

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

Calculation of GAG

3.16. Subject to clause 3.18, the basis of the pupil number count for the purposes of determining GAG for an Academy Financial Year will be the Academy Trust's most recent estimate provided in accordance with clause 3.17.

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

3.18. In the Academy Financial Year which immediately follows the Start-up Period, the basis of the pupil number count for the purpose of determining GAG will no longer be the estimate provided in accordance with clause 3.17, but in that and all following Academy Financial Years will be determined in accordance with clause 3.21.

3.19. For any Academy Financial Year in which GAG for the Academy has been calculated in accordance with clauses 3.16 and 3.17, an adjustment may be made to the following Academy Financial Year's formula funding element of GAG for the Academy to recognise any variation from that estimate. The Secretary of State may for this purpose use the Census for the relevant month (determined at the Secretary of State's discretion) for the Academy Financial

Year in question as a means of determining pupil numbers. The additional or clawed-back grant will be only the amount relevant to the number of pupils above or below that estimate.

3.20. Not used

3.21. For Academy Financial Years after that referred to in clause 3.18, the basis of the pupil count for determining GAG will be:

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

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

3.23. The Secretary of State may pay a further element of GAG to the Academy Trust during the Start-Up Period or during the period when year groups are present who have transferred from the Predecessor School, in order 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; and
- b) meet the costs associated with the recruitment and induction of additional staff.

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

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

Earmarked Annual Grant (EAG)

- 3.25. The Secretary of State may pay EAG to the Academy Trust for specific purposes, agreed between the Secretary of State and the Academy Trust, and described in the relevant funding letter. The Academy Trust must spend EAG only in accordance with that letter.
- 3.26. Where the Academy Trust is seeking a specific EAG for any Academy Financial Year, it must send a letter to the DfE outlining its proposals and the reasons for the request.

Arrangements for paying GAG and EAG

- 3.27. Before each Academy Financial Year, the Secretary of State will notify the Academy Trust of the GAG and EAG amounts which, subject to parliamentary approval, the Secretary of State plans for that Academy Financial Year and how they have been calculated.
- 3.28. The amount of GAG for an Academy Financial Year will be decided annually by the Secretary of State, and notified to the Academy Trust in a funding letter sent before the relevant Academy Financial Year begins (the "**Annual Letter of Funding**").
- 3.29. Amounts of EAG will be notified to the Academy Trust wherever possible in the Annual Letter of Funding or as soon as is practicable afterwards.
- 3.30. The Annual Letter of Funding will, as well as stating the grant amounts, set out how they have been calculated. It will not include grants which cannot be

calculated in time because there is not enough information, or for other administrative reasons. Any such grants will be notified as soon as practicable.

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

3.32. If GAG or EAG is miscalculated:

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

Other relevant funding

3.33. Not used.

3.33A. Grants paid by the Secretary of State (be they GAG, EAG or Capital Grant) shall not be used by the Academy Trust for Early Years Provision for which the Academy Trust is entitled to make a charge under clause 2.23 of this Agreement without the prior written consent of the Secretary of State except where the use of such funds is merely incidental to their use for the

establishment and maintenance, carrying on or providing for the carrying on of the Academy.

3.34. Not used.

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

4. FINANCIAL AND ACCOUNTING REQUIREMENTS

General

4.1. In order for the Secretary of State to provide grant funding to the Academy Trust, the Academy Trust must be fulfilling the financial and reporting requirements in this Agreement.

4.2. In its conduct and operation, the Academy Trust must apply financial and other controls which meet the requirements of regularity, propriety and value for money.

4.3. The Academy Trust must appoint an accounting officer and must notify the Secretary of State of that appointment. The Academy Trust must assign to the accounting officer the responsibilities of the role set out in the Academies Financial Handbook and HM Treasury's publication 'Managing Public Money'.

4.4. The Academy Trust must abide by the obligations of, and have regard to the guidance for, charities and charity trustees issued by the Charity Commission and, in particular, the Charity Commission's guidance on 'Protecting Charities from Harm'. Any references in this document which require charity trustees to report to the Charity Commission should instead be interpreted as reporting to the body or person prescribed as the principal regulator under the Charities Act 2011.

4.5. Not used.

Application of the Academies Financial Handbook

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

Budgeting for funds

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

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

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

Carrying forward of funds

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

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

4.16. Any additional grant made in accordance with clause 3.23 for the Start-Up Period may be carried forward, without limitation or deduction, until the Start-Up Period ends.

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

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

Annual accounts and audit

4.19. The Academy Trust must prepare and file with Companies House the annual reports and accounts required by the Companies Act 2006.

4.20. In addition, the Academy Trust must prepare its annual reports and accounts for each Academy Financial Year:

- a) in accordance with the Charity Commission's 'Accounting and Reporting by Charities: Statement of Recommended Practice', as if the Academy Trust were a registered charity; and
- b) additionally as the Secretary of State directs.

4.21. The Academy Trust's accounts must be audited annually by independent auditors appointed in line with the Academies Financial Handbook.

4.22. The accounts must carry an audit report stating whether, in the auditors' opinion, the accounts show a true and fair view of the Academy Trust's affairs. The accounts must also be accompanied by such other audit reports, relating to the use of grants and other matters, as the Secretary of State directs.

4.23. The Academy Trust's annual report must include the names of all members of the Academy Trust who served during the year.

4.24. The Academy Trust must publish on its website its annual reports and accounts, current memorandum of association, Articles and Funding Agreement and the names of its trustees and members. The Secretary of State may also publish the Academy Trust's annual reports and accounts, and the audit report, as he sees fit.

Keeping financial records

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

Access to financial records

4.26. The books of accounts and all relevant records, files and reports of the Academy Trust, including those relating to financial controls, must be open at all reasonable times to officials of the DfE and the National Audit Office, and to their agents and contractors, for inspection or carrying out value for money assessments. The Academy Trust must give those officials and contractors reasonable assistance with their enquiries. For the purposes of this clause

'relevant' means in any way relevant to the provision and use of grants provided by the Secretary of State under this Agreement.

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

Acquiring and disposing of Publicly Funded Assets

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

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

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

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

Retaining proceeds from the disposal of Fixed Assets

- 4.30. Subject to clause 7.32 and except as permitted in the Academies Financial Handbook, if the Academy Trust sells Fixed Assets which were acquired or enhanced wholly or partly using payments made by or on behalf of HM Government, the Academy Trust must pay to the Secretary of State, at his request, an amount of the sale proceeds equivalent to the proportion of the original cost of the acquisition or enhancement which was met by or on behalf of HM Government.

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

School's foundation, the Academy Trust must, if required by the Secretary of State, pay all or part of the sale proceeds to the LA or to the Secretary of State, taking into account the amount of the proceeds to be reinvested by the Academy Trust.

Transactions outside the usual planned range

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

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

above any values specified in the Academies Financial Handbook.

4.33. The Academy Trust must give the Secretary of State 30 days' notice, whether or not the circumstances require his consent, of its intention to do any of the actions in clause 4.32.

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

Borrowing

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

5. LAND CLAUSES

Restrictions on Land transfer

5.1 The Academy Trust must:

- a) within 28 days after acquiring the Land, apply to the Land Registry using Form RX1 for the following restriction (the “**Restriction**”) to be entered in the leasehold proprietorship register for the Land:

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

- b) take any further steps required to ensure that the Restriction is entered on the proprietorship register;
- c) promptly confirm to the Secretary of State when the Restriction has been registered;
- d) if it has not registered the Restriction, allow the Secretary of State to do so in its place; and
- e) not, without the Secretary of State’s consent, apply to disapply, modify, cancel or remove the Restriction, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Academy Trust.

Obligations of the Academy Trust

5.2 The Academy Trust must comply with the Lease and promptly enforce its rights against the Landlord.

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

- a) terminate, renew, vary, surrender, dispose of or agree any revised rent under the Lease; or
- b) grant any consent or licence; or
- c) create or allow any encumbrance; or
- d) part with or share possession or occupation; or

e) enter into any onerous or restrictive obligations,

in respect of all or part of the Land.

- 5.4 The Academy Trust must obtain the Secretary of State's consent before taking any action, including the service of any notice or waiver of any condition, under any contract relating to the acquisition of the Land.
- 5.5 If the Academy Trust is, or if it is reasonably foreseeable that it will be, in material breach of the Lease, the Academy Trust must immediately give written notice to the Secretary of State stating what the breach is and what action the Academy Trust has taken or proposes to take to remedy it, including timescales where appropriate.
- 5.6 After notifying the Secretary of State under clause 5.5, the Academy Trust must:
- a) promptly give the Secretary of State all the information he asks for about the breach;
 - b) allow the Secretary of State to take all necessary action, with or instead of the Academy Trust, to remedy or prevent the breach, and
 - c) use its best endeavours to help the Secretary of State to remedy or prevent the breach.
- 5.7 If the Academy Trust has not entered into the Lease by 31st July 2015, the Secretary of State may serve a Termination Notice.

Property notices

- 5.8 If the Academy Trust receives a Property Notice, it must:
- a) send a copy of it to the Secretary of State within 14 days, stating how the Academy Trust intends to respond to it;
 - b) promptly give the Secretary of State all the information he asks for about it;
 - c) allow the Secretary of State to take all necessary action, with or instead

of the Academy Trust, to comply with it, and

- d) use its best endeavours to help the Secretary of State in connection with it.

Option

5.9 Not used.

Option notice

5.10 Not used

Land not used for the purposes of the Academy

5.11. Not used.

Sharing the Land

5.12 If the Academy does not reach its planned capacity, as stated in clause 2.10, within 7 Academy Financial Years (starting with the Academy Financial Year in which the Academy opens), the Academy Trust must share occupation of the Land with such other academy as the Secretary of State considers appropriate, having consulted with University and the Academy Trust, and enter into any legal arrangements which the Secretary of State requires for this purpose. Any arrangement made pursuant to this clause shall terminate at the end of the Academy Financial Year during which the Academy achieves its planned capacity as stated in clause 2.10.

6. COMPLAINTS

6.1. Not used.

6.2. Not used.

6.3. Not used.

6.4. Not used.

7. TERMINATION

Termination by either party

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

Termination Warning Notice

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

- a) the Academy Trust has breached the provisions of this Agreement; or
- b) the standards of performance of pupils at the Academy are unacceptably low; or
- c) there has been a serious breakdown in the way the Academy is managed or governed; or
- d) the safety of pupils or staff is threatened, including by a breakdown of discipline.

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

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

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

- 7.5. If the Secretary of State considers that the Academy Trust has not responded to the Termination Warning Notice as specified under clause 7.3(c), or has not completed the action required in the Termination Warning Notice under

clauses 7.3(a) and (b) (and any further action specified under clause 7.4) he may serve a Termination Notice.

Termination by the Secretary of State after inspection

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

- a) special measures are required to be taken in relation to the Academy;
or
- b) the Academy requires significant improvement,

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

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

- a) has not received any representations from the Academy Trust by the date specified in the notice; or
- b) having considered the representations made by the Academy Trust remains satisfied that this Agreement should be terminated,

he may serve a Termination Notice.

7.8. Not used.

Termination by the Secretary of State

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

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

- a) the Academy Trust calls a formal or informal meeting of its creditors or enters into any formal or informal composition or arrangement with its creditors; or
- b) the Academy Trust proposes a voluntary arrangement within section 1 of the Insolvency Act 1986; or
- c) the Academy Trust cannot pay its debts within the meaning of section 123 of the Insolvency Act 1986 with, for the purposes of this clause, section 123 (1)(a) of this Act having an effect as if £10,000 were substituted for £750. The Academy Trust will not be considered unable to pay its debts for the purposes of this clause if it is contesting any such demand in good faith ; or
- d) the Academy Trust has a receiver and manager (except those appointed by the Charity Commission under the Charities Act 2011), administrator or administrative receiver appointed over all or part of its undertakings, assets or income; or
- e) any distraint, execution or other process is levied or enforced on any of the Academy Trust's property and is not paid out, withdrawn or discharged within 15 business days; or
- f) the Academy Trust has passed a resolution for its winding up; or
- g) an order is made for the winding up or administration of the Academy Trust.

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

7.12. If

- a) Any trustee or member of the Academy Trust refuses to consent to any checks required under this Agreement, or as otherwise requested by the Secretary of State; or

- b) The Secretary of State determines that any trustee or member of the Academy Trust is unsuitable,

the Secretary of State may:

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

7.13. For the purposes of clause 7.12 a trustee or member of the Academy Trust will be "unsuitable" if that trustee or member:

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

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

7.14. For the purposes of clause 7.13:

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

b) "relevant conduct" is conduct by a trustee or member of the Academy Trust which is:

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

7.15. If at any time from 16 April 2015 until the Academy opens, the total number of prospective pupils who have accepted offers of places to attend the Academy in July 2015 is less than 35, the Secretary of State may:

- a) require the Academy Trust not to open the Academy until 35 prospective pupils have accepted offers of places to attend the Academy; or
- b) serve a Termination Notice.

7.16. If at any time from the fourth anniversary of the opening of the Academy, the Secretary of State considers that the Academy is not financially viable because of low pupil numbers, then he may:

- a) serve a Termination Warning Notice; or
- b) serve a Termination Notice.

7.17. If both parties agree that the Academy is not financially viable because of low pupil numbers, they may jointly terminate this Agreement after agreeing the precise terms of termination.

7.18. If full planning permission (including where relevant listed building consent) in respect of the Land has not been obtained by 31st July 2015, the Secretary of State may serve a Termination Notice.

7.19. If at any time before the Academy opening date, the Secretary of State considers that:

- a) the Academy would, on opening, provide an unacceptably low standard of education; or
- b) the safety of pupils or staff at the Academy would, on opening, be threatened; or
- c) the staff employed at the Academy are unsuitable; or
- d) there is a serious breakdown in the way the Academy Trust is being managed or governed; or
- e) the buildings and other structures on the Land are unsuitable or the Academy Trust has not obtained Building Regulations approval,

he may either:

A. require the Academy Trust:

- i) not to open the Academy; or
- ii) not to admit pupils of a particular age range, to be determined by the Secretary of State; or
- iii) not to use any building or other structure on the Land,

until each relevant matter in paragraphs (a) to (e) above has been resolved to the Secretary of State's satisfaction; or

B. serve a Termination Notice.

Change of Control

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

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

- 7.21. Where a person ('P') is a member or director of a body corporate (as a corporation sole or otherwise) by virtue of an office, no change of Control arises merely by P's successor becoming a member or director in P's place.
- 7.22. The Academy Trust must promptly notify the Secretary of State if there is a proposed or actual change of Control of the Academy Trust, or of a legal entity that Controls the Academy Trust.
- 7.23. When notifying the Secretary of State under clause 7.22, the Academy Trust must seek his agreement that, if he is satisfied with the change of Control, he will not exercise his right to terminate this Agreement under clause 7.20.
- 7.23A Notwithstanding the provisions of clauses 7.20 to 7.23, a change of Control shall not be deemed to have occurred as a result of any change to the membership of the University's Council or Regent House as a result of a person becoming, or ceasing to be, a member by way of due process under the provisions of the University's Statutes and Ordinances prevailing from time to time.

Funding and admission during notice period

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

Effect of Termination

- 7.26. If this Agreement is terminated, the Academy will cease to be an academy within the meaning of sections 1 and 1A of the Academies Act 2010.
- 7.27. Subject to clauses 7.28 and 7.29, if the Secretary of State terminates this Agreement under clause 7.1, he will indemnify the Academy Trust. If the Secretary of State terminates this Agreement otherwise than under clause 7.1, he may at his discretion indemnify or compensate the Academy Trust.
- 7.28. The amount of any such indemnity or compensation will be determined by the Secretary of State, having regard to representations made to him by the Academy Trust, and will be paid as and when the Secretary of State considers appropriate.
- 7.29. The categories of expenditure incurred by the Academy Trust in consequence of termination, for which the Secretary of State may indemnify the Academy Trust under clauses 7.27, may include:
- a) staff compensation and redundancy payments;
 - b) compensation payments in respect of broken contracts;
 - c) expenses of disposing of assets or adapting them for other purposes;
 - d) legal and other professional fees; and
 - e) dissolution expenses.
- 7.30. Subject to clause 7.32, if this Agreement is terminated, the Academy Trust must, as soon as possible after the termination date:
- a) transfer a proportion of its capital assets to a nominee of the Secretary of State to use for educational purposes;
 - b) if the Secretary of State directs that a transfer under clause 7.30(a) is not required, pay to the Secretary of State a proportion of the value of its capital assets at the termination date (or, by agreement with the Secretary of State, at the date of their subsequent disposal);

the proportion of the assets to be transferred, or their value to be paid, being the same as the proportion of the original value of the assets which was funded by or on behalf of HM Government.

7.31. The Secretary of State may:

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

7.32 The provisions of this Agreement take effect subject to the terms of the Claw-back Agreement so that any asset acquired, enhanced or funded using monies advanced under the terms of the agreement mentioned in paragraph 3(b) of the Claw-back Agreement shall be dealt with under the terms of the Claw-back Agreement and not under the terms of this Agreement.

8. OTHER CONTRACTUAL ARRANGEMENTS

Information

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

Access by the Secretary of State's Officers

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

8.5. The Academy Trust may exclude from items provided under clause 8.4 any content relating to:

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

Notices

8.6. A notice or communication to a party in connection with this Agreement:

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

Name of party	Position of contact	Address
Secretary of State	Head of Academies Division	Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT
Academy Trust	Chair of Trustees	Chair of the Trustees

Name of party	Position of contact	Address
		University of Cambridge Primary School c/o The Old Schools Trinity Lane Cambridge CB2 1TN

General provisions

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

This Agreement was executed as a Deed on 26th September 2014

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

..... J. Latham

Director

in the presence of:

..... M. Brooks

Witness

Name: MICHELLE BROOKS

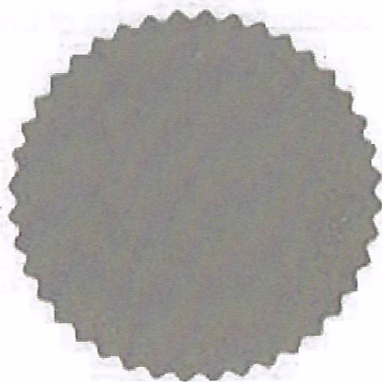
Address: 15 JERMYN CLOSE, CAMBRIDGE, CB4 2HQ

Occupation: EXECUTIVE ASSISTANT TO PRO-VICE-CHANCELLORS,
UNIVERSITY OF CAMBRIDGE

The Corporate Seal of

THE SECRETARY OF STATE FOR EDUCATION

affixed to this deed is authenticated by:



..... Anthony

Duly Authorised

APPENDICES

1. PUPILS WITH SPECIAL EDUCATIONAL NEEDS (SEN) AND DISABILITIES

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

- 1.1. Clause 2.4 does not apply to anyone whom the Academy Trust appoints as the Special Educational Needs Co-ordinator under section 317(3A) of the Education Act 1996, who must instead meet the requirements in Regulation 3 of the Education (Special Educational Needs Co-ordinators) (England) Regulations 2008.
- 1.2. The Academy Trust must comply with all the duties imposed on maintained schools, with regard to pupils with SEN and disabilities, in:
 - a) Part 4 of the Education Act 1996;
 - b) The Education (Special Educational Needs) (Information) Regulations 1999; and
 - c) The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2008.
- 1.3. Where a child who has SEN is being educated in the 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, as 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.

- 1.4. The Academy's website must include details of the implementation of its policy for pupils with SEN; 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 (disability being as defined for the purposes of the Equality Act 2010).

2. **ADMISSION OF PUPILS WITH SEN AND DISABILITIES**

- 2.1. The Academy Trust must, subject to its right of appeal to the Secretary of State, admit all pupils with a Statement of SEN naming the Academy.
- 2.2. Where an LA proposes to name the Academy in a Statement of SEN, it must give the Academy Trust written notice of this, stating why it considers the Academy to be suitable for the pupil in question. Within 15 days of receipt of the LA's notice, the Academy Trust must consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children, and no reasonable steps could secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children or the efficient use of resources, the Academy Trust must have regard to the relevant Guidance issued to maintained schools.
- 2.3. If the Academy Trust decides that admitting the child would be incompatible with the provision of efficient education or the efficient use of resources, it must, within the 15 days, notify the LA in writing, giving its reasons for its decision.
- 2.4. The Academy Trust must then seek to establish from the LA whether or not it agrees with this determination. If the LA does not agree with the Academy Trust's response, and names the Academy in the child's Statement of SEN, the Academy Trust must admit the child to the school as specified in the statement or otherwise by the LA.
- 2.5. If in such case, the Academy Trust considers that the LA should not have named the Academy in the statement, it may ask the Secretary of State to

determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Secretary of State's determination will be final, subject only to any right of appeal which a parent of the child may have to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.

- 2.6. If a parent of a child for whom the LA maintains a statement appeals to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber, either for or against the naming of the Academy in the child's statement, then the Tribunal's decision will be binding, even if it is different from that of the Secretary of State.
- 2.7. Where it has been finally determined that the Academy be named in a child's Statement of SEN, the Academy Trust must admit the child to the Academy, notwithstanding any other admissions requirements in this Agreement.



Department
for Education

© Crown copyright 2014. You may re-use this document/publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence v2.0. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/version/2 or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at www.education.gov.uk/contactus.

This document is available to download at www.gov.uk/government/publications.



Follow us on Twitter: [@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook: www.facebook.com/educationgovuk