel wishes to vary the notified procedure, it should only do so after hearing the views of all the parties present and entitled to make representation. Sufficient time will be allowed for each party to put its case. The panel should ensure that parents are given the opportunity to comment on relevant information obtained from the Governing Body. Care must be taken to ensure that no party attending the hearing is present alone with the Appeal Panel⁵³. In exceptional cases the panel may adjourn an appeal to a later date. If there is an adjournment, it is essential that no part of the proceedings takes place other than in the presence of all the panel members.

Evidence and witnesses

52. Where the Academy's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel, if they wish to see it. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable as evidence.

53. The Appeal Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Appeal Panel may wish to call witnesses who saw the incident or behaviour that gave rise to the exclusion. They may also wish to call a learning manager or learning managers (other than the Principal) who investigated the incident and interviewed students. The Principal has the right to make written representations to the panel and to appear and make oral representations.

54. Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements, copies of which will have been circulated to all parties by the clerk before the hearing. In the case of witnesses who are students of The Academy, it will generally be appropriate for the panel to rely on their written statements. Students may, however, appear as witnesses in person if they do so voluntarily and their parents consent. All written witness statements must be attributed and signed, except in cases where the Academy has good reason to wish to protect the anonymity of students. In such cases the statement will not be attributed and some names may be blanked out. The general principle remains that someone accused of something is entitled to know the substance and the source of the accusation. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.

55. The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should remain for the remainder of the hearing.

56. If any of the parties intend to raise matters or produce documents at the hearing that are not covered by the statement of decision or the notice of appeal, these should be submitted to the clerk to the Appeal Panel in good time before the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment may be necessary to allow all parties to consider the issues.

57. An appeal panel may uphold the decision to exclude; direct immediate reinstatement or reinstatement at some future date; or may decide that, because of exceptional circumstances or for other reasons, it is not practical to give a direction requiring reinstatement, but that it would otherwise have been appropriate to give such a direction. An Appeal Panel, when directing re-instatement, may specify a future date rather than an immediate return, perhaps to allow for support arrangements to be put in place. But the date of re-instatement should be reasonable in all the circumstances. The Appeal Panel cannot attach conditions to the re-instatement of a student.

58. Under no circumstances can an appeal continue if the number of panel members drops below three at any stage during the appeal. Once an appeal has begun, no panel member may be substituted by a new member, for any reason. In the case of a five member panel, if any member dies or is taken ill, the panel may continue, provided the three categories of member are still represented on the panel. In such cases the Chair would have the casting vote in the event of a tie.

Record of the proceedings of an appeal panel

59. The clerk to an Appeal Panel should take minutes of the proceedings, the attendance, the voting and record the decision in a format approved by the Appeal Panel.

After the hearing

60. The decision of the Appeal Panel is binding on all parties. The Appeal Panel will communicate its decision to all parties by the end of the second school day after the appeal hearing. Where a hearing is held on the last day of term or outside term-time, the panel will notify all parties by the end of the second working day after the conclusion of the hearing.

61. If the Appeal Panel upholds the permanent exclusion, the clerk should immediately report this to the student's "home" LEA. The clerk should also advise the parent to contact the LEA about arrangements for their child's continuing education. The Principal should remove the student's name from The Academy's roll the day after the conclusion of the exclusion appeal. Where the Appeal Panel direct re-instatement they should immediately inform the Principal of their decision and specify the date on which the student must be readmitted.

62. Details of exclusion may not be deleted from the student record, where exclusion is a matter of fact. The Governing Body must, however, comply with any parental request to append their appeal statement to the student's record. It will be for the Governing Body to decide what details of the exclusion are included in the student's school record: copies of the principal correspondence should be included and possibly the minutes of the Governing Body and Appeal Panel hearings, if the Governing Body and Appeal Panel respectively agree to this.

THE PROCESS FOR MONITORING THE CAPITAL PROJECT AND THE FORMAL APPROVALS REQUIRED BY THE SECRETARY OF STATE

North Liverpool Academy

1	2	3	4	5	6	7
DESCRIPTION OF STAGE	ACTION BY SCHOOL BUILDINGS AND DESIGN UNIT (SBDU)	FORM OF SBDU RECOMMENDATION	ACTION BY ACADEMIES DIVISION (AD)	FORM OF AD FORMAL APPROVAL OR AUTHORISATION TO PROCEED	COPY SBDU REC	COPY AD APPR
1 F (1)	AD receives Expression of Interest to establish an Academy.	SBDU comments on site, costs and programme if required	None.	AD seek Ministerial approval for project to go into feasibility.	If Minister approves, AD issues feasibility letter.	
2	Upon receipt of Expression of Interest, from LEA or Sponsor, AD commission ELE to advise on SEN/Inclusion implications apparent in the E of I.	None	None	AD contacts LEA for AMPa, OS map, floor plans. AD sends to SBDU to pass on to others.		
3	ELE produces report on SEN/Inclusion implications in E of I	SBDU gets copy of report and makes comments to AD	None. Comments noted only.	AD send E of I to ELE for comment as per Framework Agreement.	AD request by email for SBDU to contact ELE to set up site visit.	
4	Upon receipt of Expression of Interest, AD commission initial site survey/option appraisal	SBDU liaise with surveyors re site meeting with SBDU and site surveys. Agree timescale for survey results.	None. SBDU will later brief consultants	AD considers ELE report and asks questions of SBDU as necessary.	None.	
5	Sites are subject to an AMP-based suitability and condition assessment. Options for developing the site will also be considered. This assessment provides information about whether new build or remodelling offers the best value for money	Surveyors briefed by SBDU : Ordnance Survey of the site Floor plans Typical school schedule for size Curriculum model SEN implications if known Any AMP reports by LEA	SBDU advise AD of expected date of survey conclusions.	AD contact LEA to arrange access for surveys. AD request SBDU to contact surveyors.	AD issue instructions on standard form to surveyors to proceed.	
6	Survey team visit site with SBDU and discuss general condition/suitability before starting survey. Survey team and ELE combine visits.	SBDU consider whether buildings are suitable for refurbishment and convey conclusions to surveyors and AD	None. SBDU make comments and form conclusions. SBDU advise AD informally.	AD consider SBDU comments	None	
7	ELE visit site with SBDU and produce report for AD on implications for site of general inclusion and particular SEN requirements evident in E of I	SBDU comments to AD on ELE report conclusions and implications for project budget.	None. Report only.	AD consider SBDU comments	None	
8	Informal approval of the survey recommendations arising from 5,6,7 above.	SBDU comments to AD on survey report conclusions.	Email to AD with observations	AD considers SBDU comments re new-build or remodelling.	None	
9	AD appoint Project Manager.	None.	None.	AD interviews and prepares contract	AD appoints Project Manager.	

10 F (2)	Approval of the project brief and cash limit (excluding abnormal) - informed by the above surveys and reports.	SBDU produce project cost spreadsheet.	Recommendation. Email	AD liaise with SBDU as necessary.	AD send Feasibility letter to Sponsor confirming cash limit and if new build/renoval project
11	Project Manager prepares full Action Plan and programme of work for establishing the Academy	SBDU respond to any specific request by AD for comments.	None	AD consider PM submission.	AD confirm acceptability of plan.
12	AD appoint Construction Manager.	SBDU to consider any particular needs of the project in terms of Construction Management	SBDU to recommend suitable Construction Manager from framework	AD notify sponsor and project manager of details of Construction Manager appointment	Contract signed with Construction Management supplier
13	Sponsor requests from AD the names of suitable design teams for interview for Academy project.	SBDU send AD the names of suitable design teams from framework list	Recommendation. Email	AD sends list to Sponsor	None
14	Sponsor selects those to be interviewed from the list and arranges interviews.	SBDU provides sponsor with marking sheet. SBDU attends interviews as required.	None	AD advises selected design teams of interview criteria.	None
15	Sponsor selects preferred team. Advises AD	SBDU advises AD of conclusions on interview exercise.	SBDU comments to AD on Sponsor's choice.	AD considers Sponsor's choice in light of SBDU comments.	None
16 F (3)	Approval of the Sponsor's preferred design team. Following the selection process, the team is appointed by DfES for the work up as far as the Funding Agreement. (RIBA stage C)	None	None	AD prepares contract for appointment of design consortium	AD appoints consortium for work up to RIBA stage C. Contracts signed.
17	Induction meeting with project team after appointment to familiarise them with the process of establishing an Academy. Attended by: Project manager Principal AD SBDU ELE	SBDU/AD advise project team of requirements and procedures. Project team are given: AMP reports Site survey reports and drawings Cash limit spreadsheet Typical accommodation schedule Typical curriculum analysis ELE report	None.	None.	None
18	The design team develops the project within the overall conclusion of the analysis already carried out (RIBA stages A&B)	SBDU monitor progress of project for adherence to cash limit, areas, educational planning, SEN, design quality and overall VFM. SBDU obtain ELE comments on proposals, and discuss with project team as necessary. AD informed of additional cost implications.	Informal comments to AD advising of concerns for action as necessary.	AD consider comments from SBDU.	None
19	Approval to the contents of the submission for outline planning approval. SBDU will advise if there are contentious issues that suggest Funding Agreement should be delayed until full planning approval is granted.	SBDU monitor developing proposals and intended PP submission.	SBDU confirm that scheme matches requirements and outline PP should be sought.	None	AD confirm to Sponsor that project may be submitted for planning approval.

Schedule 2
New Funding Agreement

NORTHERN ACADEMIES TRUST

MASTER FUNDING AGREEMENT

NORTHERN ACADEMIES TRUST

MASTER FUNDING AGREEMENT

CONTENTS:

SECTION	CLAUSE NO
INTRODUCTION	1 – 10
LEGAL AGREEMENT	11
REQUIREMENTS OF A MAINSTREAM ACADEMY	12
THE SEN OBLIGATIONS	12A
ALTERNATIVE PROVISION ACADEMY REQUIREMENTS	12B
CONDITIONS OF GRANT	
General	13
Governance	14-15
Conduct	16
Disclosure and Barring Service Checks	17-17A
Pupils	18-18AAA
Designated Teacher for Looked after Children	18A
Teachers and other staff	19-22A
Curriculum, curriculum development and delivery and RE and collective worship	23-29A
Assessment	30-30B
Exclusions Agreement	31
School meals	32-33
Charging	34
International Education Surveys	34A
Pupil Premium	34B

DURATION OF THE SCHOOL DAY AND YEAR	34C
GRANTS TO BE PAID BY THE SECRETARY OF STATE	
General	35-36
Capital Grant	37-40
Arrangements for Payment of Capital Grant	41
General Annual Grant (GAG)	41A-54O
Earmarked Annual Grant (EAG)	55-56
Arrangements for payment of GAG and EAG	57-61
Other relevant funding	62-65
FINANCIAL AND ACCOUNTING REQUIREMENTS	
General	66-80A
Borrowing Powers	81-82
Disposal of Assets	83-89
TERMINATION	
General	90-93
Change of Control of the Company	93A-94
GENERAL	
Information	95-96
Access by Secretary of State's Officers	97-99
Notices	100-101
Complaints	102 – 102F
General	103-108
SCHEDULE 1	
Model Supplemental Funding Agreement for a Mainstream Academy	
Model Supplemental Funding Agreement for a Special Academy	
Model Supplemental Funding Agreement for an Alternative Provision Academy	

INTRODUCTION

- 1) This Agreement is made under Section 1 of the Academies Act 2010, between the Secretary of State for Education ("**the Secretary of State**") and Northern Academies Trust ("**the Company**").
- 2) The Company is a company incorporated in England and Wales, limited by guarantee with registered Company number 05067702.
- 3) The Company intends to establish and maintain, and to carry on or provide for the carrying on of a number of Academies in accordance with this Agreement and the Supplemental Agreements.
- 4) This Agreement and the Supplemental Agreements will apply in respect of an Academy from such time as a Supplemental Agreement relating to that Academy shall have been entered into between the Secretary of State and the Company.
- 5) The following expressions used in this Agreement have the respective meanings assigned to them by the numbered clauses of this Agreement referred to immediately after the reference to the expressions -
 - a) "Academies Financial Handbook" - clause 67;
 - b) "Accounting Officer" – clause 66;
 - c) "Annual Letter of Funding" - clause 60;
 - d) "GAG" – clause 36;
 - e) "Capital Expenditure" - clause 37;
 - f) "Capital Grant" – clause 37;
 - g) "EAG" - clause 36;
 - h) "Local Governing Body" – clause 15;
 - i) "Recurrent Expenditure" – clause 36;

j) "Start-up Period" – clause 50;

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

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

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

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

"Alternative Provision Academy" means an Academy which meets the requirements set out in section 1C of the Academies Act 2010;

the "Articles" means the Articles of Association of the Company for the time being in force;

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

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

"Commissioner" means local authorities and/or schools referring children/pupils to the Alternative Provision Academy for admission

under the legal powers set out in the relevant annex to the Supplemental Agreement;

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

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

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

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

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

“DfE” means Department for Education and any successor;

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

“Mainstream Academy” means an Academy meeting the requirements referred to in clause 12;

“Memorandum” means the memorandum of association of the Company for the time being in force;

“parents” means parents or guardians;

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

"Principal" means the head teacher of an Academy;

"Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2011;

"Pupil Referral Unit" means any school established in England and maintained by a local authority which is specially organised to provide education for children falling within section 19(1) of the Education Act 1996;

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

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

"SENCO" means Special Educational Needs Co-ordinator;

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

"Statement of SEN" means a statement made under section 324 of the Education Act 1996; and

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

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

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

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

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

(3) An Academy agreement is an agreement between the Secretary of State and the other party under which -

(a) the other party gives the undertakings in subsection (5), and

(b) the Secretary of State agrees to make payments to the other party in consideration of those undertakings."

LEGAL AGREEMENT

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

REQUIREMENTS OF A MAINSTREAM ACADEMY

12) The requirements of a **Mainstream Academy** are those set down in Section 1A of the Academies Act 2010¹.

THE SEN OBLIGATIONS

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

- a) The Company must comply with all of the obligations imposed upon the governing bodies of maintained special schools in Chapter 1 of Part 4 of the Education Act 1996 and in Regulations in force at the date of this agreement or made from time to time under any provision in that Chapter (as amended from time to time²).
- b) Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Company to comply with an obligation imposed by this Agreement where the Company has failed to comply with any such obligation.
- c) The Company must ensure that each Academy's website includes details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; the facilities provided to assist access to the Academy by disabled pupils; and the plan prepared by the Company under paragraph 3 of Schedule 10 to the Equality Act 2010.

¹ Any Supplemental Funding Agreement entered into in relation to an Academy which is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 will clarify that section 1A(1)(c) (requirement to provide education for pupils of different abilities) will not apply.

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

Disabled pupils in this paragraph mean pupils who are disabled for the purposes of the Equality Act 2010³.

ALTERNATIVE PROVISION ACADEMY REQUIREMENTS

12B) The Alternative Provision Academy requirements are those set down in Section 1C of the Academies Act 2010.

CONDITIONS OF GRANT

General

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

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

b) there will be assessments of pupils' performance as they apply to maintained schools (this will also apply to **Alternative Provision Academies** unless there are exceptional reasons to do otherwise), and the opportunity to study for qualifications in accordance with clause 30 (d);

c) in respect of **Mainstream Academies**, the admissions policy and arrangements for the school will be in accordance with admissions law, and the DfE Codes of Practice, as they apply to maintained schools, and in respect of **Alternative Provision Academies** the admissions policy and arrangements for the school will be set out in the relevant annex to the Supplemental Agreement;

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

³ This obligation is in addition to the obligation to comply with the duties to publish information imposed upon the governing bodies of maintained special schools set out in the Education (Special Educational Needs) (Information) Regulations 1999 (as amended from time to time) which clause 12A has the effect of imposing.

e) there will be an emphasis on the needs of the individual pupils including pupils with SEN, both those with and without statements of SEN;

f) there will be no charge to pupils (or their parents or guardians) in respect of admission to, or attendance at, the school and the school will only charge pupils where the law allows maintained schools to charge;

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

13A) Clause 13f) does not prevent the Company receiving funds from a local authority or a charity in respect of the admission of a pupil with special educational needs to an Academy.

13B) Clause 13 f) does not prevent the Company receiving funds/income from Commissioners in respect of the admission and attendance of a pupil at the **Alternative Provision Academy**.

Governance

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

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

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

b) Not used.

c) Not used.

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

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

Conduct

16) Each Academy shall be conducted in accordance with:

a) the Articles;

b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the independent schools standards prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy;

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

Disclosure and Barring Service Checks

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

17A) The Company shall, on receipt of a copy of an enhanced criminal record certificate, on request from the Secretary of State or his agents, as soon as

possible thereafter submit information contained in the certificate to the Secretary of State in accordance with section 124 of the Police Act 1997.

Pupils

18) Each **Mainstream Academy** will be an all ability inclusive⁴ school whose requirements for:

- a) the admission of pupils to the Academy are set out in the relevant annex to the Supplemental Agreement;
- b) the admission to the Academy of and support for pupils with SEN and with disabilities (for pupils who have and who do not have statements of SEN) are set out in Annex B to this Agreement;
- c) pupil exclusions are set out in regulations made by virtue of section 51A of the Education Act 2002 (as may be amended or modified from time to time, and includes any successor provisions).

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

- a) the admission of pupils to the Academy are set out in the relevant annex to the Supplemental Agreement;
- b) pupil exclusions are set out in regulations made by virtue of section 51A of the Education Act 2002 (as may be amended or modified from time to time, and includes any successor provisions).

18AA) Each **Alternative Provision Academy** will provide education for the cohort of pupils whose characteristics are set out in the requirements at section 1C of the Academies Act and whose requirements for:

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

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

- b) the admission to the Alternative Provision Academy of and support for pupils with SEN and with disabilities (for pupils who have and who do not have statements of SEN) are set out in Annex B to this Agreement;
- c) pupil exclusions are set out in regulations made by virtue of section 51A of the Education Act 2002 (as may be amended or modified from time to time, and includes any successor provision(s)).

Designated Teacher for Looked after Children

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

Teachers and other staff

19) In respect of **Mainstream and Alternative Provision Academies**:

- a) subject to clause 19(b), the Company shall, in accordance with any guidance which the Secretary of State may issue on the qualifications of teaching and other staff in Academies, employ anyone it deems is suitably qualified or is otherwise eligible under a contract of employment or for services to carry out planning and preparing lessons and courses for pupils, delivering lessons to pupils, assessing the development, progress

and attainment of pupils, and reporting on the development, progress and attainment of pupils.

b) clause 19(a) does not apply to anyone who:

- i) is appointed as the SENCO by the Company under section 317(3A) of the Education Act 1996, who must meet the requirements set out in Regulation 3 of the Education (Special Educational Needs Co-ordinators) (England) Regulations 2008 (SI 2008/2945); or
- ii) is appointed as a designated teacher for looked after children further to clause 18A.

20) In respect of **Special Academies**, subject to clause 20A, the Company shall not employ anyone under a contract of employment or for services to carry out planning and preparing lessons and courses for pupils, delivering lessons to pupils, assessing the development, progress and attainment of pupils, and reporting on the development, progress and attainment of pupils ("specified work") who is not either:-

- a) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002; or
- b) otherwise eligible to do specified work under the Education (Specified Work) (England) Regulations 2012 (SI 2012/762), which for the purpose of this clause shall be construed as if the relevant Academy were a maintained school.

20A) Clause 20 does not apply to anyone who:

- a) was transferred to the employment of the Company by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006; and
- b) immediately prior to the transfer, was employed to do specified work; and

- c) immediately prior to the transfer, was not;
 - i) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002 and registered with full registration with the appropriate body, or
 - ii) eligible to do specified work under the Education (Specified Work) (England) Regulations 2012 (SI 2012/762)

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

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

22) The Company shall ensure that all employees at each Academy other than teachers have access to the Local Government Pension Scheme in accordance with the Local Government Pension Scheme (Administration) Regulations 2008 (SI 2008/239) (or such other regulations as may for the time being be applicable).

22A) Where a teacher employed at an Academy applies for a teaching post at another Academy, 16 to 19 Academy, maintained school, school maintained by a local authority or institution within the further education sector, the Company must at the request of the governing body or Academy Trust of that other educational institution:

- a) advise in writing whether or not, in the preceding two years, there has been any formal consideration of that teacher's capability to perform their role at the Academy, or the school the Academy replaced; and

- b) provide 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.

Curriculum, curriculum development and delivery and RE and collective worship

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

23A) Not used.

23B) The Company shall publish information in relation to the current curriculum provision at each Academy. Such information shall include details relating to:

- a) the content of the curriculum;
- b) its approach to the curriculum;
- c) the GCSE options (and other Key Stage 4 qualifications) offered by each Academy;
- d) the names of any phonics or reading schemes in operation for Key Stage 1; and
- e) how parents (including prospective parents) and Commissioners can obtain further information in relation to the curriculum at each Academy.

23C) Subject to the requirements of clauses 23, 23B and 24 to 29A, the curriculum will be the responsibility of the Company.

24) In respect of **Mainstream and Special Academies**, the Company shall ensure that the broad and balanced curriculum includes English, mathematics and science, and in respect of **Alternative Provision Academies** shall insure that the broad and balanced curriculum includes English and mathematics.

24A) Sections 42A (provision of careers guidance) and 45A (guidance as to discharge of duties) of the Education Act 1997 shall be deemed to apply to each Academy with the following modifications:

- a) each Academy shall be treated as falling within the meaning of “a school” under section 42A (2);
- b) the Company shall be deemed to be the “responsible authorities” for the purposes of subsection 42A(3); and
- c) references to registered pupils shall be treated as references to registered pupils at each Academy.

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

26) Where a **Mainstream Academy** is designated with a religious character⁵ in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010:

- a) subject to clause 28, and paragraph 4 of Schedule 19 to the School Standards and Framework Act 1998 which shall apply as if the Academy were a voluntary aided school with a religious character, the Company shall ensure that provision is made for religious education to be given to all pupils at the Academy in accordance with the tenets of the specified religion or religious denomination of the Academy;
- b) subject to clause 28, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school with a religious character or a voluntary school, and as if references to 'the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

⁵ Alternative provisions are available and would be potentially appropriate for non-denominational faith schools.

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

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

a) subject to clause 28, the Company shall ensure that provision shall be made for religious education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998;

b) subject to clause 28, the Company shall ensure that the Academy complies with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a community, foundation or voluntary school which does not have a religious character, except that the provisions of paragraph 4 of that Schedule do not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule, the Secretary of State's consent to such an application not to be unreasonably withheld or delayed;

c) the Company⁶:

⁶ This is required in order to ensure that the process by which an Academy becomes designated as a school with a religious character is comparable to that which applies for

(1) agrees that before making an application pursuant to the Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003 for each Academy to be designated as a school with religious character it shall seek the prior written consent of the Secretary of State⁷;

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

27AAA) Where a **Mainstream Academy** is listed in the Register of Independent Schools as having a religious ethos, but 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, the Company agrees that paragraph 5(b) of Schedule 11 of the Equality Act 2010 shall not apply to the Academy.

27AA) The Company may make provision for the teaching of religious education and for a daily act of collective worship at each **Alternative Provision Academy**.

27A) Where an **Alternative Provision Academy** does (at its discretion in accordance with clause 27AA) make provision for the teaching of religious education and/or for a daily act of collective worship at the Alternative Provision Academy then:

- a) subject to clause 28, the Company shall ensure that any such provision shall be made for religious education to be given to all pupils at the Alternative Provision 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;

maintained schools.

⁷ The Company must undertake consultation on the proposal for designation prior to seeking the Secretary of State's consent.

each **Alternative Provision Academy**, and where relevant for each **Special Academy**:

a) If applicable, the school's most recent Key Stage 2 results as published by the Secretary of State under the following column headings in the School Performance Tables published on the Department for Education's website:

- (i) "% achieving Level 4 or above in English and maths";
- (ii) "% making expected progress";
- (iii) in relation to English, "% achieving Level 5 or above";
and
- (iv) in relation to maths, "% achieving Level 5 or above".

b) If applicable the school's most recent Key Stage 4 results as published by the Secretary of State under the following column headings in the School Performance Tables published on the Department for Education's website:

- (i) "% achieving 5 + A* - C GCSEs (or equivalent) including English and maths GCSEs";
- (ii) "% achieving the English Baccalaureate"; and
- (iii) "% of pupils making expected progress".

c) Information as to where and by what means the most recent report about the school published by Her Majesty's Chief Inspector of Education, Children's Services and Skills may be accessed.

d) Information as to where and by what means the School Performance Tables published by the Secretary of State on the Department for Education's website may be accessed.

30B) There is no requirement to publish information under clause 30A if to do so would be in breach of the Company's obligations under the Data Protection Act 1998.

Exclusions Agreement

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

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

payment will flow between the Company and the LA in the same direction and for the same amount that it would, were the Academy a maintained school, under Regulations made under section 47 of the School Standards and Framework Act 1998 relating to the addition or deduction of a maintained school's budget following a permanent exclusion or the admission of a permanently excluded pupil. At the date of this Agreement, the applicable Regulation is Regulation 23 of the School Finance (England) Regulations 2011.

School Meals

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

33) In relation to a pupil who is himself or whose parents are in receipt of benefits mentioned in section 512ZB of the Education Act 1996 (or

equivalent provision governing the entitlement to free school lunches of pupils at maintained schools), the Company shall ensure that a school lunch is provided for such a pupil free of charge to be funded by the Company.

Charging

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

- a) references to any maintained school shall be treated as references to an Academy;
- b) references to registered pupils shall be treated as references to registered pupils at an Academy;
- c) references to the governing body or the local education authority shall, in each case, be treated as references to the Company;
- d) the Company may charge persons who are not registered pupils at an Academy for education provided or for facilities used by them at that Academy.⁹

International Education Surveys

34A) Section 538A of the Education Act 1996 (power to direct participation in international surveys) shall be deemed to apply to each Academy with the following modifications:

- (a) references to the governing body shall be treated as references to the Company; and

⁹ For clarification, such charging is separate and distinct from any arrangement that the Company may make with Commissioners concerning the referral of pupils to the **Alternative Provision Academy**.

(b) references to community, foundation voluntary school shall be treated as references to the Academy.

Pupil Premium

34B) For **Mainstream Academies**, and those **Special Academies** that receive Pupil Premium Funding¹⁰, the Company shall publish in each Academy Financial Year information in relation to:

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

DURATION OF SCHOOL DAY AND YEAR

34C) In respect of **Mainstream Academies and Alternative Provision Academies**, the duration of the school day and year will be the responsibility of the Company.¹¹

¹⁰ The Pupil Premium is additional funding for schools to support pupils from low-income families. In instances when those pupils are in special settings, the funding can either be allocated to the setting where they are being educated, or held by the local authority to spend specifically on additional educational support to raise the standard of attainment for these pupils. The authority must consult non-mainstream settings about how the Premium for these pupils should be used. Where Pupil Premium is allocated to the Special Academy by the Local Authority, the company must publish information as set out in clause 34B. There is no requirement for Alternative Provision settings to publish such information.

¹¹ In respect of **Special Academies**, regulations made under section 551 of the Education Act 1996 apply (currently the Education (School Day and School Year) (England) Regulations 1999).

GRANTS TO BE PAID BY THE SECRETARY OF STATE

General

35) The Secretary of State shall pay grants towards Recurrent Expenditure and may pay grants towards Capital Expenditure for each Academy. Except with the Secretary of State's prior agreement, the Company shall not budget for its expenditure in any Academy Financial Year in excess of expected income (subject to clause 80). The Company shall not enter into commitments which are likely to have substantial implications for future levels of grant, or for the period for which grant may be required. No decision by the Company shall commit the Secretary of State to paying any particular amount of grant.

36) "Recurrent Expenditure" means any expenditure on the establishment, conduct, administration and maintenance of the Academy which does not fall within the categories of capital expenditure set out at clause 37. The Secretary of State shall pay two separate and distinct grants in respect of recurrent expenditure: General Annual Grant ("GAG") and Earmarked Annual Grant ("EAG").

Capital Grant

37) "Capital Expenditure" means expenditure on:

- a) the acquisition of land and buildings;
- b) the erection, enlargement, improvement or demolition of any building including fixed plant, installation, wall, fence or other structure, or any playground or hard standing;
- c) the installation of electrical, mechanical or other services other than necessary replacements, repairs and maintenance due to normal wear and tear;
- d) the purchase of vehicles and other self-propelled mechanical equipment;

e) the installation and equipping of premises with furnishings and equipment, other than necessary replacements, repairs and maintenance due to normal wear and tear;

f) the installation and equipping of premises with computers, networking for computers, operating software and information and communication technology equipment, other than necessary updates or necessary replacements, repairs and maintenance due to normal wear and tear;

g) the provision and equipping of premises, including playing fields and other facilities for social activities and physical recreation other than necessary replacements, repairs and maintenance due to normal wear and tear;

h) works of a permanent character other than the purchase or replacement of minor day-to-day items;

i) any major repairs or replacements which are specified as constituting capital expenditure in any grant letter relating to them;

j) such other items (whether of a like or dissimilar nature to any of the foregoing) of a substantial or enduring nature as the Secretary of State may agree shall constitute capital expenditure for the purposes of this Agreement;

k) all professional fees properly and reasonably incurred in connection with the provision of any of the above;

l) VAT and other taxes payable on any of the above.

“Capital Grant” means grant paid to the Company in respect of Capital Expenditure.

38) Where an Academy is to open in new premises, or where existing premises are to be substantially refurbished or remodelled to enable the Academy to open in such premises, the Secretary of State, may, in his absolute discretion be responsible for meeting the incurred Capital

Expenditure for that Academy. To that end, the Secretary of State will consider providing funding in accordance with any arrangements as he considers appropriate.

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

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

- a) such grants are used solely to defray expenditure approved by the Secretary of State;
- b) the Company certifying and providing evidence that all planning and other consents necessary for the development and all related infrastructure to be completed have been obtained or put in place;
- c) Any other conditions that the Secretary of State may specify.

Arrangements for Payment of Capital Grant

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

General Annual Grant

41A) GAG paid by the Secretary of State in respect of an Academy shall only be spent by the Company towards the normal running costs of the Academies.

42) Clauses 42A to 53 apply in respect of **Mainstream Academies** only.

42A) GAG will be paid by the Secretary of State to the Company in order to cover the normal running costs of each **Mainstream Academy**. These will include, but are not limited to:

- a) teachers' salaries and related costs (including full and part time teaching staff and seconded teachers);
- b) non-teaching staff salaries and related costs (including pension contributions, educational support staff, administrative and clerical staff and manual and premises related staff);
- c) employees' expenses;
- d) the purchase, maintenance, repair and replacement:
 - (i) of teaching and learning materials and other educational equipment, including books, stationery and ICT equipment and software, sports equipment and laboratory equipment and materials;
 - (ii) of other supplies and services;
- e) examination fees;
- f) repairs, servicing and maintenance of buildings (including redecoration, heating, plumbing, lighting etc); maintenance of grounds (including boundary fences and walls); cleaning materials and contract cleaning; water and sewage; fuel and light (including fuel oil, solid and other fuel, electricity and gas); rents; rates; purchase, maintenance, repairs and replacement of furniture and fittings;
- g) insurance;
- h) medical equipment and supplies;
- i) staff development (including in-service training);

- j) curriculum development;
- k) the costs of providing school meals for pupils (including the cost of providing free school meals to pupils who are eligible to receive them), and discretionary grants to pupils to meet the cost of pupil support, including support for pupils with special educational needs or disabilities (taking account of the fact that separate additional money will be available for pupils with statements of special educational needs);
- l) administration; and
- m) establishment expenses and other institutional costs.

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

- a) funding equivalent to that which would be received by a maintained school with similar characteristics, determined by the Secretary of State and notified in the Annual Letter of Funding or its equivalent, taking account of the number of pupils at each Academy;
- b) funding in respect of functions which would be carried out by the LA if each Academy was a maintained school.

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

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

to receive these grants, such payments to be at the discretion of the Secretary of State.

45) Subject to clause 46, the basis of the pupil number count for the purposes of determining GAG for the first Academy Financial Year in which a **Mainstream Academy** opens and the following four Academy Financial Years (for the avoidance of doubt, ending at the end of the fifth Academy Financial Year) (the "Initial Five Year Term") will be the Company's most recent estimate of the numbers of pupils on the roll provided in accordance with clause 45A. However, the Secretary of State may make adjustments to the GAG for the following Academy Financial Year to recognise any variation between the number of pupils that were actually on the roll in the previous September and the Company's estimate provided in accordance with clause 45A. The basis of these will be set out in the Annual Letter of Funding.

45A) The Secretary of State shall in advance of each Academy Financial Year for a **Mainstream Academy**, at such time or times as he shall determine, request that the Company provides an estimate of the number of pupils on roll in the following September for the Academy for the purposes of determining GAG for an Academy Financial Year. The Company shall provide the requested estimate (such estimate to be based on an objective assessment of numbers) to the Secretary of State as soon as reasonably practicable.

46) If in relation to a **Mainstream Academy** the Conditions (as defined in Clause 47 below) have been met then the basis of the pupil number count for the purpose of determining GAG for the Academy Financial Year in question will be determined in accordance with Clause 47 and Clause 45 will no longer apply.

47) After: (i) all planned Year-groups are present at the Academy (that is, all the pupil cohorts relevant to the age-range of the Academy will have some pupils present); and (ii) the total number of pupils as measured in the Schools Census which is used to fund maintained schools for the financial

year overlapping with the Academy Financial Year in question is 90% or more of the planned final size of the Academy, as specified in the Academy's Supplemental Agreement (together, the "Conditions") the basis of the pupil number count for the purpose of determining GAG for the Academy for Academy Financial Years will be:

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

48) If either of the Conditions have not been met in respect of an Academy Financial Year and the Initial Five Year Term has come to an end, the basis of the pupil count for a **Mainstream Academy** shall be determined by the Secretary of State, taking account of any diseconomies of scale that the Academy will be under as a result of such Condition(s) not applying.

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

50) The Secretary of State recognises that:

- a) in relation to **Mainstream Academies** which open with intakes representing only a proportion of the final planned size of the Academy, payments based simply upon the number of pupils present are unlikely

to be sufficient to meet the Academy's needs in the Academy Financial Years before all age groups are present at their planned size (the "Start-up Period") because of a lack of economies of scale. The Secretary of State may pay an appropriately larger GAG in the Start-up Period than would be justified solely on the basis of the methods set out in clauses 43-49, in order to enable the Academy to operate effectively¹²;

- b) in relation to **Mainstream Academies** which open with pupils transferred from one or more maintained schools which have closed, additional GAG resources may be required to take account of transitional costs including any costs associated with supporting the integration of pupils from the closed schools and, where necessary, to offer a dual curriculum. If the Secretary of State has indicated that such additional GAG will be payable, the Company will make a bid for this addition to GAG based upon need and providing appropriate supporting evidence.

51) During the Start-up Period or during the period when year groups are present who have transferred from a predecessor school or schools, the Secretary of State will pay a further element of GAG additional to that calculated in accordance with the methods set out in clauses 43-49 to allow the relevant **Mainstream Academy** to:

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

After the Start-up Period these costs will be met through the ordinary GAG.

¹² Note that a larger GAG for the Start-Up Period is only applicable to Academies with approved Academy Action Plans.

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

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

54) Not used.

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

54AA) GAG will be paid by the Secretary of State to the Company as a contribution towards the normal running costs of each **Special Academy**. These will include, but are not limited to:

- a. teachers' salaries and related costs (including full and part time teaching staff and seconded teachers);
- b. non-teaching staff salaries and related costs (including pension contributions, educational support staff, administrative and clerical staff and manual and premises related staff);
- c. employees' expenses;
- d. the purchase, maintenance, repair and replacement:

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

54A) Subject to clauses 54E – 54F, GAG for each Financial Year for each **Special Academy** will include:

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

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

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

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

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

54C) The Secretary of State will determine GAG for each **Special Academy** for each Academy Funding Year. The determinations will be made taking into account relevant factors. Arrangements for this will be set out in the Annual Letter of funding or its equivalent.

54D) The Secretary of State may make provision, within his absolute discretion, for GAG to be adjusted in-year if the number of pupils attending the relevant academy at specified dates exceeds or falls below thresholds specified by letter. Arrangements for this will be set out in the Annual Letter of Funding.

54E) The Secretary of State recognises that a larger GAG may be appropriate to meet additional costs during the start-up period, and may pay

start-up grant, on a basis determined by him, during that period, the length of which will be stipulated in the Annual Letter of Funding¹³.

54F) The Secretary of State recognises that if he serves notice of intention to terminate a Supplemental Agreement, the intake of new pupils during the notice period is likely to decline and that in such circumstances payments based on a number of places related to the number of pupils attending the relevant **Special Academy** are unlikely to be sufficient to meet the Academy's needs during the notice period. The Secretary of State may undertake to pay a reasonable and appropriately larger GAG with respect to that Academy in the notice period than would be justified solely on the basis of the methods set out in clauses 54A-54D, in order to enable the Academy to operate effectively.

54G) The Secretary of State also recognises that if this Agreement or a Supplemental Agreement is terminated for any reason by either party the number of pupils at the relevant **Special Academy or Special Academies** is likely to decline. In these circumstances both parties undertake to attempt to resolve issues arising from such termination in good faith and with the aim of protecting the interests and the education of the pupils at the Academy.

54H) Not used.

54I) Clauses 54J to 54P apply in respect of **Alternative Provision Academies** only.

54J) GAG will be paid by the Secretary of State to the Company as a contribution¹⁴ to the normal running costs of the **Alternative Provision Academy**. These will include, but are not limited to:

- a) teachers' salaries and related costs (including full and part time teaching staff and seconded teachers);

¹³ Note that a larger GAG for the Start-Up Period is only applicable to Academies with approved Academy Action Plans.

¹⁴ The extent of any such contribution to be within the absolute discretion of the Secretary of State.

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

will be available for pupils with statements of special educational needs);

l) administration;

m) establishment expenses and other institutional costs.

54K) Subject to clause 54M, GAG for each Academy Financial Year for each **Alternative Provision Academy** will include:

- a) funding determined by the Secretary of State and notified in the Annual Letter of Funding or its equivalent, taking account of the number of pupils and/or places at the Alternative Provision Academy;
- b) funding in respect of functions which would be carried out by the local authority if the Alternative Provision Academy were a maintained school.
- c) funding for matters for which it is necessary for the Alternative Provision Academy to incur extra costs, for as long as those costs are deemed necessary by the Secretary of State; and
- d) payments in respect of further, specific grants made available to Pupil Referral Units maintained by the local authority, where the Alternative Provision Academy meets the requisite conditions and criteria necessary for a Pupil Referral Unit maintained by the local authority to receive these grants.

54L) For each **Alternative Provision Academy**, the Secretary of State will determine GAG for each Academy Financial Year. The determination will be made taking into account relevant factors. Arrangements for this will be set out in the Annual Letter of Funding or its equivalent.

54M) For each **Alternative Provision Academy**, the Secretary of State may make provision, within his absolute discretion, for GAG to be adjusted in-year if the number of pupils attending the relevant Alternative Provision

Academy at specified dates exceeds or falls below thresholds specified by letter. Arrangements for this will be set out in the Annual Letter of Funding or its equivalent.

54N) The Secretary of State recognises that if he serves notice of intention to terminate this Agreement, the intake of new pupils during the notice period is likely to decline and that in such circumstances the total income of the relevant **Alternative Provision Academy** is unlikely to be sufficient. In such circumstances payments based simply upon the number of pupils attending that Academy are unlikely to be sufficient to meet the Academy's needs during the notice period. The Secretary of State may undertake to pay a reasonable and appropriately larger GAG with respect to the Alternative Provision Academy in the notice period than would be justified solely taking into account factors at clause 54J in order to enable the Alternative Provision Academy to operate effectively.

54O) The Secretary of State also recognises that if this Agreement is terminated for any reason by either party the number of pupils at the relevant **Alternative Provision Academy** is likely to decline. In these circumstances both parties undertake to attempt to resolve issues arising from such termination in good faith and with the aim of protecting the interests and the education of the pupils at the Alternative Provision Academy.

Earmarked Annual Grant

55) Earmarked Annual Grant ("EAG") shall be paid by the Secretary of State to the Company in respect of either recurrent or Capital Expenditure for such specific purposes as may from time to time be agreed between the Secretary of State and the Company and as described in the relevant funding letter. The Company shall only spend EAG in accordance with the scope, terms and conditions of the grant set out in the relevant funding letter.

56) Where the Company is seeking a specific EAG in relation to any Academy Financial Year, it shall submit a letter outlining its proposals and the reasons for its request to the DfE.

Arrangements for Payment of GAG and EAG

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

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

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

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

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

60) The amounts of GAG for an Academy Financial Year will be determined annually by the Secretary of State. The amount of GAG for each Academy for the initial Academy Financial Year will be notified to the Company in a funding letter at a date preceding that year. For subsequent years the amount of GAG will be notified to the Company in a funding letter preceding that Academy Financial Year (the "Annual Letter of Funding"). The Annual

Letter of Funding will not include the amount that the Company will receive in respect of grants for which information to enable timely calculation is not available or is incomplete, such grants will be notified as soon as practicable later in the year. Amounts of EAG will be notified to the Company wherever possible in the Annual Letter of Funding or its equivalent as soon as practicable thereafter.

61) The Secretary of State undertakes to pay GAG in monthly instalments on or before the twenty-fifth day of each month, each such instalment to fund the salaries and other payroll costs for the relevant month of all monthly paid employees and all other costs payable during the next following month. The detailed arrangements for payment will be set out in the Annual Letter of Funding or its equivalent.

Other relevant funding

62) Not used.

62A) With regards to an **Alternative Provision Academy**, the Company may apply to the Secretary of State for financial assistance in relation to proposed redundancies that it may make. On an application to the Secretary of State, he may (at his absolute discretion) agree to meet a proportion of the Company's costs arising from the inclusion of Academies in the Schedules to the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999. In response to an application for financial assistance, the Secretary of State may agree to meet the costs of the employees' prior eligible service, being service prior to the opening of the Alternative Provision Academy, but the Company will be required to meet the costs of service after the opening of the Academy.

63) The Secretary of State may meet costs incurred by the Company in connection with the transfer of employees from any predecessor school under the Transfer of Undertakings (Protection of Employment) Regulations 2006. Payment of grant in respect of such costs is to be agreed between the parties on a case by case basis and the Company shall not budget on

the basis that it will receive any grant in respect of such costs unless it is specifically notified that such grant will be paid.

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

65) Not used.

FINANCIAL AND ACCOUNTING REQUIREMENTS

General

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

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

67A) The Company shall abide by the requirements of the current 16 to 19 Funding Guidance published by the Secretary of State and as amended from time to time, or such other guidance on 16 to 19 funding issued by the Secretary of State as may from time to time be applicable, in respect of any of its provision for persons who are above compulsory school age until the academic year in which they reach the age of 19.

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

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

- a) in its conduct and operation it shall apply financial and other controls which conform to the requirements both of propriety and of good financial management;
- b) arrangements have been made to maintain proper accounting records and that statements of income and expenditure and balance sheets may be produced in such form and frequency as the Secretary of State may from time to time reasonably direct;
- c) in addition to the obligation to fulfil the statutory requirements referred to in sub-clause f) below, the Company shall prepare its financial statements, Directors' report, Annual Accounts and its Annual Return for each Academy Financial Year in accordance with the Statement of Recommended Practice as issued by the Charity Commission and updated from time to time as if the Company was a non-exempt Charity and/or in such form or manner and by such date as the Secretary of State may reasonably direct and shall file these with the Secretary of State and the Principal Regulator each Academy Financial Year;
- d) a statement of the accounting policies used should be sent to the Secretary of State with the financial statements and should carry an audit report stating that, in the opinion of the auditors, the statements show a true and fair view of the Company's affairs and that the grants were used for the purposes intended;
- e) the Company shall ensure that its accounts are audited annually by independent auditors appointed under arrangements approved by the Secretary of State;

- f) the Company prepares and files with the Companies Registry such annual accounts as are required by the Companies Act 2006;
- g) the Company shall publish on its website its Annual Accounts, Annual Report, Memorandum, Articles, Funding Agreement and a list of the names of the Directors of the Company; and
- h) the Company insures or procures insurance by another person of its assets in accordance with normal commercial practice or under the terms of any subsisting leases in respect of the leasehold interest of the site upon which each Academy is situated.

70) In addition, and at his expense, the Secretary of State may instruct auditors to report to him on the adequacy and effectiveness of the accounting systems and internal controls maintained by the Company to standards determined by the Secretary of State and to make recommendations for improving the financial management of the Company.

71) The books of accounts and all relevant records, files and reports of the Company including those relating to financial controls, shall be open at all reasonable times to officials of the DfE and the National Audit Office and to contractors retained by the DfE or the National Audit Office for inspection or the carrying out of value for money studies; and the Company shall secure that those officials and contractors are given reasonable assistance with their enquiries. For the purposes of this clause 'relevant' means in any way relevant to the provision and use of grants provided by the Secretary of State under this Agreement.

72) The Company shall submit information in relation to the finances of each Academy to the Secretary of State in accordance with the requirements of the Academies Financial Handbook as amended from time to time, or as otherwise specified from time to time by the Secretary of State.

73) At the beginning of any Academy Financial Year the Company may hold unspent GAG for any Academy from previous Academy Financial Years amounting to such percentage (if any) as for the time being specified in the

Academies Financial Handbook or otherwise as the Secretary of State may specify by notice in writing to the Company prior to the beginning of that Academy Financial Year of the total GAG payable for the Academy in the Academy Financial Year just ended or such higher amount as may from time to time be agreed. The Company shall use such carried forward amount for such purpose, or subject to such restriction on its use, as for the time being specified in the Academies Financial Handbook or otherwise as the Secretary of State may specify by notice in writing to the Company.

74) Notwithstanding clause 73 any additional grant provided over and above that:

a) set out in clauses 43-49 in relation to **Mainstream Academies** and made in accordance with clauses 50-52 may be carried forward without limitation or deduction until the Start-up Period or the circumstances set out in clause 52 come to an end.

b) set out in clauses 54A-54D in relation to **Special Academies** and made in accordance with clauses 54E-54F may be carried forward without limitation or deduction until the Start-up Period or the circumstances set out in clause 54F come to an end.

c) set out in clauses 54K-54M in relation to **Alternative Provision Academies** and made in accordance with clauses 54N may be carried forward without limitation or deduction until the circumstances set out in clause 54N come to an end.

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

75A) GAG paid by the Secretary of State shall only be used by the Company for the educational charitable purpose of advancing for the public benefit education in the United Kingdom, in particular but without prejudice to the generality of the foregoing by establishing, maintaining, carrying on, managing and developing Academies offering a broad and balanced curriculum. Such funds shall not be used by the Company for any other

charitable purpose without the prior written consent of the Secretary of State, except where the use of such funds for that charitable purpose is merely incidental to their use for the educational charitable purpose of advancing for the public benefit education in the United Kingdom.

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

77) The Company shall not, in relation to assets or property funded (whether in whole or in part) by the Secretary of State or otherwise coming within the meaning of publicly funded land as defined by paragraph 22(3) of Schedule 1 to the Academies Act 2010, without the prior written consent of the Secretary of State which shall not be unreasonably withheld or delayed:

- a) except such as are given in normal contractual relations, give any guarantees, indemnities or letters of comfort above a value as for the time being specified in the Academies Financial Handbook or otherwise as the Secretary of State may specify by notice in writing to the Company from time to time;
- b) write off any debts or liabilities owed to it, nor offer to make any ex gratia payments (such as staff severance or compensation payments), above a value as for the time being specified in the Academies Financial Handbook or otherwise as the Secretary of State may specify by notice in writing to the Company from time to time;
- c) except as may be permitted in the Academies Financial Handbook or otherwise as the Secretary of State may specify by notice in writing to the Company, make any sale or purchase of or otherwise dispose of freehold or leasehold property including entering into a contract to dispose of land or granting an option to acquire an interest in land; or

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

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

- a) give any guarantees, indemnities or letters of comfort;
- b) write off any debts owed to it or offer to make any ex gratia payments;
- c) make any sale or purchase of or otherwise dispose of freehold or leasehold property including entering into a contract to dispose of land or granting an option to acquire an interest in land; or
- d) take up any leasehold or tenancy agreement for a term exceeding three years.

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

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

- a) subject to clause 73, carrying a surplus from one Academy Financial Year to the next; or
- b) carrying forward from a previous Academy Financial Year or Academy Financial Years a sufficient surplus or sufficient cumulative surpluses on grants from the Secretary of State to meet an in-year deficit on such grants in a subsequent financial year; or
- c) incurring an in-year deficit on funds from sources other than grants from the Secretary of State in any Academy Financial Year, provided it does not affect the Company's responsibility to ensure that the

Company balances its overall budget from Academy Financial Year to Academy Financial Year.

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

Borrowing Powers

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

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

Disposal of Assets

83) Where the Company acquires assets for a nil consideration or at an under value it shall be treated for the purpose of this Agreement as having incurred expenditure equal to the market value of those assets at the time that they were acquired. This provision shall not apply to assets transferred to the Company at nil or nominal consideration and which were previously

used for the purposes of an Academy and/or were transferred from an LA, the value of which assets shall be disregarded.

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

- a) the Secretary of State paid capital grant in excess of the value for the time being specified by the Secretary of State for the asset; or
- b) the asset was transferred to the Company from an LA for no or nominal consideration.

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

86) This clause applies in the event, during the lifetime of this Agreement, of the disposal of a capital asset for which capital grant of any amount was paid by the Secretary of State, where the asset was acquired by the Company. In this event, the Company shall repay to the Secretary of State the same proportion of the proceeds of the disposal as equates with the proportion of the original cost met by the Secretary of State, unless the Secretary of State agrees to some or all of the proceeds being retained by the Company for its charitable purposes.

87) This clause applies in the event, during the lifetime of this Agreement, that the Secretary of State consents to the disposal of an asset which was transferred to the Company from an LA for no or nominal consideration. In this event the Secretary of State may give consent on the basis that all or

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

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

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

TERMINATION

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

91) The Secretary of State may at any time by notice in writing terminate this Agreement and each of the Supplemental Agreements such termination to take effect on the date of the notice, on the occurrence, or where in his reasonable opinion there is a serious risk of occurrence, of any of the following events:-

- a) the Company calls a meeting of its creditors (whether formal or informal) or enters into any composition or arrangement (whether formal or informal) with its creditors; or
- b) the Company proposes a voluntary arrangement within Section 1 of the Insolvency Act 1986 (as amended); or
- c) the Company is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 provided that, for the purposes of this

Clause, Section 123 (1)(a) of the Insolvency Act 1986 shall have effect as if the amount of £10,000 was substituted for £750. The Company shall not be deemed unable to pay its debts for the purposes of this clause if any such demand as is mentioned in the said Section is being contested in good faith by the Company; or

d) the Company has a receiver and manager (with the exception of Receivers and Managers or Interim Managers appointed by the Charity Commission under the Charities Act 2011 or any subsequent re-enactment of that Act), administrator or administrative receiver appointed over all or any part of its undertakings, assets or income; or

e) any distraint, execution or other process is levied or enforced on any of the Company's property and is not paid out, withdrawn or discharged within fifteen Business Days; or

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

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

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

93) Not used.

Change of Control of the Company

93A) The Secretary of State may at any time, subject to clause 93C) below, terminate this Agreement by notice in writing to the Academy Trust such termination to take effect on the date of the notice in the event that there is a change:

(a) in the Control of the Company;

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

Provided that where a person ('P') is a member or director of the 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.

93B) The Company shall notify the Secretary of State in writing of any change or proposed change of Control within the meaning of clause 93A) above, as soon as reasonably practicable after it has become aware of any such change, or proposed change, of Control.

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

94) Not used.

GENERAL

Information

95) Without prejudice to any other provision of this Agreement, the Secretary of State acting reasonably may from time to time call for information on any **Mainstream Academy or Special Academy** relating to, but not restricted to, the following matters:

- a) curriculum;
- b) arrangements for the assessment of pupils;
- c) teaching staff including numbers, qualifications, experience, salaries, and teaching loads;

- d) class sizes;
- e) outreach work with other schools and the local community;
- f) operation of the admission criteria and over subscription arrangements for the Academy including numbers of applications for places and the number and characteristics of pupils accepted for admission – for Mainstream Academies only;
- g) numbers of pupils excluded (including permanent and fixed term exclusions);
- h) levels of authorised and unauthorised attendance;
- i) charging and remissions policies and the operation of those policies;
- j) organisation, operation and building management;
- k) financial controls;
- l) compliance with the requirements of the Charity Commission's guidance to charities and charity trustees and in particular the Charity Commission's guidance in the Protecting Charities from Harm ('the compliance toolkit') and in CC9: Speaking Out, Campaigning and Political Activities by Charities, as amended from time to time; and
- m) membership and proceedings of the Company and the Local Governing Body together with any other relevant information concerning the management or governance of the Academy which, subject to clause 99), is reasonably necessary for the Secretary of State to carry out his functions generally and in relation to this Agreement or the relevant Supplemental Agreement.

95A) Without prejudice to any other provision of this Agreement, the Secretary of State acting reasonably may from time to time call for information on **any Alternative Provision Academy** relating to, but not restricted to, the following matters:

- a) curriculum and the provision generally (including specifically for SEN pupils);
- b) arrangements for the assessment of pupils and any information about pupil progress, achievement and attainment;
- c) staff including numbers, qualifications, experience, salaries, and teaching loads;
- d) class sizes and pupil organisation;
- e) outreach work with other schools and the local community;
- f) operation of the referral and reintegration processes for the Alternative Provision Academy including numbers of requested referrals, the number of referrals that have been refused and the reasons for the refusal in each case and the number and characteristics of pupils accepted for admission and destinations/outcomes of pupils/former pupils;
- g) numbers of pupils excluded (including permanent and fixed term exclusions), characteristics of pupils excluded, reasons for exclusions, outcomes of any independent review panels;
- h) levels of authorised and unauthorised absence;
- i) charging and remissions policies and the operation of those policies;
- j) organisation, operation and building management;
- k) financial controls;
- l) compliance with the requirements of the Charity Commission's guidance to charities and charity trustees and in particular the Charity Commission's guidance in the Protecting Charities from Harm ('the compliance toolkit') and in (CC9): "Speaking Out: Guidance on Campaigning and Political Activities by Charities", as amended from time to time; and

m) membership and proceedings of the Company and Local Governing Body together with any other relevant information concerning the management or governance of the Academy which, subject to clause 99), is reasonably necessary for the Secretary of State to carry out his functions generally and in relation to this Agreement or the relevant Supplemental Agreement.

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

Access by the Secretary of State's Officers

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

98) The Company shall ensure that:

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

- b) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
- c) the signed minutes of every such meeting; and
- d) any report, document or other paper considered at any such meeting,

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

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

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

Notices

100) A notice or communication given to a party under or in connection with this Agreement:

- (a) shall be in writing and in English;
- (b) shall be sent to the party for the attention of the contact and at the address listed in clause 100A;
- (c) shall be sent by a method listed in clause 100C; and
- (d) is deemed received as set out in clause 100C if prepared and sent in accordance with this clause.

100A) The parties' addresses and contacts are:

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.
The Company	Chief Executive Officer	Northern Academies Trust, 120 Heyworth Street, L5 0SQ

100B) A party may change its details given in the table in clause 100A) by giving notice, the change taking effect for the party notified of the change at 9.00 am on the date five Business Days after deemed receipt of the notice.

100C) Any notice or other communication required to be given to a party under or in connection with this Agreement shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service. Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address specified in Clause 100A, or otherwise at 9.00 am on the second Business Day after posting.

100D) This clause does not apply to the service of any proceedings or other documents in any legal action. For the purposes of clause 100, "writing" shall not include e-mail.

101) The service by the Secretary of State of a notice of termination of a Supplemental Agreement shall not prejudice the ability of the Company (if it wishes to do so) during the notice period to admit pupils to the relevant Academy in accordance with the provisions of this Agreement and the relevant Supplemental Agreement and to receive GAG and EAG in respect of them.

Complaints

102) If a complaint is made about matters arising in whole or in part prior to the opening of any **Mainstream Academy** or any **Special Academy**, as

referred to in clause 2.4 for **Mainstream Academies** and clause 3.1 for **Special Academies** of the relevant supplemental agreement, and all or part of that complaint was being or had been investigated by the Local Government Ombudsman under Part III or the Local Government Act 1974 ('Part III') or that complaint in whole or in part could have been investigated under Part III had the school the Academy replaced remained a maintained school, the Company:

- a) will abide by the provisions of Part III as though the Academy were a maintained school;
- b) agrees that the Secretary of State shall have the power to investigate the matter complained of as if it had taken place after conversion;
- c) agrees to act in accordance with any recommendation from the Secretary of State as though that recommendation had been made under Part III and the Academy were a maintained school.

102A) If a complaint is made about matters arising in whole or in part prior to the opening of any **Alternative Provision Academy**, as referred to in clause 3.1 of the relevant supplemental agreement, and all or part of that complaint was being or had been investigated by the Local Government Ombudsman under Part III of the Local Government Act 1974 ("Part III") or that complaint in whole or in part could have been investigated under Part III had the Pupil Referral Unit the Alternative Provision Academy replaced remained a Pupil Referral Unit, the Company:

- a) will abide by the provisions of Part III as though the Alternative Provision Academy were a Pupil Referral Unit;
- b) agrees that the Secretary of State shall have the power to investigate the matter complained of as if it had taken place after conversion;
- c) agrees to act in accordance with any recommendation from the Secretary of State as though that recommendation had been made under Part III and the Alternative Provision Academy were a Pupil

Referral Unit.

102B) If at the time of the opening of any **Mainstream Academy** or any **Special Academy** the investigation of a complaint made to the governing body of the school that **Mainstream Academy** or any **Special Academy** replaced (as referred to in clause 2.4 for **Mainstream Academies** and clause 3.1 for **Special Academies** of the relevant Supplemental Agreement) has not yet been completed, the Company shall continue to investigate that complaint in accordance with the complaints procedures established by that governing body.

102C) If a complaint is made to the Company about matters arising in whole or in part during the 12 months prior to the opening of any **Mainstream Academy** or any **Special Academy** (as referred to in clause 2.4 for **Mainstream Academies** and clause 3.1 for **Special Academies** of the relevant supplemental agreement) the Company agrees to investigate that complaint as if the matter complained of had taken place after the opening of that **Mainstream Academy** or any **Special Academy**.

102D) If a complaint is made about matters arising in whole or in part during the 12 months prior to the opening of any Alternative Provision Academy, the Company agrees to investigate that complaint as if the matter complained of had taken place after the opening of that Alternative Provision Academy.

102E) With regards to a Mainstream Academy or a Special Academy, if the Secretary of State could have given an order and/or a direction under section 496 and/or section 497 of the Education Act 1996 to the governing body of the school the Academy replaced (as referred to in clause 2.4 for Mainstream Academies and clause 3.1 for Special Academies of the relevant Supplemental Agreement) and that order and/or direction related to matters occurring within the 12 months immediately prior to conversion, the Company agrees:

- a) the Secretary of State may give orders and/or directions to the Company as though the Academy were a maintained school and sections 496 and 497 applied to the governing body of that maintained

school;

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

102F) With regards to an **Alternative Provision Academy** if the Secretary of State could have given an order and/or a direction under section 496 and/or section 497 of the Education Act 1996¹⁵ to the management committee of the Pupil Referral Unit the Alternative Provision Academy replaced (as referred to in clause 3.1 of the relevant Supplemental Agreement) and that order and/or direction related to matters occurring within the 12 months immediately prior to conversion, the Company agrees:

- a) the Secretary of State may give orders and/or directions to the Company as though the Alternative Provision Academy were a Pupil Referral Unit and sections 496 and 497 applied to the management committee of that Pupil Referral Unit;
- b) to act in accordance with any such order and/or direction from the Secretary of State.

General

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

103A) No delay, neglect or forbearance on the part of the Secretary of State in enforcing (in whole or in part) any provision of this Agreement or in exercising (in whole or in part) any right or remedy conferred on him by this Agreement shall be or be deemed to be a waiver of such provision or right or remedy or a waiver of any other provision or right or remedy or shall in any way prejudice any right or remedy of the Secretary of State under this Agreement or shall amount to an election not to enforce such provision or exercise such right or remedy (including, for the avoidance of doubt, any right to terminate this Agreement). No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other

¹⁵ Section 496/7 of the Education Act 1996 applies to Pupil Referral Units by virtue of the Education (PRU)(Application of Enactments)(England) Regulations 2007

right or remedy.

104) The Secretary of State and the Company recognise the difficulties in catering in this Agreement and the Supplemental Agreements for all the circumstances which may arise in relation to the Academies and undertake in good faith to conduct such consultations as may from time to time be desirable in order to promote the interests of the Academies throughout the currency of this Agreement.

105) Termination of this agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

106) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

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

108) 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 agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1

MODEL SUPPLEMENTAL FUNDING AGREEMENT FOR A MAINSTREAM ACADEMY

MODEL SUPPLEMENTAL FUNDING AGREEMENT FOR A SPECIAL ACADEMY

**MODEL SUPPLEMENTAL FUNDING AGREEMENT FOR AN ALTERNATIVE PROVISION
ACADEMY**

Multi Academy Model
Mainstream

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made

201[●]

BETWEEN

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

(2) [_____]

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated ● 201[●] (the "**Master Agreement**").

1 DEFINITIONS AND INTERPRETATION

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

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

"the Academy" means the [●] Academy [to be] established at [●].

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

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

Multi Academy Model
Mainstream

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement¹.

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

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

ACADEMY OPENING DATE

2.4 The Academy shall open as a school on [insert] replacing [insert name of predecessor school if applicable] [which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010]².

2.5 The planned capacity of the Academy is [insert] in the age range [insert], [including a sixth form of [insert] places] [and a nursery unit of [insert] places].

3 CAPITAL GRANT

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

¹ Where the Academy is to be a "selective school" within the meaning of section 6(4) of the Academies Act 2010, please see alternative wording for this clause in Section C. of the Appendix of Alternative and Additional Clauses. "

² Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

Multi Academy Model
Mainstream

4 GAG AND EAG

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

4A COMPLAINTS³

4A.1 If a complaint is made about matters arising in whole or in part prior to the opening of the Academy, as referred to in clause 2.4 above, and all or part of that complaint was being or had been investigated by the Local Government Ombudsman under Part III of the Local Government Act 1974 ("Part III") or that complaint in whole or in part could have been investigated under Part III had the school the Academy replaced remained a maintained school, the Company:

- a) will abide by the provisions of Part III as though the Academy were a maintained school;
- b) agrees that the Secretary of State shall have the power to investigate the matter complained of as if it had taken place after conversion;
- c) agrees to act in accordance with any recommendation from the Secretary of State as though that recommendation had been made under Part III and the Academy were a maintained school.

4A.2 If at the time of the opening of the Academy the investigation of a complaint made to the governing body of the school the Academy replaced (as referred to in clause 2.4 above) has not yet been completed, the Company shall continue to investigate that complaint in accordance with the complaints procedures established by that governing body.

4A.3 If a complaint is made to the Company about matters arising in whole or in part during the 12 months prior to the opening of the Academy, the

³ Only include this clause if it is not already contained in the Master Funding Agreement. Otherwise mark as 'Not used'.

Multi Academy Model
Mainstream

Company agrees to investigate that complaint as if the matter complained of had taken place after the opening of the Academy.

4A.4) If the Secretary of State could have given an order and/or a direction under section 496 and/or section 497 of the Education Act 1996 to the governing body of the school the Academy replaced (as referred to in clause 2.4 above) and that order and/or direction related to matters occurring within the 12 months immediately prior to conversion, the Company agrees:

- a) the Secretary of State may give orders and/or directions to the Company as though the Academy were a maintained school and sections 496 and 497 applied to the governing body of that maintained school;
- b) to act in accordance with any such order and/or direction from the Secretary of State.

5 TERMINATION

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

Termination Warning Notice

5.2 The Secretary of State shall be entitled to issue to the Company a written notice of his intention to terminate this Agreement ("Termination Warning Notice") where he considers that:

- a) the Academy is no longer meeting the requirements referred to in clause 12 of the Master Agreement (subject to clause 5.9 of this Agreement);
- b) the conditions and requirements set out in clauses 13-34B of the Master Agreement are no longer being met;
- c) the standards of performance of pupils at the Academy are unacceptably low;

Multi Academy Model
Mainstream

- d) there has been a serious breakdown in the way the Academy is managed or governed;
- e) the safety of pupils or staff is threatened (whether by breakdown of discipline or otherwise); or
- f) the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement.

5.3 A Termination Warning Notice issued by the Secretary of State in accordance with clause 5.2 shall specify:

- a) reasons for the Secretary of State's issue of the Termination Warning Notice;
- b) the remedial measures which the Secretary of State requires the Company to carry out, with associated deadlines, in order to rectify the defaults identified ("Specified Remedial Measures"); and
- c) the date by which the Company must respond to the Termination Warning Notice providing its representations with regard thereto or confirm that it accepts and agrees to undertake the Specified Remedial Measures.

5.4 The Secretary of State shall consider any response and representations from the Company which are received by the date specified in accordance with clause 5.3(c) and shall confirm whether he considers that:

- a) in the light of the Company's representations in response to the Termination Warning Notice, some or all of the Specified Remedial Measures are not required to be implemented (and if so which) and/or the Specified Remedial Measures are being or will be implemented within the specified timeframe; or
- b) subject to any further measures he reasonably requires ("Further Remedial Measures") being implemented by a specified date or any evidence he requires being provided, the implementation of such

Multi Academy Model
Mainstream

measures has been or will be successfully completed within the specified timeframes; or

c) he is not satisfied that the Company will rectify the defaults identified in the Termination Warning Notice within the specified timeframes. (In such circumstances, the Secretary of State may notify the Company of his intention to terminate the Agreement on a specified date.)

5.5 The Secretary of State may by notice in writing terminate this Agreement with effect from a specified date in the event that:

a) the Company has not, by the date specified in clause 5.3(c), responded to the Termination Warning Notice either confirming that it accepts and agrees to undertake the Specified Remedial Measures or providing its representations with regard to the Specified Remedial Measures; or

b) the Company has not carried out the Specified Remedial Measures and/or Further Remedial Measures within the specified timeframes;

provided that having considered any representations made by the Academy Trust pursuant to clause 5.3(c), the Secretary of State remains satisfied that it is appropriate to terminate the Agreement.

Notice of Intention to Terminate

5.6 The Secretary of State may at any time give written notice of his intention to terminate this Agreement where the Chief Inspector gives notice to the Company in accordance with section 13(3) of the Education Act 2005 stating that in the Chief Inspector's opinion –

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

(b) the Academy requires significant improvement.

5.7 Any notice issued by the Secretary of State in accordance with clause

Multi Academy Model
Mainstream

5.6 shall invite the Company to respond with any representations within a specified timeframe.

5.8 Where the Secretary of State has given notice of his intention to terminate this Agreement in accordance with clauses 5.6 and 5.7 and –

- (a) he has not received any representations from the Company within the timeframe specified in clause 5.7; or
- (b) having considered the representations made by the Company pursuant to clause 5.7, the Secretary of State remains satisfied that it is appropriate to terminate this Agreement

he may by notice in writing terminate this Agreement with effect from a specified date.

Termination with Immediate Effect

5.9 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, he may terminate this Agreement by notice in writing to the Company such termination to take effect on the date of the notice.

Notice of Intention to Terminate by Company

5.10 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set

Multi Academy Model
Mainstream

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

5.11 Any notice given by the Company under clause 5.10 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.10 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

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

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

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

5.12 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause

Multi Academy Model
Mainstream

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

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for any educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or at a later date; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets at the date of termination, or, by agreement with the Secretary of State, at the date of subsequent disposal of those assets. Such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.

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

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

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

6.7 The sale or disposal by other means of publicly funded land held for the purposes of an Academy is now governed by Part 3 of Schedule 1 to the Academies Act 2010.

Multi Academy Model
Mainstream

7 **ANNEX**

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

8 **THE MASTER AGREEMENT**

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

8.2 Clauses [insert clause number(s)] of the Master Agreement do not apply to the Academy⁴.

9 **GENERAL**

9.1 This Agreement shall not be assignable by the Company.

9.2 No delay, neglect or forbearance on the part of the Secretary of State in enforcing (in whole or in part) any provision of this Agreement or in exercising (in whole or in part) any right or remedy conferred on him by this Agreement shall be or be deemed to be a waiver of such provision or right or remedy or a waiver of any other provision or right or remedy or shall in any way prejudice any right or remedy of the Secretary of State under this Agreement or shall amount to an election not to enforce such provision or exercise such right or remedy (including, for the avoidance of doubt, any right to terminate this Agreement). No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

9.3 Termination of this agreement, for any reason, shall not affect the

⁴ This clause should be included where the Master Agreement contains a requirement for **Mainstream Academies** to employ teachers with QTS. If the Master Agreement does not contain this requirement, clause 8.2 should be removed from this supplemental funding agreement and marked 'not used'. Provisions in the Master Agreement requiring the academy trust to employ only qualified teachers as the SENCO and as the designated teacher for looked after children should remain.

Multi Academy Model
Mainstream

Address.....

Occupation.....]

[Or

.....

Director

.....]

Director/Secretary

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

.....

Duly Authorised

Multi Academy Model
Mainstream

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the
Academy Annex 1

Multi Academy Model
Mainstream

**APPENDIX OF ADDITIONAL OR ALTERNATIVE CLAUSES THAT MAY BE
NEEDED DEPENDING ON THE TYPE OF ACADEMY**

**A. FORMER VC OR FOUNDATION SCHOOLS DESIGNATED UNDER
SECTION 69 SSFA**

For converting Academies that were previously VC schools or foundation schools designated by an order under section 69(3) of the SSFA as a school having a religious character.

INSERT the following clauses as additional clauses 2.6-2.8. Note that these clauses are for use if the Academy was a former VC or foundation school with a religious designation and has foundation governors defined as Foundation Governors in the Articles.

TEACHERS AND OTHER STAFF

2.6 The Company shall in relation to:

- (a) any person who may apply for a position as an employee or to be otherwise engaged by the Company, and
- (b) any employee with whom the Company enters into a contract of employment or a contract for services

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

Multi Academy Model
Mainstream

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

- a) in subsection (3) for the words "head teacher" read "principal"
- b) in subsection (5) & (6) for "foundation governors" read "Foundation Governors" as defined in the Articles of Association;
- c) in subsection (6)(b) for the words "governing body" read "appropriate body";
- d) in subsection (9) for (a) and (b) read the words "Company";

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

RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP

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

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

- a) subject to clause 28 of the Master Agreement, the Company Trust shall ensure that provision shall be made for religious education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998 as if the Academy were a foundation school or voluntary controlled school with a religious character;
- b) subject to clause 28 of the Master Agreement, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school or voluntary controlled school with a religious character, and as if references to 'the required collective worship'

Multi Academy Model
Mainstream

were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

[Next section only if the Academy is a denominational faith Academy CE, RC etc. rather than 'Christian']

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

Where additional clauses 2.6 and 2.7 have been inserted, sub-clause 5.2b) should be replaced with the following:

- b) the conditions and requirements set out in clauses 2.6 and 2.7 of this Agreement and in clauses 13-34B of the Master Agreement are no longer being met;

B. LAND CLAUSES – FOR INSERTION WHERE FREEHOLD OR LEASEHOLD LAND WILL BE HELD BY THE COMPANY

Where a freehold interest in publicly funded land for use by the Academy is to be transferred to the Company insert all of the following clauses (6A-6D and the definitions of "land" and "insured risks" at clause 1.2).

Where a leasehold interest in publicly funded land for use by the Academy is to be transferred to the Company using one of the DfE's

Multi Academy Model
Mainstream

model leases, insert only clauses 6A and the definition of "land" at clause 1.2 (the other land clauses can be left out as these overlap with what is covered by the lease).

Where the Company will have both freehold and leasehold interests in publicly funded land, (because it has been transferred more than one piece of land), then insert all the land clauses but the Company may include a clause saying that clauses 6B-6D do not apply to land in which the Company holds a leasehold interest only.

The following definitions are to be inserted into clause 1.2:

"Insured Risks" means fire,, lightning,, explosion,, earthquake,, storm,, tempest,, flood,, subsidence,, landslip,, heave impact,, terrorism,, bursting or overflowing of water tanks and pipes,, , 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 Company insures 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.

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as [insert address(es) of the land that is to be transferred to the Academy] [and [if applicable] registered under [enter Title number of Land]].

AND

Insert the following headings and paragraphs after clause 6.7 to become 6A):

LAND

Multi Academy Model
Mainstream

Restrictions on Land transfer

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

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

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

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

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

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

e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by

Multi Academy Model
Mainstream

itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

Repair and Upkeep

6B) The Company shall keep the Land clean and tidy and make good any damage it causes to the Land and / or any deterioration to the condition of the Land that may arise from the date of this Agreement.

Insurance

6C) The Company shall:-

- a) keep the Land insured with a reputable insurance office against loss or damage by the Insured Risks in the sum the Company is advised represents the reinstatement value of the Land from time to time;
- b) pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the Land;
- c) 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 Company 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;
- d) 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);
- e) not knowingly do anything whereby any policy of insurance relating to the Land may become void or voidable.
- f) insure against liability in respect of property owners' and third party risks including occupiers liability.

Multi Academy Model
Mainstream

Transfer of Land on Termination of Agreement

6D) In recognition by the Company that they are or will be taking a transfer of publicly-funded land for nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent), the Company hereby grants and the Secretary of State hereby accepts an option, exercisable by the Secretary of State or his nominee, to transfer the said land pursuant to Schedule 1 to the Academies Act 2010. The option hereby granted shall be exercisable (by notice in writing by or on behalf of the Secretary of State) on the termination of this Funding Agreement for whatever cause. On the exercise of this option, the Law Society's Standard Conditions of Sale for Commercial Property in force at the date of such exercise shall apply to the transaction and completion shall take place 28 days after such exercise.

6E) In further recognition by the Company that they are or will be taking a transfer of publicly-funded land for nil consideration, (which for the purposes of this transaction shall include leases granted at a peppercorn rent), to protect the option granted under clause 6D, the Company:

a) shall, within 14 days from the transfer to it of the Land, apply to the Land Registry in Form AN1 as prescribed by Rule 81 of the Land Registration Rules 2003 for a notice to be entered in the register (under section 34(3)(a) of the Land Registration Act 2002) to protect the option granted under clause 6D and including a copy of this Agreement as evidence of that option,

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

Multi Academy Model
Mainstream

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

d) in the event that it has not registered the notice referred to in clause 6E(a), hereby consents to the entering of the notice referred to in 6E(a) in the register by the Secretary of State (by application in Form UN1 under s. 34(3)(b) of the Land Registration Act 2002),

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

f) in the case of previously unregistered land, for the further protection of the option granted in Clause 6D the Company shall within 14 days of the signing of this Agreement make application to register a Class C (iv) land charge in the Land Charges Registry and a Caution against First Registration in the Land Registry and shall provide the Secretary of State with copies of the entries secured thereby within 7 days of completing each registration, respectively. If the Secretary of State is of the view that the Company has failed to perform the registration obligations in this sub-clause he shall be at liberty to make his own applications to secure these registrations.

C. SELECTIVE ACADEMIES

Additional clauses to be inserted in the Supplemental FA where the converting school is a Selective Academy and the Annex providing for the removal of the Academy's selective arrangements is to be annexed.

1. Insert at the end of clause 2.3:

Multi Academy Model
Mainstream

The procedure for the removal of the Academy's selective admission arrangements is set out at Annex 2.

2. On the final page ANNEXES TO THIS SUPPLEMENTAL AGREEMENT insert:

The procedure for the removal of the Academy's selective admission arrangements at the Academy Annex 2

Amendments to be made to clause 2.1 where the converting school is a Selective Academy.

Insert the following words at the end of clause 2.1:

"...save that clauses 12 and 18 of the Master Agreement do not apply in so far as they require the Academy to be an all ability inclusive school as the Academy is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 "

D. ACADEMIES WITH PFI ARRANGEMENTS

There are a number of PFI specific clauses that need to be inserted into Funding Agreements where there are PFI arrangements in existence relating to the land/property of the Academy.

Your Project Lead will provide you with the additional clauses that will be needed.

E. FOR ACADEMIES WITH SEN UNITS/PROVISION RESERVED FOR PUPILS WITH SEN

For Academies with SEN Units and/or Resourced Provision the following additional clauses should be inserted:

Multi Academy Model
Mainstream

2.3A) Subject to Clause 2.3B), the academy will operate designated places reserved for pupils with special educational needs (SEN Unit and or Resourced Provision) with up to [Insert] planned places for pupils [with insert SEN category] in the age range [insert].

2.3B) The Secretary of State may at any time determine that the [SEN Unit/Resourced Provision] should cease to operate.

2.3C) In making any determination under clause 2.3B) the Secretary of State shall:

- (i) have regard to the views of the Academy and local authorities in the area (in their strategic role in the commissioning of SEN provision); and
- (ii) consider the impact of such a determination on the local authorities' ability to secure suitable SEN provision for all children within the area.

For Academies with SEN Units and/or Resourced Provision clause 2.5 should be replaced with the following clause:

2.5) The planned capacity of the Academy is [insert] in the age range [insert], [including a sixth form of [insert] places] [and a nursery unit of [insert] places] and will subject to Clause 2.3B) operate designated reserved provision for pupils with special educational needs (SEN Unit or Resourced Provision) for up to [insert] planned places for pupils with [insert SEN category] in the age range [insert].

F. FOR ACADEMIES WITH 16-19 PROVISION

For Academies with 16-19 provision the following clause should be inserted where it is not already included in the Master Funding Agreement:

2A 16 – 19 FUNDING GUIDANCE

Multi Academy Model
Mainstream

2A.1 The Company shall abide by the requirements of the current 16 to 19 Funding Guidance published by the Secretary of State and as amended from time to time, or such other guidance on 16 to 19 funding issued by the Secretary of State as may from time to time be applicable, in respect of any of its provision at the Academy for persons who are above compulsory school age until the academic year in which they reach the age of 19.

Multi Academy Model
Mainstream

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy

Annex 1

Annex A

ARTICLES OF ASSOCIATION

THE COMPANIES ACT 2006

A COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

NORTHERN ACADEMIES TRUST

COMPANY NUMBER: 05067702

AMENDED BY SPECIAL RESOLUTION ON []

THE COMPANIES ACT 2006
COMPANY LIMITED BY GUARANTEE
ARTICLES OF ASSOCIATION
OF
NORTHERN ACADEMIES TRUST

INTERPRETATION

1. In these Articles:-

- a. "the Academies" means all the schools and educational institutions referred to in Articles 4a) and established by the Company (and "Academy" shall mean any one of those schools or educational institutions);
- b. "Academy Directors" means the Directors appointed pursuant to Articles 51-52 and 'Academy Director' shall mean any one of those Directors;
- c. "Academy Financial Year" means the academic year from 1st of September to 31st of August of the following year;
- d. "the Articles" means these Articles of Association of the Company;
- e. "Chief Executive Officer" means such person as may be appointed by the Directors as the Chief Executive Officer of the Company;
- f. "Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;
- g. "clear days" in relation to the period of a notice means the period excluding the day when the notice is given or deemed to be given and the day on which it is given or on which it is to take effect;
- h. "the Company" means save as otherwise defined at Article 6.9 the company intended to be regulated by these Articles and referred to

in Article 2;

- i. "the Directors" means save as otherwise defined at Article 6.9 the directors of the Company (and "Director" means any one of those directors);
- j. "financial expert" means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;
- k. "the LAs" means all the local authorities covering the areas in which the Academies are situated (and "the LA" shall mean any one of these local authorities);
- l. "Local Authority Associated Persons" means any person associated with any local authority within the meaning given in section 69 of the Local Government and Housing Act 1989;
- m. "Local Governing Bodies" means the committees appointed pursuant to Articles 100-101 and 104 (and "Local Governing Body" means any one of these committees);
- n. "Member" means a member of the Company and someone who as such is bound by the undertaking contained in Article 8;
- o. "the Memorandum" means the Memorandum of Association of the Company;
- p. "Office" means the registered office of the Company;
- q. "Principal Sponsor" means the trustees of The NLA Trust, registered charity number 1114175 and whose registered address is at 15 Pavilion Square, London, SW17 7DN;
- r. "Principals" means the head teachers of the Academies (and "Principal" means any one of these head teachers);
- s. "Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2011;
- t. "Relevant Funding Agreements" means the agreement or agreements entered into by the Company and the Secretary of

State under section 1 of the Academies Act 2010 for the establishment of each Academy, including any variation or supplemental agreements thereof;

- u. "the seal" means the common seal of the Company if it has one;
 - v. "Secretary of State" means the Secretary of State for Education or successor;
 - w. "Secretary" means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;
 - x. "Staff Director" means an employee of the Company who may be appointed as a Director pursuant to Article 50A;
 - y. "teacher" means a person employed under a contract of employment or a contract for services or otherwise engaged to provide his services as a teacher at one or more Academies;
 - z. "the United Kingdom" means Great Britain and Northern Ireland;
 - aa. words importing the masculine gender only shall include the feminine gender. Words importing the singular number shall include the plural number, and vice versa;
 - bb. subject as aforesaid, words or expressions contained in these Articles shall, unless the context requires otherwise, bear the same meaning as in the Companies Act 2006, as appropriate;
 - cc. any reference to a statute or statutory provision shall include any statute or statutory provision which replaces or supersedes such statute or statutory provision including any modification or amendment thereto.
2. The Company's name is Northern Academies Trust (and in this document it is called "**the Company**").
3. The Company's registered office is to be situated in England and Wales.

OBJECTS

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

- (a) to advance for the public benefit education in the United Kingdom, in particular but without prejudice to the generality of the foregoing by establishing, maintaining, carrying on, managing and developing schools offering a broad and balanced curriculum ("**the Academies**"); and
- (b) to promote for the benefit of the inhabitants of the areas in which the Academies are situated the provision of facilities for recreation or other leisure time occupation of individuals who have need of such facilities by reason of their youth, age, infirmity or disablement, financial hardship or social and economic circumstances or for the public at large in the interests of social welfare and with the object of improving the condition of life of the said inhabitants.

5. In furtherance of the Objects but not further or otherwise the Company may exercise the following powers:-

- (a) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and to operate bank accounts in the name of the Company;
- (b) to raise funds and to invite and receive contributions provided that in raising funds the Company shall not undertake any substantial permanent trading activities and shall conform to any relevant statutory regulations;
- (c) to acquire, alter, improve and (subject to such consents as may be required by law) to charge or otherwise dispose of property;
- (d) subject to Article 6 below to employ such staff, as are necessary for the proper pursuit of the Objects and to make all reasonable and

necessary provision for the payments of pensions and superannuation to staff and their dependants;

- (e) to establish or support, whether financially or otherwise, any charitable trusts, associations or institutions formed for all or any of the Objects;
- (f) to co-operate with other charities, other independent and maintained schools, schools maintained by a local authority, 16-19 Academies, alternative provision Academies, institutions within the further education sector, voluntary bodies and statutory authorities operating in furtherance of the Objects and to exchange information and advice with them;
- (g) to pay out of funds of the Company the costs, charges and expenses of and incidental to the formation and registration of the Company;
- (h) to establish, maintain, carry on, manage and develop the Academies at locations to be determined by the Directors;
- (i) to offer scholarships, exhibitions, prizes and awards to pupils and students former pupils and former students, and otherwise to encourage and assist pupils and students and former pupils and former students;
- (j) to provide educational facilities and services to students of all ages and the wider community for the public benefit;
- (k) to carry out research into the development and application of new techniques in education and to their approach to curriculum development and delivery and to publish the results of such research, and to develop means of benefiting from application of the experience of industry, commerce, other schools, educational institutions and the voluntary sector to the education of pupils and students in academies;
- (l) subject to such consents as may be required by law and/or by any

contract entered into by or on behalf of the Company, to borrow and raise money for the furtherance of the Objects in such manner and on such security as the Company may think fit;

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

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

- (i) the investment policy is set down in writing for the financial expert by the Directors;
- (ii) every transaction is reported promptly to the Directors;
- (iii) the performance of the investments is reviewed regularly with the Directors;
- (iv) the Directors are entitled to cancel the delegation arrangement at any time;
- (v) the investment policy and the delegation arrangement are reviewed at least once a year;
- (vi) all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Directors on receipt; and
- (vii) the financial expert must not do anything outside the powers of the Directors;

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

(p) to provide indemnity insurance to Directors in accordance with, and subject to the conditions of section 232 to 235 of the Companies Act

2006, section 189 of the Charities Act 2011 or any other provision of law applicable to charitable companies and any such indemnity is limited accordingly;

(q) not used;

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

(s) to do all such other lawful things as are necessary for or are incidental to or conducive to the achievement of the Objects.

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

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

- a) benefit as a beneficiary of the Company;
- b) be paid reasonable and proper remuneration for any goods or services supplied to the Company;
- c) be paid rent for premises let by the member of the Company if the amount of the rent and other terms of the letting are reasonable and proper; and
- d) be paid interest on money lent to the Company at a reasonable and proper rate, such rate not to exceed 2 per cent per annum below the base lending rate of a UK clearing bank selected by the Directors, or 0.5%, whichever is the higher.

6.3 A Director may benefit from any indemnity insurance purchased at the Company's expense to cover the liability of the Directors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default or breach of trust or breach of duty of which they may be guilty in

relation to the Company: Provided that any such insurance shall not extend to: (i) any claim arising from any act or omission which Directors knew to be a breach of trust or breach of duty or which was committed by the Directors in reckless disregard to whether it was a breach of trust or breach of duty or not; and (ii) the costs of any unsuccessful defence to a criminal prosecution brought against the Directors in their capacity as directors of the Company. Further, this Article does not authorise a Director to benefit from any indemnity insurance that would be rendered void by any provision of the Companies Act 2006, the Charities Act 2011 or any other provision of law.

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

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

6.6 No Director may:

- (a) buy any goods or services from the Company;
- (b) sell goods, services, or any interest in land to the Company;
- (c) subject to Article 6.7, be employed by, or receive any remuneration from the Company (other than the Chief Executive Officer whose employment and/or remuneration is subject to the procedure and conditions in Article 6.8, Staff Directors and any other Director who is an employee of the Company);
- (d) receive any other financial benefit from the Company;

unless:

- (i) the payment is permitted by Article 6.7 and the Directors follow the procedure and observe the conditions set out in Article 6.8;
or
- (ii) the Directors obtain the prior written approval of the Charity Commission and fully comply with any procedures it prescribes.

6.7 Subject to Article 6.8, a Director may:

- a) receive a benefit from the Company in the capacity of a beneficiary of the Company;
- b) be employed by the Company or enter into a contract for the supply of goods or services to the Company, other than for acting as a Director;
- c) receive interest on money lent to the Company at a reasonable and proper rate not exceeding 2% per annum below the base rate of a clearing bank to be selected by the Directors, or 0.5%, whichever is the higher; and/or
- d) receive rent for premises let by the Director to the Company if the amount of the rent and the other terms of the lease are reasonable and proper.

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

- (a) the remuneration or other sums paid to the Director do not exceed an amount that is reasonable in all the circumstances.
- (b) the Director is absent from the part of any meeting at which there is discussion of:
 - i) his or her employment, remuneration, or any matter concerning the contract, payment or benefit; or
 - ii) his or her performance in the employment, or his or her performance of the contract; or
 - iii) any proposal to enter into any other contract or arrangement with him or her or to confer any benefit upon him or her that would be permitted under Article 6.7; or
 - (iv) any other matter relating to a payment or the conferring of any benefit permitted by Article 6.7.

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

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

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

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

6.8A The provision in Article 6.6 (c) that no Director may be employed by or receive any remuneration from the Company (other than a Staff Director or any other Director who is an employee of the Company, and the Chief Executive Officer) does not apply to an employee of the Company who is subsequently elected or appointed as a Director save that this Article shall only allow such a Director to receive remuneration or benefit from the Company in his capacity as an employee of the Company and provided that the procedure as set out in Articles 6.8(b)(i), (ii) and 6.8 (c) is followed.

6.9 In Articles 6.2-6.9:

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

holds more than 50% of the shares; or

controls more than 50% of the voting rights attached to the shares;
or

has the right to appoint one or more Directors to the Board of the Company.

(b) "Director" shall include any child, stepchild, parent, grandchild, grandparent, brother, sister or spouse of the Director or any person living with the Director as his or her partner.

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

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

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

8. Every member of the Company undertakes to contribute such amount as may be required (not exceeding £10) to the Company's assets if it should be wound up while he or she is a member or within one year after he or she ceases to be a member, for payment of the Company's debts and liabilities before he or she ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

9. If the Company is wound up or dissolved and after all its debts and liabilities (including any under section 2 of the Academies Act 2010) have been satisfied there remains any property it shall not be paid to or distributed among the members of the Company, but shall be given or transferred to some other charity or charities having objects similar to the Objects which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the Company by Article 6 above, chosen by the members of the Company at or before the time of dissolution and if that

cannot be done then to some other charitable object.

10. Not used.

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

MEMBERS

12. The Members of the Company shall comprise:-

- a. the nominee of the Principal Sponsor;
- b. Up to 5 person(s) who may be appointed by the Principal Sponsor;
- c. the chairman of the Directors; and
- d. any person appointed under Article 16;

13. Each of the persons entitled to appoint Members in Article 12 shall have the right from time to time by written notice delivered to the Office to remove any Member appointed by them and to appoint a replacement Member to fill a vacancy whether resulting from such removal or otherwise.

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

- a) in the case of an individual, die or become legally incapacitated;
- b) in the case of a corporate entity, cease to exist and are not replaced by a successor institution; or
- c) becomes insolvent or makes any arrangement or composition with their creditors generally;

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

15. Membership will terminate automatically if:

- a) a Member (which is a corporate entity) ceases to exist and is not replaced by a successor institution;
- b) a Member (which is an individual) dies or becomes incapable by reason of illness or injury of managing and administering his or her own affairs; or
- c) a Member becomes insolvent or makes any arrangement or composition with that Member's creditors generally.

15A. The Members may agree unanimously in writing to remove any Member(s) who is a signatory to the Memorandum (save that the agreement of a signatory to the Memorandum who is to be removed shall not be required), provided that it is in the interests of the Company to remove such a Member(s).

16. The Members may agree by passing a special resolution in writing to appoint such additional Members as they think fit and may agree by passing a special resolution in writing to remove any such additional Members provided that such appointment or removal is in the interests of the Company.

17. Every person nominated to be a Member of the Company shall either sign a written consent to become a Member or sign the register of Members on becoming a Member.

18. Any Member may resign provided that after such resignation the number of Members is not less than two. A Member shall cease to be one immediately on the receipt by the Company of a notice in writing signed by the person or persons entitled to remove him under Articles 13 or 16 provided that no such notice shall take effect when the number of Members is less than two unless it contains or is accompanied by the appointment of a replacement Member.

GENERAL MEETINGS

19. The Company shall hold an Annual General Meeting each year in

addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one Annual General Meeting of Company and that of the next. The Annual General Meeting shall be held at such time and place as the Directors shall appoint. All meetings other than Annual General Meetings shall be called General Meetings.

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

NOTICE OF GENERAL MEETINGS

21. General meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed by a majority in number of Members having a right to attend and vote and together representing not less than 90% of the total voting rights at that meeting.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an Annual General Meeting, shall specify the meeting as such. The notice shall also state that the Member is entitled to appoint a proxy.

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

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

PROCEEDINGS AT GENERAL MEETINGS

23. No business shall be transacted at any meeting unless a quorum is

present. A Member counts towards the quorum by being present either in person or by proxy. Two persons entitled to vote upon the business to be transacted, each being a Member or a proxy of a Member or a duly authorised representative of a Member organisation shall constitute a quorum.

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

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

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

27. A Director shall, notwithstanding that he is not a Member, be entitled to attend and speak at any general meeting.

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

29. A resolution put to the vote of the meeting shall be decided on a show of hands unless before, or on the declaration of the result of the show of hands, a poll is duly demanded. Subject to the provisions of the Companies Act 2006, a poll may be demanded:-

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

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

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

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

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

show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

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

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

VOTES OF MEMBERS

36. On the show of hands every Member present in person shall have one vote. On a poll every Member present in person or by proxy shall have one vote.

37. Not used.

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

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

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

"I/We,, of, being a Member/Members of the above named Company, hereby appoint of, or in his absence, of as my/our proxy to attend, speak and vote in my/our name[s] and on my/our behalf at the annual general meeting/ general meeting of the Company to be held on20[], and at any adjournment thereof.

Signed on 20[]"

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

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

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

Resolution No. 1 *for * against

Resolution No. 2 *for * against.

- Strike out whichever is not desired.

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

Signed on 20[]"

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

57. The Chief Executive Officer shall be a Director for as long as he remains in office as such.

CO-OPTED DIRECTORS

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

59 – 63. Not used.

TERM OF OFFICE

64. The term of office for any Director shall be four years save that this time limit shall not apply to the Chief Executive Officer or any Director appointed by the Principal Sponsor in accordance with Article 50 . Subject to remaining eligible to be a particular type of Director, any Director may be re-appointed or re-elected.

RESIGNATION AND REMOVAL

65. A Director shall cease to hold office if he resigns his office by notice to the Company (but only if at least three Directors will remain in office when the notice of resignation is to take effect).

66. A Director shall cease to hold office if he is removed by the person or persons who appointed him.

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

DISQUALIFICATION OF DIRECTORS

68. No person shall be qualified to be a Director unless he is aged 18 or

over at the date of his election or appointment. No current pupil or current student of any of the Academies shall be a Director.

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

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

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

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

72. A person shall be disqualified from holding or continuing to hold office as a Director at any time when he is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).

73. A Director shall cease to hold office if he ceases to be a Director by virtue of any provision in the Companies Act 2006 or is disqualified from acting as a trustee by virtue of section 178 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

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

in the name of the Company such part of the funds as they may see fit and to direct the sale or transposition of any such investments and to expend the proceeds of any such sale in furtherance of the Objects;

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

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

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

CONFLICTS OF INTEREST

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

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

THE MINUTES

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

COMMITTEES

100. Subject to these Articles, the Directors:

- a) may appoint separate committees to be known as Local Governing Bodies for each Academy; and
- b) may establish any other committee.

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

102. Not used.

103. Not used.

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

DELEGATION

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

106. Where any power or function of the Directors has been exercised by any committee (including any Local Governing Body), any Director, the Chief

Executive Officer, the Principals or any other holder of an executive office, that person or committee shall report to the Directors in respect of any action taken or decision made with respect to the exercise of that power or function at the meeting of the Directors immediately following the taking of the action or the making of the decision.

CHIEF EXECUTIVE OFFICER AND PRINCIPALS

107. The Directors shall appoint the Chief Executive Officer and the Principals of the Academies. The Directors may delegate such powers and functions as they consider are required by the Chief Executive Officer and the Principals for the internal organisation, management and control of the Academies (including the implementation of all policies approved by the Directors and for the direction of the teaching and curriculum at the Academies).

MEETINGS OF THE DIRECTORS

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

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

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

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

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

- i) notice in writing thereof, signed by the Secretary (or sent by the Secretary, in the event of an electronic communication), and sent to each Director at the address provided by each Director from time to time; and
- ii) a copy of the agenda for the meeting;

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

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

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

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

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

115. Where in accordance with Article 114 a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the Secretary as soon as is reasonably practicable, but in any event within seven days of the date on which the meeting was originally to be held or was so terminated.

116. Where the Directors resolve in accordance with Article 114 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Directors shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the Secretary to convene a meeting accordingly.

117. Subject to Article 119 the quorum for a meeting of the Directors, and any vote on any matter thereat, shall be any three Directors, or, where greater, any one third (rounded up to a whole number) of the total number of Directors holding office at the date of the meeting.

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

119. The quorum for the purposes of -

- (a) any vote on the removal of a Director in accordance with Article 66;
- (b) any vote on the removal of the chairman of the Directors in accordance with Article 90;

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

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

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

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

- a. any vacancy among their number; or

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

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

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

- a. the agenda for every meeting of the Directors;
- b. the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
- c. the signed minutes of every such meeting; and
- d. any report, document or other paper considered at any such meeting,

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

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

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

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

- a. he has given notice of his intention to do so detailing the telephone number on which he can be reached and/or appropriate details of the video conference suite from which he shall be taking part at the time of the meeting at least 48 hours before the meeting; and,
- b. the Directors have access to the appropriate equipment. If after all reasonable efforts it does not prove possible for the person to participate by telephone or video conference the meeting may still proceed with its business provided it is otherwise quorate.

PATRONS AND HONORARY OFFICERS

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

THE SEAL

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

ACCOUNTS

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

ANNUAL REPORT

130. The Directors shall prepare its Annual Report in accordance with the Statement of Recommended Practice as if the Company was a non-exempt

charity and shall file these with the Secretary of State and the Principal Regulator by 31 December each Academy Financial Year.

ANNUAL RETURN

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

NOTICES

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

133. A notice may be given by the Company to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at his registered address or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the Company by the Member. A Member whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, shall be entitled to have notices given to him at that address, but otherwise no such Member shall be entitled to receive any notice from the Company.

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

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

INDEMNITY

136. Subject to the provisions of the Companies Act 2006 and Article 6.3 every Director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in that capacity in defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

RULES

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

- a. the admission and classification of Members of the Company (including the admission of organisations to membership) and the rights and privileges of such Members, and the conditions of membership and the terms on which Members may resign or have their membership terminated and the entrance fees, subscriptions and other fees or payments to be made by Members;

- b. the conduct of Members of the Company in relation to one another, and to the Company's servants;
- c. the setting aside of the whole or any part or parts of the Company's premises at any particular time or times or for any particular purpose or purposes;
- d. the procedure at general meetings and meetings of the Directors and committees of the Directors and meetings of the Local Governing Bodies in so far as such procedure is not regulated by the Articles; and,
- e. generally, all such matters as are commonly the subject matter of Company rules.

138. The Company in general meeting shall have power to alter, add or to repeal the rules or bye laws and the Directors shall adopt such means as they think sufficient to bring to the notice of Members of the Company all such rules or bye laws, which shall be binding on all Members of the Company provided that no rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in the Articles.

AVOIDING INFLUENCED COMPANY STATUS

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

140. No person who is a Local Authority Associated Person may be appointed as a Director if, once the appointment had taken effect, the number of Directors who are Local Authority Associated Persons would represent 20% or more of the total number of Directors. Upon any resolution put to the Directors, the maximum aggregate number of votes exercisable by any Directors who are Local Authority Associated Persons shall represent a

maximum of 19.9% of the total number of votes cast by the Directors on such a resolution and the votes of the other Directors having a right to vote at the meeting will be increased on a pro-rata basis.

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

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

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

144. The Members will each notify the Company and each other if at any time they believe that the Company or any of its subsidiaries has become subject to the influence of a local authority (as described in section 69 of the Local Government and Housing Act) 1989.

Annex B

**ARRANGEMENTS FOR PUPILS WITH SEN AND DISABILITIES AT EACH
ACADEMY**

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

Duties in relation to pupils with SEN¹

1. The Directors of the Company must, in respect of each **Mainstream Academy**, comply with all of the duties imposed upon the governing bodies of maintained schools in;
 - Part 4 of the Education Act 1996 as amended from time to time²;
 - The Education (Special Educational Needs) (Information) Regulations 1999 as amended from time to time;
 - The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2008 as amended from time to time³.
2. Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Company to comply with an obligation described in this Annex where the Company has failed to comply with any such obligation.
3. Where a child who has SEN is being educated in a **Mainstream Academy**, those concerned with making special educational provision for the child must secure that the child engages in the activities of the school together with children who do not have SEN, so far as is reasonably practicable and is compatible with:
 - (a) the child receiving the special educational provision which his learning difficulty calls for,
 - (b) the provision of efficient education for the children with whom he will be educated, and
 - (c) the efficient use of resources.
4. In addition to complying with the duties imposed upon the governing bodies of maintained schools set out in The Education (Special Educational Needs) (Information) Regulations 1999 (as amended from time to time) the Company must ensure that the website for each Academy includes details of the implementation of its policy for pupils with special educational needs; the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; and the facilities provided to assist access to the Academy by disabled pupils (disabled pupils meaning pupils who are disabled for the purposes of the Equality Act

¹ Duties in relation to pupils with SEN at Special Academies are at clause 12A of the Master Funding Agreement.

² Currently these duties are in sections 313 (Duty to have regard to the Special Educational Needs Code of Practice 2001); 317 (Duties in relation to pupils with special educational needs), 317A (Duty to advise parents that special educational provision is being made); and 324(5)(b) (Duty to admit the child where a school is named in the statement).

³ These Regulations are amended by The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2009 (SI 2009 No 1387).

Multi Academy Model

2010¹).

Admissions²

5. The Company must ensure that for each **Mainstream Academy** pupils with SEN are admitted on an equal basis with others in accordance with the Academy's admissions policy.
6. Where a local authority ("LA") proposes to name a **Mainstream Academy** in a statement of SEN made in accordance with section 324 of the Education Act 1996, it must give the Company written notice that it so proposes. Within 15 days of receipt of the LA's notice that it proposes to name the Academy in a statement, the Company must consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children; and where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Company must have regard to the relevant guidance issued by the Secretary of State to maintained schools.
7. If the Company determines that admitting the child would be incompatible with the provision of efficient education, it must, within 15 days of receipt of the LA's notice, notify the LA in writing that it does not agree that the Academy should be named in the pupil's statement. Such notice must set out all the facts and matters the Company relies upon in support of its contention that: (a) admitting the child would be incompatible with efficiently educating other children; and (b) the Company cannot take reasonable steps to secure this compatibility.
8. After service by the Company on the LA of any notice (further to paragraph 7 above) stating that it does not agree with the LA's proposal that the Academy be named, the Company must seek to establish from the LA, as soon as is reasonably practicable, whether or not the LA agrees with the Company. If the LA notifies the Company that it does not agree with the Company's response, and names the Academy in the child's statement, then the Company must admit the child to the school on the date specified in the statement or on the date specified by the LA.
9. Where the Company consider that the Academy should not have been named in a child's statement, they may ask the Secretary of State to determine that the LA has acted unreasonably in naming the Academy and to make an order directing the LA to reconsider.
10. The Secretary of State's determination shall, subject only to any right of appeal which any parent or guardian of the child may have to the First-tier Tribunal (Special Educational Needs and Disability), be final.

¹ For the meaning of 'disabled', see section 6 of the Equality Act 2010.

² SEN Admissions requirements for special academies are set out in the Special Academy Supplemental Funding Agreement Annex 1.

Multi Academy Model

11. If a parent or guardian of a child in respect of whom a statement is maintained by the local authority appeals to the First-tier Tribunal (Special Educational Needs and Disability) either against the naming of an Academy in the child's SEN statement or asking the Tribunal to name an Academy, then the decision of the Tribunal on any such appeal shall be binding and shall, if different from that of the Secretary of State under paragraph 9 above, be substituted for the Secretary of State's decision.
12. Where the Company, the Secretary of State or the First-tier Tribunal (Special Educational Needs and Disability) have determined that it should be named, the Company shall admit the child to the Academy notwithstanding any provision of Annex 1 of the Supplemental Agreement of that Academy.