FREEDOM OF INFORMATION REDACTION SHEET
AL-MADINAH SCHOOL
FUNDING AGREEMENT

<table>
<tr><td colspan="2">Exemptions in full
n/a

Partial exemptions
Personal information has been redacted from this document under Section 40 of the Freedom of Information (FOI) Act.

Section 40 of the FOI Act concerns personal data within the meaning of the Data Protection Act 1998.</td></tr>
<tr><td>Factors for disclosure</td><td>Factors for withholding</td></tr>
<tr><td>▪ to further the understanding of and increase participation in the public debate of issues concerning Free Schools.
▪ to ensure transparency in the accountability of public funds</td><td>▪ to comply with obligations under the Data Protection Act</td></tr>
<tr><td colspan="2"><u>Reasons why public interest favours withholding information</u>
Whilst releasing the majority of Al-Madinah’s funding agreement will further the public understanding of Academies, the whole of Al-Madinah’s funding agreement cannot be revealed. If the personal information redacted was to be revealed under the FOI Act, personal data would be prejudiced.</td></tr>
</table>

AL-MADINAH SCHOOL

FUNDING AGREEMENT

13 August 2012

AL-MADINAH SCHOOL

FUNDING AGREEMENT

CONTENTS:

SECTION	CLAUSE NO
INTRODUCTION	1 – 8
LEGAL AGREEMENT	9
ACADEMY REQUIREMENTS	10
ACADEMY OPENING DATE	11
CONDITIONS OF GRANT	
General	12
Governance	13 – 14
Conduct	15
Criminal Records Bureau Checks	16 – 16A
Pupils	17
Designated Teacher for Looked After Children	17A
Teachers and other staff	18 – 21
Curriculum, curriculum development and delivery, and RE and collective worship	22-28B
Assessment	29-29A
International Education Surveys	29B
Exclusions Agreement	30
School meals	31 – 32
Charging	33
Pupil Premium	33A
Duration of School Day and Year	33B
GRANTS TO BE PAID BY THE SECRETARY OF STATE	
General	34 – 35
Capital Grant	36 – 39
Arrangements for Payment of Capital Grant	40
General Annual Grant	41 – 47
Earmarked Annual Grant	48 – 49
Arrangements for payment of GAG and EAG	50 – 54
Additional Funding	55 – 57
FINANCIAL AND ACCOUNTING REQUIREMENTS	
General	58 – 72C
Borrowing Powers	73 – 74

Disposal of Assets	75 – 81
TERMINATION	
General	82 – 95
Change of Control of the Academy Trust	95A
Effect of Termination	96 – 103
GENERAL	
Information	104 – 105E
Access by Secretary of State's Officers	106 – 108
Notices	109 – 110
General	111 – 113
LAND CLAUSES	108A -108N
ANNEXES TO AGREEMENT	
Memorandum and Articles of the Academy Trust	Annex A
Admissions Requirements	Annex B
Arrangements for pupils with SEN and disabilities	Annex C
Plan of the Temporary Site	Annex D

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 Al-Madinah Education Trust (the "Academy Trust").

2) The Academy Trust is a Company incorporated in England and Wales, limited by guarantee with registered Company number 7970052.

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) "Academies Financial Handbook" - clauses 59 and 68;

   b) "Accounting Officer" – clause 58;

   c) "Annual Letter of Funding" - clause 53;

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

   e) "GAG" – clause 41;

   f) "Capital Expenditure" - clause 36;

   g) "Capital Grant" – clause 36;

   h) "EAG" - clause 48;

   i) "Recurrent Expenditure" – clause 35.

4) 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 in any year or such other period as the Secretary of State may from time to time specify by notice in writing to the Academy Trust;

   "Academy Funding Year" means the year from 1st September to 31st August in any year;

“Additional Governors” means Governors who may be appointed by the Secretary of State under the Articles of Association;

“Additional Permanent Site” means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) making up the permanent site of the primary (4 – 11) element of the Academy;

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

“Control’ in relation to a body corporate (‘Entity’) means 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 that Entity or of any other body corporate;

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

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

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

“Debt” means the amount equal to 100% of the Land Value;

“DfE” means Department for Education and any successor;

“Discharge Process”

means the removal of:-

i. the Legal Charge registered with Companies House as against the Academy Trust;

ii. the Legal Charge from the charges register at the Land Registry against the title for the Land;

iii. the restriction in the proprietorship register as referred to in clause 108B(a); and

iv. the notice in the proprietorship register as referred to in clause 108F(a);

“Further Governors” means Governors who may be appointed by the Secretary of State under the Articles of Association if a Special Measures Termination Event, as defined in this Agreement, occurs or the Secretary of State is satisfied that a Member or Governor of the Academy Trust is not a suitable person or the Secretary of State considers it necessary to appoint such Governors to enable the Academy Trust to secure a permanent site if the Academy Trust has been unable to do so;

“Insured Risks” means fire lightning explosion earthquake storm tempest flood subsidence landslip heave impact terrorism bursting or overflowing of water tanks and pipes earthquake damage by aircraft and other aerial devices or articles dropped there from riot and civil commotion labour disturbance and malicious damage and such other risks as the Academy Trust 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;

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

“the Land” means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Midland House, Nelson Street, Derby DE1 1JA and registered under title number DY342778 making up the permanent site of the secondary (11 – 16) element of the Academy or the part of such land remaining in the ownership of the Academy Trust, following any disposal in accordance with clause 108H(c) ii, 108I(C) ii or clause 108K;

“Land Value” means, at any time:-

(a) where there has been a disposal of the Land as a result of the enforcement of the Legal Charge by the Secretary of State, the proceeds of that disposal after payment of any necessary and reasonable costs incurred by the seller in connection with such disposal; or

(b) in any other case, the Market Value of the Land;

“the Lease” means the leasehold agreement or its equivalent between the Academy Trust and Aviva Life and Pensions UK Limited (‘the Landlord’) in respect of the Temporary Site;

“Legal Charge” means the legal charge to be entered into upon the acquisition of the Land by the Academy Trust in favour of the Secretary of State over the Land, in a form and substance satisfactory to the Secretary of State;

“Market Value” the market value of the relevant part of the Land (as that term is defined or referred to in the RICS Appraisal and Valuation Manual (current edition) published by RICS), as determined by a professionally qualified independent valuer;

“Memorandum” and “Articles” means the Memorandum and Articles of Association of the Academy Trust for the time being in force, a copy of the current version of which is annexed to this Agreement as Annex A;
“parents” means parents or guardians;

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

“Principal” means the head teacher of the Academy;

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

“Rent” means a payment made by the Academy Trust to a third party pursuant to the Lease but subject to the terms of clause 56 of this Agreement;

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

“SEN” means Special Educational Needs;

"SENCO" means Special Educational Needs Co-ordinator;

"Start-up period" means up to a maximum of seven Academy Funding Years and covers the period up to and including the first Academy Funding Year in which all age 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

"Temporary Site" means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Norman House, Heritage Gate, Friary Street, Derby as edged red in the plan attached at Annex D, making up the temporary site of the Academy.

5) The Interpretation Act 1978 shall apply for the interpretation of this Agreement as it applies for the interpretation of an Act of Parliament.

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

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

8) 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

9) In consideration of the Academy Trust undertaking to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England to be known as Al-Madinah School ("the Academy") and meeting such requirements as are referred to in clause 10, the Secretary of State agrees to make payments to the Academy Trust in accordance with the conditions and requirements set out in this Agreement. For the avoidance of doubt, any obligations imposed upon or powers given to the Academy by this Agreement are also imposed upon the

Academy Trust.

ACADEMY REQUIREMENTS

10) The requirements of the Academy are those set down in Section 1A of the Academies Act 2010.

ACADEMY OPENING DATE

11) The Academy shall open as a school on 1 September 2012.

CONDITIONS OF GRANT

General

12) Other conditions and requirements in respect of the Academy are that:

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

b) there will be assessments of pupils' performance as they apply to maintained schools and the opportunity to study for qualifications in accordance with clause 29 (d);

c) 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, subject to any exceptions in Annex B;

d) teachers' levels of pay and conditions of service at the Academy will be the responsibility of the Academy Trust;

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

(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

13) The Academy will be governed by a governing body ("the Governing Body") who are the Directors of the company constituted under the Articles of the Academy

Trust.

14) The Governing Body 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.

Conduct

15) The Academy shall be conducted in accordance with:

a) the Articles, which shall not be amended by the Academy Trust without the written consent of the Secretary of State, such consent not to be unreasonably withheld;

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

c) the terms of this Agreement.

Criminal Records Bureau Checks

16) The Academy Trust shall comply with the requirements of part 4 of Schedule 1 to the Education (Independent School Standards) (England) Regulations 2010 (SI 2010/1997) (as amended) 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 Governors and the Chair of the Governing Body.

16A) The Academy Trust shall, on receipt of information from the Criminal Records Bureau in response to an application for an enhanced criminal record certificate, on request from the Secretary of State or his agents, as soon as possible thereafter submit such information to the Secretary of State in accordance with section 124 of the Police Act 1997.

Pupils

17) The planned capacity of the Academy is 1020 places in the age range 4-16. The Academy will be an all ability inclusive school whose requirements for:

a) the admission of pupils to the Academy are set out in Annex B to this 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 C 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

17A) The Academy Trust will in respect of the 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 a 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 Governing Body of the Academy Trust.

Teachers and other staff

18) Subject to clause 19, the Academy Trust 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.

19) Clause 18 does not apply to anyone who (a) is appointed as the SENCO by the Academy Trust 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 (b) is appointed as a designated teacher for looked after children further to clause 17A.

20) The Academy Trust 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.

21) The Academy Trust shall ensure that all employees at the Academy other than teachers ("Non-teaching Staff") have access to either the Local Government Pension Scheme in accordance with the Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] ("the Regulations"), where the Regulations require this, or such other pension benefits as those Regulations, or any legislation which may in the future replace the Regulations, require for Non-teaching staff.

Curriculum, curriculum development and delivery, and RE and collective worship

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

22A) The Academy Trust shall publish information in relation to its current curriculum provision. 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 the Academy;

d) the names of any phonics or reading schemes in operation for Key Stage 1; and

e) how parents (including prospective parents) can obtain further information in relation to the Academy's curriculum.

22B) Subject to the requirements of clauses 22 to 28B, the curriculum will be the responsibility of the Academy Trust.

23) The Academy Trust shall ensure that the broad and balanced curriculum includes English, Mathematics and Science.

23A) 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 the Academy with the following modifications:

a) the Academy shall be treated as falling within the meaning of “a school” under section 42A (2);

b the Academy Trust 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 the Academy.

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

24A) The Academy Trust shall not make provision in the context of any subject for the teaching, as an evidence-based view or theory, of any view or theory that is contrary to established scientific and/or historical evidence and explanations.

25) Where the Academy is designated with a religious character in accordance with section 124B of the School Standards and Framework Act 1998:

a) subject to clause 27 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 religious character, the Academy Trust 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 27, the Academy Trust shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school with a religious character or a voluntary school, and as if references to ' the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;

c) the Academy Trust 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 Academy Trust 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.

26) Not used.

27) Section 71(1) – (6) and (8) 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 by the Academy in accordance with clauses 25 or 26 as appropriate.

28) The Academy Trust shall have regard to any guidance issued by the Secretary of State, further to section 403 of the Education Act 1996, on sex and relationship education to ensure that children at the Academy are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children. The Academy Trust shall also have regard to the requirements set out in section 405 of the Education Act 1996 which shall apply to the Academy as if it were a maintained school.

28A) The Academy Trust agrees to act in accordance with sections 406 (Political Indoctrination) and 407 (Duty to secure balanced treatment of political issues) of the Education Act 1996 as if it were a maintained school, subject to the following modifications:

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

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

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

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

28B) The Academy Trust shall ensure that principles are promoted which support fundamental British values, including: respect for the basis on which the law is made and applied in England; respect for democracy and support for participation in the democratic processes; support for equality of opportunity for all; support and respect for the liberties of all within the law; and respect for and tolerance of different faiths and religious and other beliefs.

Assessment

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

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

b) The Academy Trust shall report to any body on assessments under clause 29 as the Secretary of State shall require and shall provide such information as may be required by that body as applies to maintained schools.

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

d) The Academy Trust may offer:-

(i) any course of education or training at the Academy which leads to a qualification that is approved by the Secretary of State for the purposes of section 96 of the Learning and Skills Act 2000; and

(ii) any course of education or training not falling within paragraph (i) if the Secretary of State gives his specific written approval for it.

29A) The Academy Trust shall ensure that the following information is published on the Academy's website:

a) 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) 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 parents (including prospective parents) may access the most recent report about the school published by her Majesty’s Chief Inspector of Education, Children’s Services and Skills.

d) Information as to where and by what means parents (including prospective parents) may access the School Performance Tables published by the Secretary of State on the Department for Education’s website.

International Education Surveys

29B) Section 538A of the Education Act 1996 (power to direct participation in international surveys) shall be deemed to apply to the Academy with the following modifications:

(a) references to the governing body shall be treated as references to the Academy Trust; and

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

Exclusions Agreement

30) The Academy Trust shall, if invited to do so by a LA, enter into an agreement in

respect of the Academy with that LA, which has the effect that where:

a) the Academy Trust 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 Academy Trust permanently excludes a pupil from the Academy

payment will flow between the Academy Trust 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

31) The Academy Trust 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 it to do so. Subject to the provisions of clause 32 charges may be levied for lunches, but the Academy Trust shall otherwise fund the cost of such school lunches from its GAG.

32) 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 Academy Trust shall ensure that a school lunch is provided for such a pupil free of charge to be funded out of the Academy Trust's GAG.

Charging

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

a) references to any maintained school shall be treated as references to the

Academy;

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

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

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 Trust may charge persons who are not registered pupils at the Academy for education provided or for facilities used by them at the Academy.

Pupil Premium

33A) The Academy Trust shall publish in each Academy Financial Year information in relation to:

a) the amount of Pupil Premium allocation that it will receive during that Academy Financial Year;

b) what it intends to spend the Pupil Premium allocation on;

c) what it spent its Pupil Premium in the previous Academy Financial Year on;

d) the impact in educational attainment, arising from expenditure of the previous Academy Financial Year's Pupil Premium.

Duration of School Day and Year

33B) The duration of the school day and year will be the responsibility of the Academy Trust.

GRANTS TO BE PAID BY THE SECRETARY OF STATE

General

34) The Secretary of State shall pay grants towards Recurrent Expenditure and may pay grants towards Capital Expenditure for the Academy. For the purposes of this clause and clauses 58 onwards an Academy Financial Year shall be deemed to run 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 Academy Trust. For the purposes of clauses 35 to 57 an Academy Funding Year shall be deemed to run from 1st September to 31st August, to align with funding allocations. Except with the Secretary of State's prior agreement, the Academy Trust shall not budget for its expenditure in any Academy Financial Year in excess of expected income. The Academy Trust shall not enter into commitments which are likely to have substantial implications for future levels of grant, or for the period for which grant may be required. No decision by the Academy Trust shall commit the Secretary of State to paying any particular amount of grant.

35) "Recurrent Expenditure" means any expenditure on the establishment, conduct, administration and maintenance of the Academy which does not fall within Capital Expenditure. The Secretary of State shall pay separate and distinct grants in respect of Recurrent Expenditure: General Annual Grant ("GAG"), Earmarked Annual Grant ("EAG") and where appropriate Additional Funding under clause 56.

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 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 Academy Trust in respect of Capital Expenditure.

37) Where the 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.

38) Any Capital Expenditure incurred in respect of the 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.

39) Any payment of Capital Grant to the Academy Trust 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 Academy Trust certifying and providing evidence that all planning and other consents necessary for the development and all related infrastructure to be completed have been obtained or put in place; and

c) any other conditions that the Secretary of State may specify.

Arrangements for Payment of Capital Grant

40) Capital Grant will be paid by the Secretary of State to the Academy Trust 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 Academy Trust so much of the claim as shall not be in dispute.

General Annual Grant

41) GAG will be paid by the Secretary of State to the Academy Trust in order to cover the normal running costs of the 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, provided that the Secretary of State shall not be obliged to pay GAG in relation to insurance to the extent that insurance and/or comparable arrangements are made available to the Academy Trust (whether at a cost to the Academy Trust or otherwise and whether made available by and/or on behalf of the Secretary of State or otherwise) save that, to the extent that such insurance and/or comparable arrangements as may be made available constitute a cost for the Academy Trust, the Secretary of State shall provide a contribution through GAG in relation to such cost;

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.

42) Subject to clauses 44-45, GAG for each Academy Funding Year for the Academy will include:

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

b) Funding for the cost of functions which would be carried out by the local authority if the Academy were a maintained school, such funding to be determined at the discretion of the Secretary of State;

c) Funding for matters for which it is necessary for the Academy to incur extra costs, to the extent that those costs are deemed in the discretion of the Secretary of State to be necessary; and

d) Payments equivalent to further, specific grants made available to maintained schools, where the 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;

43) Subject to clause 43AA, the basis of the pupil number count for the purposes of determining GAG for an Academy Funding Year for the Academy will be the Academy Trust's most recent estimate provided in accordance with clause 43A.

43A) The Secretary of State shall in advance of each Academy Funding Year for the Academy, at such time or times as he shall determine, request that the Academy Trust 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 Funding Year, and the Academy Trust 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.

43AA) Once the condition specified in clause 43B) has been satisfied with respect to the Academy for the Academy Funding Year for which funding is being calculated,

the basis of the pupil number count for the purpose of determining GAG for the Academy will be:

a) for the pupil number count for pupils in Year 11 and below, the Schools Census for the relevant month (determined at the discretion of the Secretary of State) preceding the Academy Funding 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.

43B) For the purpose of clause 43A, the condition is satisfied in the Academy Funding Year which immediately follows the Academy Funding Year in which all planned Year-groups will be present at the Academy (that is, all the pupil cohorts relevant to the age-range of the Academy will have some pupils present).

43C) For any Academy Funding Year in which GAG for the Academy has been calculated in accordance with clauses 43)and 43A), an adjustment may be made to the following Academy Funding Year's formula funding element of GAG for the Academy to recognise any variation from that estimate greater than or lower than 2.5%. The Secretary of State may for the purpose of calculating any adjustment to the formula funding element of GAG under this clause, use the Census for the relevant month (determined at the discretion of the Secretary of State) for the Academy Funding Year in question as a means of determining pupil numbers in an Academy Funding Year. The additional or clawed-back grant will be only that amount relevant to the number of pupils beyond the 2.5% variation.

43D) For any Academy Funding Year in which GAG for the Academy is calculated in accordance with clause 43AA, no adjustment will be made to the equivalence funding element in the following Academy Funding Year’s equivalence funding element of GAG unless the Academy Trust demonstrates to the satisfaction of the Secretary of State that there has been a significant impact on costs, such as an extra class. For any other element of GAG the Secretary of State may make adjustments to

recognise a variation in pupil numbers from that used to calculate the element of grant in question; the basis of these will be set out in the Annual Letter of Funding or its equivalent.

44) The Secretary of State may pay further grant in the Start-up period, as determined and specified by him, for costs which cannot otherwise be met from GAG.

45) 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 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. In those circumstances, the Secretary of State may undertake to pay a reasonable and appropriately larger GAG with respect to the Academy in the notice period than would be justified solely on the basis of the methods set out in clauses 42-43D, in order to enable the Academy to operate effectively.

46) The Secretary of State also recognises that if this Agreement is terminated for any reason by either party the number of pupils at the 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 Academy.

47) GAG paid by the Secretary of State shall only be spent by the Academy Trust towards the normal running costs of the Academy.

Earmarked Annual Grant

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

49) Where the Academy Trust is seeking a specific EAG in relation to any Academy Funding Year, it shall submit a letter outlining its proposals and the reasons for its request to the Secretary of State at an address notified from time to time.

Arrangements for Payment of GAG and EAG

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

51) 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 Funding 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 Funding Years, as appropriate, having considered all the relevant circumstances and taking into account any representations from the Academy Trust.

52) If GAG or EAG is calculated incorrectly because the Academy Trust 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 Funding 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 Funding Years, as appropriate, having considered all the relevant circumstances and taking into account any representations from the Academy Trust.

53) The amounts of GAG for an Academy Funding Year will be determined annually by the Secretary of State. The amount of GAG for the Academy for the initial Academy Financial Year will be notified to the Academy Trust in a funding letter at a date preceding that year. For subsequent years the amount of GAG will be notified to the Academy Trust in a funding letter preceding that Academy Funding Year (the “Annual Letter of Funding"). The Annual Letter of Funding or its equivalent will not include the amount that the Academy Trust 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 Academy Trust wherever possible in the Annual Letter of Funding or its

equivalent or as soon as practicable thereafter.

54) 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.

Additional Funding

55) Not used.

56) The Secretary of State shall meet the Academy Trust's costs arising from Rent payable by the Academy Trust under the Lease. Such costs shall include those costs arising from any rent rise payable by the Academy Trust under the terms of the Lease, so long as the relevant rent rise is properly evidenced in writing by the Academy Trust to the Department as soon as is reasonably practicable, but such costs shall not include any amount in respect of service charge payments or insurance premiums. Where the definition of rent in the Lease includes service charge payments or insurance premiums, the Secretary of State shall exclude from the total grant payable in respect of Rent an amount in respect of such service charge payments or insurance premiums

57) The Academy Trust may also receive funding from a 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 Academy Trust shall ensure that all provision detailed in statements of SEN is provided for such pupils.

Financial and Accounting Requirements

General

58) The Academy Trust shall appoint an Accounting Officer and shall notify the Secretary of State of that appointment.

59) In relation to the use of grant paid to the Academy Trust by the Secretary of State, the Academy Trust 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 or any other publication which the DfE notifies in writing to the

Academy Trust that it is required to follow in addition to, or instead of, the Academies Financial Handbook, 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, 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 it being a charity.

60) The formal budget plan must be approved each Academy Financial Year by the Governing Body of the Academy Trust.

61) Any payment of grant by the Secretary of State in respect of the Academy is subject to his being satisfied as to the fulfilment by the Academy Trust 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 Academy Trust shall prepare its financial statements, Directors' report, Annual Accounts and its Annual Return for each Academy Financial Year in accordance with the Statement of Recommended Practice as if the Academy Trust was a non-exempt Charity and/or in such form or manner as the Secretary of State may reasonably direct and shall file these with the Secretary of State and the Principal Regulator by 31 December 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 Academy Trust's affairs and that the grants were used for the purposes intended;

e) the Academy Trust shall ensure that its accounts are audited annually by

independent auditors appointed under arrangements approved by the Secretary of State;

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

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

h) the Academy Trust insures or procures insurance by another person of its assets in accordance with normal commercial practice or under the terms of the Lease.

62) 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 Academy Trust to standards determined by the Secretary of State and to make recommendations for improving the financial management of the Academy Trust.

63) The books of accounts and all relevant records, files and reports of the Academy Trust including those relating to financial controls, shall be open at all reasonable times to officials or agents 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 Academy Trust 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.

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

a) a statement of expected income for that Academy Funding Year including cash donations and gifts in kind from sources other than GAG, EAG and grants from the Secretary of State towards Capital and Revenue Expenditure, distinguishing between income from public funds including the national lottery and income from other sources. Income from cash donations and gifts in kind

from sources other than GAG, EAG and grants from the Secretary of State towards Capital Expenditure will not be taken into account by the Secretary of State in the calculation of GAG;

b) a statement of proposed Recurrent Expenditure for that Academy Funding Year;

c) a statement of proposed Capital Expenditure for that Academy Funding Year.

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

66) Notwithstanding clause 65, any additional grant provided over and above that set out in clauses 42-43D, and made in accordance with clauses 44-45 may be carried forward without limitation or deduction until the Start-up Period or the circumstances set out in clause 45 come to an end.

67) Any savings of GAG not allowed to be carried forward under clauses 65-66 will be taken into account in the payment of subsequent grant.

67A) If the Secretary of State pay grant not including GAG to the Academy Trust on condition either that such grant be used for a particular purpose or purposes or that such grant be used by a certain date, any failure on the part of the Academy Trust to use such grant for such a purpose or purposes or by such date may be taken into account by the Secretary of State either:

(i) in the same Academy Funding Year that such grant is paid to the Academy Trust; or

(ii) in the calculation and/or payment of any subsequent grant to the Academy Trust; or

(iii) by an adjustment to the GAG paid by the Secretary of State to the

Academy Trust in the following Academy Funding Year or Academy Funding Years.

67B) If the Secretary of State or his agents pay any grant to the Academy Trust which includes an amount to cover the VAT which will be payable by the Academy Trust in using any such grant for the purposes intended, the Academy Trust shall, having paid the VAT to a third party for any goods or services it has purchased from such a third party, where entitled, promptly and, in any event, as soon as is reasonably practicable, submit a VAT reclaim application to Her Majesty's Revenue and Customs (HMRC) in respect of such VAT payment. Any failure, on the part of the Academy Trust, to submit a VAT reclaim application to HMRC or repay the amount recouped to the Secretary of State as soon as reasonably practicable following the receipt of any such payment from HMRC may be taken into account by the Secretary of State either:

(i) in the same Academy Funding Year that any such grant is paid to the Academy Trust; or

(ii) in the calculation and/or payment of any subsequent grant to the Academy Trust; or

(iii) by an adjustment to the GAG paid by the Secretary of State to the Academy Trust in the following Academy Funding Year or Academy Funding Years.

68) The Academy Trust 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 the Academy as it sees fit provided that it complies with all applicable requirements relating to the proper and regular use of funds in the Academies Financial Handbook. Any surplus arising from private sources or public sources other than grants from the Secretary of State shall be separately identified in the Academy Trust's balance sheet.

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

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

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

c) make any sale or purchase or otherwise dispose of freehold or leasehold property; or

d) grant or take up any leasehold or tenancy agreement.

70) The Academy Trust shall provide 30 days notice to the Secretary of State, whether or not the circumstances require the Secretary of State's approval, 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 or otherwise dispose of freehold or leasehold property; or

d) grant or take up any leasehold or tenancy agreement.

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

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

a) subject to clause 65, 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 Academy Trust's responsibility to ensure that the Academy balances its overall budget from Academy Financial Year to Academy Financial Year.

72A) The Academy Trust shall abide by the requirements of and have regard to the Charity Commission's guidance to charities and charity trustees and in particular the Charity Commission's guidance in the Protecting Charities from Harm ('the compliance toolkit'), as amended from time to time. Any references in such guidance which require charity trustees to report to the Charity Commission should instead be interpreted as references to report to the Principal Regulator.

Borrowing Powers

73) The Academy Trust 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 at the absolute discretion of the Secretary of State. The Academy Trust shall not operate an overdraft except to cover irregularities in cash flow. Such an overdraft, and the maximum amount to be borrowed, must be approved by the Academy Trust in a 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.

74) The Academy Trust shall provide 30 days notice to the Secretary of State of its intention to borrow, whether or not such borrowing requires the Secretary of State's approval under clause 73 above.

Disposal of Assets

75) Where the Academy Trust acquires assets for a nil consideration or at an under value it shall be treated for the purpose of this Agreement as having incurred expenditure equal to the market value of those assets at the time that they were acquired. This provision shall not apply to assets transferred to the Academy Trust at nil or nominal consideration and which were previously used for the purposes of an Academy and/or were transferred from a LA, the value of which assets shall be disregarded.

76) The sale or disposal by other means, or reinvestment of proceeds from the disposal, of a capital asset by the Academy Trust 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 from time to time being specified by the Secretary of State for the asset; or

b) the asset was transferred to the Academy Trust from a LA for no or nominal consideration.

77) 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 from time to 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.

78) 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 Academy Trust. In this event, the Academy Trust shall repay to the Secretary of State the same proportion of the proceeds of the disposal as equates with the proportion of the original cost met by the Secretary of State, unless the Secretary of State agrees to some or all of the proceeds being retained by the Academy Trust for its charitable purposes.

79) This clause applies in the event, during the lifetime of this Agreement, that the Secretary of State consents to the disposal of an asset which was transferred to the Academy Trust from 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 Academy Trust. The Secretary of State will have regard to any representations from the Academy Trust and the LA from which the asset was transferred before giving consent under this clause.

80) Except with the consent of the Secretary of State, the Academy Trust 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.

81) The Academy Trust shall provide 30 days notice to the Secretary of State of its intention to dispose of assets for a consideration less than the best price that can reasonably be obtained, whether or not such disposal requires the Secretary of State's consent under clause 80 above.

TERMINATION

General

82) Either party may give not less than seven Academy Funding Years' written notice to terminate this Agreement, such notice to expire on 31 August or any subsequent anniversary of that date, save where the provisions of this Agreement otherwise provide.

83) If the Secretary of State is of the opinion that the Academy no longer meets the requirements set out in clause 10 of this Agreement or that the conditions and requirements set out in clauses 12-33B of this Agreement are not being met, or that the Academy Trust is otherwise in material breach of the provisions of this Agreement, the Secretary of State may give notice of his intention to terminate this Agreement.

84) Any such notice shall be in writing and shall:

a) state the grounds on which the Secretary of State considers the Academy no longer meets the requirements set out in clause 10 of this Agreement or is not meeting the conditions and requirements of clauses 12-33B of this Agreement or the Academy Trust is otherwise in material breach of the provisions of this Agreement;

b) specify the measures needed to remedy the situation or breach;

c) specify a reasonable date by which these measures are to be implemented; and

d) state the form in which the Academy Trust is to provide its response and a reasonable date by which it must be provided.

85) If no response is received by the date specified in accordance with clause 84(d), the Secretary of State may give the Academy Trust 12 months, or such lesser period

as he considers appropriate in the circumstances, written notice to terminate this Agreement.

86) If a response is received by the date specified in accordance with clause 84(d) the Secretary of State shall consider it, and any representations made by the Academy Trust, and shall, within three months of its receipt, indicate that:

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

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

c) he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate this Agreement.

87) In the circumstances of clause 86(c) the Secretary of State shall notify the Academy Trust why he believes that he cannot be reasonably satisfied and, if so requested by the Academy Trust within 30 days from such notification, he shall meet a deputation including representatives from the Governing Body to discuss his concerns. If following such meeting he has good reasons for remaining satisfied that the Academy does not and will not meet the requirements set out in clause 10 of this Agreement or does not and will not meet the conditions and requirements set out in clauses 12-33B of this Agreement or the Academy Trust is in material breach of the provisions of this Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Academy Trust 12 months written notice to terminate this Agreement.

88) If the Secretary of State has cause to serve a notice on the Academy Trust under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 87 may be shortened to a period deemed appropriate by the Secretary of State.

89) A “Special Measures Termination Event Occurs” when:

a) the Chief Inspector has given a notice to the Academy Trust in accordance with section 13(3) of the Education Act 2005 (the “Special Measures Notice”)

stating that in his opinion special measures are required to be taken in relation to the Academy; and

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

c) the Secretary of State has requested the Academy Trust to deliver within 10 Business Days a written statement (a “Further Action Statement”) of the action the Academy Trust proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

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

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

a) terminate this Agreement forthwith by notice in writing to the Academy Trust; or
b) appoint such Further Governors to the Academy Trust as he thinks fit in accordance with the Articles and/or may provide up to 12 months’ notice in writing to terminate this Agreement.

91) In the event that the Secretary of State appoints Further Governors in accordance with clause 90(b), 91A(b), 91D ii)(c), 91D iv)(b) or 91D vii)(b), the Academy Trust must, upon the request of the Secretary of State, procure the resignation of the Governors appointed in accordance with the Article 50 of the Articles of Association.

91A) If the Secretary of State is satisfied that any Governor or Member of the Academy Trust is not a suitable person he may:

(a) in relation to such a Governor or Member serve notice in writing on the Academy Trust requiring the Academy Trust to procure the resignation or removal of the person(s) within 42 days; and if the Academy Trust fails to

procure the said resignation or removal within the time specified, the Secretary of State may by notice terminate this Agreement forthwith or may provide up to 12 months' notice in writing to terminate this Agreement; or

(b) appoint such Further Governors as he thinks fit and/or provide up to 12 months' notice in writing to terminate this Agreement; or

(c) by notice in writing terminate this Agreement forthwith or on such date as the Secretary of State may determine.

91B) i) If the Academy Trust has not obtained full planning permission (including where relevant listed building consent), in respect of the Temporary Site, by 31 August 2012, the Secretary of State may by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement.

91B) ii) If the Academy Trust has not obtained full planning permission (including where relevant listed building consent), in respect of the Land, by 1 June 2013, the Secretary of State may by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement.

91C) i) If at any time after the signing of this Agreement but prior to the Academy opening date, the Secretary of State is of the view that:

I. the Academy would, on opening, provide an unacceptably low standard of education; or

II. the safety of pupils or staff at the Academy would, on opening, be threatened; or

III. the staff employed at the Academy are unsuitable; or

IV. the buildings and other structures on the Temporary Site are unsuitable or (if appropriate) the Academy Trust has not obtained Building Regulation approval;

he may in writing either:

(a) require the Academy Trust (i) not to open the Academy; and/or (ii) not to admit pupils of a particular age range, to be determined by the Secretary of State; and/or (iii) not to use any building or other structure on the Temporary Site until such time as the relevant matter or matters listed in 1. to 4. above has or have been resolved to the Secretary of State's satisfaction; or

(b) terminate this Agreement forthwith or provide such notice as he deems appropriate in the circumstances to terminate this Agreement.

91C) ii) If at any time after the opening of the Academy but prior to the Academy relocating to the Land, the Secretary of State is of the view that:

1. the safety of pupils or staff at the Academy would, on relocation to the Land, be threatened; or

2. the buildings and other structures on the Land are unsuitable including, but not limited to the requirement for any Building Regulations approval to have been obtained (if appropriate);

he may in writing either:

(a) require the Academy Trust not to use any building or other structure on the Land until such time as the relevant matter or matters listed in 1. to 2. above has or have been resolved to the Secretary of State's satisfaction; or

(b) terminate this Agreement forthwith or provide such notice as he deems appropriate in the circumstances to terminate this Agreement.

91D) i) If the Academy Trust has not entered into the Lease by 1 September 2012, the Secretary of State may:

a) require the Academy Trust not to open the Academy until such time as an alternative temporary and/or permanent site for the Academy has been acquired/obtained; and/or

(b) by notice terminate this Agreement forthwith; or

c) provide such notice as he deems appropriate in the circumstances in

writing to terminate this Agreement.

91D) (ii) If the Academy Trust has not acquired the Land by 1 July 2013, the Secretary of State may:

(a) by notice terminate this Agreement forthwith; or

(b) provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement; or

(c) appoint such Further Governors as he thinks fit and/or provide up to 12 months' notice in writing to terminate this Agreement.

91D) (iii) If, by 1 May 2013, it becomes clear that the acquisition of the Land will not be completed, the Secretary of State may:

(a) direct the Academy Trust to enter into negotiations in respect of securing an alternative permanent site the Secretary of State considers suitable for the needs of the secondary element of the Academy; or

(b) should the Academy Trust have acquired the Additional Permanent Site, the Academy Trust shall work with the Secretary of State to agree how both the primary and secondary elements of the Academy may be accommodated on the Additional Permanent Site.

91D) (iv) If, by 1 December 2013, the Academy Trust has not secured an alternative permanent site suitable for the needs of the secondary element of the Academy in place of the Land, or has been unable to agree with the Secretary of State as to how both the primary and secondary elements of the Academy may be accommodated on the Additional Permanent Site, the Secretary of State may:

a) by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement; or

b) appoint such Further Governors as he thinks fit and/or provide up to 12 months' notice in writing to terminate this Agreement.

91D) v) If, by 1 February 2014, the Academy Trust has not acquired the Additional Permanent Site, the Secretary of State may by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement.

91D) vi) If, by 1 December 2013, it becomes clear that the acquisition of the Additional Permanent Site will not be completed, the Secretary of State may direct the Academy Trust to enter into negotiations in respect of securing an alternative permanent site the Secretary of State considers suitable for the needs of the primary element of the Academy.

91D) vii) If, by 1 February 2014, the Academy Trust has not secured an alternative permanent site suitable for the needs of the primary element of the Academy in place of the Additional Permanent Site, the Secretary of State may:

a) by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement; or

b) appoint such Further Governors as he thinks fit and/or provide up to 12 months' notice in writing to terminate this Agreement.

91D) viii) If, by 1 August 2014, the Academy Trust has not acquired the Land, nor the Additional Permanent Site nor an alternative permanent site for the Academy, the Secretary of State may by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement.

91E) Upon acquisition by the Academy Trust of the Additional Permanent Site for the Academy, the Academy Trust agrees that it shall enter into negotiations in good faith with the Secretary of State in respect of a deed of variation for this Agreement to insert the relevant clauses in respect of that Additional Permanent Site. Should the Academy Trust fail to enter into such negotiations in good faith and/or fail to enter into a deed of variation in respect of the relevant clauses in respect of that site following such negotiations, the Secretary of State may by notice terminate this Agreement forthwith or provide up to 12 months' notice in writing to terminate this Agreement.

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

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

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

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

d) the Academy Trust 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 Academy Trust's property and is not paid out, withdrawn or discharged within fifteen Business Days; or

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

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

93) The Academy Trust 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 Academy Trust and shall provide an explanation to the Secretary of State of the circumstances giving rise to the service of such a petition.

94) If, following the exercise of the Secretary of State's powers to appoint Additional Governors or Further Governors, pursuant to the Articles of Association, the Members pass an ordinary or special resolution to remove one or more of those Additional or Further Governors appointed by the Secretary of State, the Secretary of State may give the Academy Trust 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

95) Following the Members passing a resolution as described in clause 94, the Secretary of State's right to terminate this Agreement under clause 94 shall cease if he removes one or more Additional Governors or Further Governors and fails to

replace at least one Additional Governor or Further Governor within the 30 days of their removal resulting in there being no remaining Additional Governor or Further Governor on the governing body of the Academy Trust.

Change of Control of the Academy Trust

95A) (i) The Secretary of State may at any time by notice in writing, subject to sub-clause (iii) below, terminate this Agreement forthwith (or on such other date as he may in his absolute discretion determine) in the event that there is a change:

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

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.

95A) (ii) The Academy Trust shall, as soon as it is reasonably practicable to do so after it has become aware of any change or proposed change of Control within the meaning of clause 95A)(i), give written notice to the Secretary of State of such change or proposed change of control.

95A) (iii) At the time of notifying the Secretary of State in accordance with sub-clause (ii) above, the Academy Trust may seek the Secretary of State’s agreement that, if the Secretary of State is satisfied that the person assuming the Control is suitable, he will not in those circumstances exercise his right to terminate this Agreement further to clause 95A)(i).

Effect of Termination

96) In the event of the termination of this Agreement however occurring the Secretary of State may procure that his nominee (if any) resigns as a member of the Academy Trust and the Secretary of State shall co-operate in making any associated amendments to the Articles.

97) In the event of termination of this Agreement however occurring, the school shall

cease to be an Academy within the meaning of Sections 1 and 1A of the Academies Act 2010.

98) Subject to clause 99, if the Secretary of State terminates this Agreement for reasons other than that a Special Measures Termination Event occurs, that the Academy no longer meets the requirements set out in clause 10 of this Agreement, or is no longer meeting the conditions and requirements set out in clauses 12-33B of this Agreement or that the Academy Trust is otherwise in material breach of the provisions of this Agreement, the Secretary of State may indemnify the Academy Trust.

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

100) The categories of expenditure incurred by the Academy Trust in consequence of the termination of this Agreement in respect of which the Secretary of State may indemnify the Academy Trust include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.

101) Subject to clause 102, on the termination of this Agreement however occurring, the Academy Trust 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 purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later; or

b) if the Secretary of State confirms that a transfer under clause 101(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.

102) The Secretary of State may waive in whole or in part the repayment due under clause 101(b) if:

a) The Academy Trust 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.

103) 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.

GENERAL

Information

104) 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) 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;

g) numbers of pupils excluded (including permanent and fixed term exclusions);

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') as amended from time to time;

m) membership and proceedings of the Governing Body together with any other relevant information concerning the management or governance of the Academy which, subject to clause 108), is reasonably necessary for the Secretary of State to carry out his functions generally and in relation to this Agreement.

105) The Academy Trust 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 Academy Trust with such information as it may reasonably require of him for the running of the Academy.

105A) (i) The Academy Trust shall provide to the Secretary of State the name of any new or replacement Member or Governor of the Academy Trust, whether such a person has been appointed or elected, together with the date of such an appointment or election and, where applicable, the name of the Member or Governor such a person replaces as soon as is practicable and in any event within 14 days of the appointment or election of such a person.

105A) (ii) In this regard, the Academy Trust shall not appoint any new or replacement Members or Governors of the Academy Trust until it has first (a) notified such persons that their name shall be shared with the Secretary of State and (b) explained to the new or replacement Members or Governors of the Academy Trust that the reason their name is being shared with the Secretary of State is to enable the Secretary of State to assess their suitability.

105B) i) If the Academy Trust is in material breach of the provisions of the Lease or if it is reasonably foreseeable that the Academy Trust will be in material breach of the Lease, the Academy Trust shall forthwith give written notice to the Secretary of State specifying the exact nature of the material breach or reasonably foreseeable material

breach and such notice shall set out the steps taken or to be taken by the Academy Trust to remedy the material breach or reasonably foreseeable material breach and, where appropriate, shall include the timescales relating to any remedial action.

105B) ii) The Academy Trust will at its own cost provide all information reasonably required by the Secretary of State in respect of any material breach or reasonably foreseeable material breach.

105C) Following the receipt by the Secretary of State of the written notice under clause 105B), the Academy Trust shall permit the Secretary of State to take all such steps in conjunction with or instead of the Academy Trust as may be necessary to remedy or prevent the material breach referred to in the said notice. The Academy Trust shall, in such circumstances, use its best endeavours to assist the Secretary of State to remedy or prevent such material breach.

105D) (i) The Academy Trust shall, within 14 days of receiving any order, notice, proposal, demand or any other requirement affecting the ability of the Academy Trust to use the Temporary Site or the Land for the purposes of the Academy from any competent authority, give full particulars by written notice to the Secretary of State and deliver to the Secretary of State copies of such documents as he may require. Such notice shall state what steps, if any actions are required, the Academy Trust intends to take in response to the order, notice, proposal, demand or other requirement affecting the Temporary Site or the Land.

105D) (ii) The Academy Trust will at its own cost provide all information reasonably required by the Secretary of State in respect of order, notice, proposal, demand or any other requirement affecting the Temporary Site or the Land as referred to in clause 105D(i).

105E) Following the receipt by the Secretary of State of the written notice under clause 105D)(i), the Academy Trust shall permit the Secretary of State to take all steps in conjunction with or instead of the Academy Trust as may be necessary to comply with any order, notice, proposal, demand or other requirement affecting the Temporary Site or the Land referred to in the said notice. The Academy Trust shall, in such circumstances, use all reasonable endeavours to assist the Secretary of State to take the appropriate required steps.

Access by the Secretary of State's Officers

106) The Academy Trust shall allow access to the premises of the Academy at any reasonable time to DfE officials and/or agents of the Secretary of State. All records, files and reports relating to the running of the Academy shall be available to them at any reasonable time. The Academy Trust shall provide the Secretary of State in advance with papers relating to the Academy prepared for meetings of the Governing Body and of the Members of the Academy Trust. Two DfE officials shall be entitled to attend and to speak at all such meetings, but shall 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. The Academy Trust shall take any steps which are required to secure its compliance with the obligations imposed by this clause of this Agreement.

107) The Academy Trust shall ensure that:

a) the agenda for every meeting of the Governing Body or any committee to whom the Governing Body delegates one or more of its functions to;

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 Academy and, as soon as is reasonably practicable, sent to the Secretary of State upon request.

108) 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 107, 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 Academy Trust is satisfied should remain confidential.

Debt

108A) a) The Secretary of State has agreed to make payments of Capital Grant to the Academy Trust pursuant to Clause 37;

108A) b) The payments referred to at 108A(a) are made available to the Academy Trust on an interest free basis;

108A) c) In consideration of the Secretary of State making the payments referred to at 108A(a) and financing the acquisition of the Land, the Academy Trust shall pay the Debt upon termination of this Agreement or in accordance with clauses 108H(b) or 108K(a) or upon any disposition by way of sale of the whole or part of the Land, whether or not such sale has been consented to by the Secretary of State; and

108A) d) The Debt shall be secured by the Legal Charge.

Restrictions on Land transfer

108B) In consideration that it has or will be obtaining a legal interest in the Land, such acquisition being financed by the Secretary of State, the Academy Trust:

a)i) shall, within 28 days from the transfer of the Land to the Academy Trust, should the Academy Trust be a non-exempt charity at that time, apply to the Land Registry for restrictions 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) ('LRR 2003')) in the following terms:

No disposition of the registered estate by the proprietor of the registered estate to which sections 117-121 or section 124 of the Charities Act 2011 applies is to be registered unless the instrument contains a certificate complying with section 122(3) or section 125(2) of that Act, as appropriate.

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.

a)ii) shall, within 28 days from the transfer of the Land to the Academy Trust, should the Academy Trust be an exempt charity at that time, 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) ('LRR 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.

b) shall take any further steps reasonably required to ensure that the restriction referred to in clause 108B(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 108B(a) as soon as reasonably practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 108B(a), hereby consents to the entering of the restriction referred to in 108B(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002); and

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 108B(a) or 108B(d) above, 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

108C) (i) The Academy Trust shall keep the Temporary Site and the Land clean and tidy and make good any damage it causes to the Temporary Site and/or the Land and/or any deterioration to the condition of the Temporary Site and/or the Land that

may arise from the date of this Agreement, save that the Academy Trust shall ensure that any actions undertaken in compliance with this clause with respect of the Temporary Site shall be consistent with the terms of the Lease. In compliance with this clause, the Academy Trust shall not do or cause or permit to be done anything to lessen the value or marketability of the Temporary Site and/or the Land save with the express written consent of the Secretary of State.

108C)(ii) The Academy Trust shall observe and comply with its obligations under the Lease and shall promptly enforce its rights against the Landlord.

108C)(iii) The Academy Trust agrees it shall seek and obtain the prior written consent of the Secretary of State, not to be unreasonably withheld or delayed before taking any steps to:

a) terminate, vary, surrender or dispose of the Lease; and / or

b) grant any consent or licence in respect of the Temporary Site and / or the Land or any part of it; and / or

c) create or permit to arise or continue any encumbrance affecting the Temporary Site and / or the Land or any part of it; and / or

d) part with or share possession or occupation of the Temporary Site and / ot the Land or any part of it; and / or

e) enter into any onerous or restrictive obligations affecting the Temporary Site and / or the Land or any part of it.

Insurance

108D) The Academy Trust shall, save where the terms of the Lease provide for the Landlord to obtain insurance in respect of the Temporary Site:-

a) keep the Temporary Site and the Land insured with a reputable insurance office against loss or damage by the Insured Risks in the sum the Academy Trust is advised represents the reinstatement value of the Temporary Site and the Land from time to time, save that for the Temporary Site such insurance shall be as in accordance with the terms of the Lease;

b) pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the Temporary Site and the Land;

c) following the incidence of damage to or destruction of the Temporary Site and 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 Temporary Site and the Land (provided that this clause should be satisfied if the Academy Trust provides premises not necessarily identical to the Temporary Site and 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 premium 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 Temporary Site and the Land may become void or voidable; and

f) insure against liability in respect of property owners' and third party risks including occupiers liability.

Transfer of Land

108E) In consideration that it has or will be obtaining a legal interest in the Land, such acquisition being financed by the Secretary of State, the Academy Trust hereby grants and the Secretary of State hereby accepts an option, exercisable by the Secretary of State or his nominee, to re-acquire the said Land or any part thereof at nil consideration. 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 or in circumstances where the Academy Trust is unable to use all or part of the Land as the permanent site of the Academy in accordance with clauses 108H or 108K. 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.

108F) In consideration that it has or will be obtaining a legal interest in the Land, such acquisition being financed by the Secretary of State, the Academy Trust:

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 108E 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 108F(a) is entered on the proprietorship register,

c) shall provide the Secretary of State with confirmation of the entry of the notice referred to in clause 108F(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 108F(a), hereby consents to the entering of the notice referred to in 108F(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 108F(a) or 108F(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Trust, and

f) in the case of previously unregistered land, for the further protection of the option granted in Clause 108E the Academy Trust 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 Academy Trust 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.

Legal Charge

108G) In consideration that it has or will be obtaining a legal interest in the Land, such acquisition being financed by the Secretary of State, the Academy Trust:

a. shall enter into the Legal Charge upon completion of the acquisition of said interest;

b. shall, within 21 days from the entry into of the Legal Charge, register the Legal Charge with Companies House or if required by the Secretary of State shall use all reasonable endeavours to assist the Secretary of State to register the Legal Charge at Companies House, including signing and executing any documents, deeds and/or forms as required;

c. shall, within 28 days from the date of the Legal Charge, apply to the Land Registry for the Legal Charge to be entered on the charges register, using forms AP1 (Rule 13 LRR 2003) and CH1 (Rule 103 LRR 2003) or such form as may be required by the Secretary of State;

d. shall take any further steps required to ensure that the Legal Charge is entered on the charges register;

e. shall provide the Secretary of State with confirmation of the registration of the Legal Charge as soon as reasonably practicable after it receives notification from the Land Registry; and

f. in the event that it has not registered the Legal Charge, hereby consents to the registration of the Legal Charge by the Secretary of State. To enable the Secretary of State to do so, the Academy Trust shall use all reasonable endeavours to assist the Secretary of State to register the Legal Charge, including signing and executing any documents, deeds and/or forms as required, specifically but not limited to providing the Secretary of State with the executed Legal Charge and completed AP1/CH1 forms, and dealing with any requisitions raised by the Land Registry.

Failure to use the Land for the purposes of the Academy

108H) If the Academy Trust is unable to use the Land or any part thereof as the permanent site of the Academy but the Secretary of State agrees not to terminate this Agreement on that basis, the Secretary of State may give notice to the Academy Trust that:-

a) he intends to exercise the option granted under clause 108E) to transfer the Land or the relevant part thereof for nil consideration to himself or his nominee;
b) the Academy Trust pays the Debt or the Market Value; and/or
c) the Academy Trust shall dispose of the Land or the relevant part thereof and that, pursuant to clause 78, the Academy Trust may retain some or all of the proceeds of sale of the Land or the relevant part thereof in order to fulfil its charitable purposes by funding the purchase of an alternative permanent site for the Academy Trust, save that any proceeds not used to fund the purchase of an alternative permanent site shall be accounted for to the Secretary of State or his nominee.

Sharing of the Land

108I) The Academy Trust agrees that if:

a) the Academy does not reach its planned capacity over a period of 12 Academy Funding Years; or
b) notice of termination is served by either the Academy Trust or the Secretary of State in accordance with clause 82 of this Agreement; or
c) in the reasonable opinion of the Secretary of State the operation of the Academy at planned capacity does not require the use of the full extent of the Land,

    i. it will share occupation of the Land with such other Academy as the Secretary of State deems appropriate in the circumstances and enter into such legal arrangements in respect of the same as are required by the Secretary of State; or
    ii. it will dispose of part of the Land as required by the Secretary of State and account for any proceeds of such disposal to the Secretary of

State or his nominee as part payment of the Debt. Upon such disposal and part payment of the Debt, the Secretary of State will discharge the Legal Charge in respect of the part of the Land that has been disposed of.

Exercise of Rights

108J) On the termination of this Agreement, the Secretary of State may give notice of his intention to exercise the rights conferred upon the Secretary of State pursuant to clause 101, 102, 108E and the Legal Charge:

a) any such notice shall be in writing and shall confirm which clause of this Agreement the Secretary of State intends to exercise without prejudice to the Secretary of State's right to exercise all and any other rights available to him;

b) in the event that upon termination of this Agreement for whatever reason, the Secretary of State exercises his option granted and the legal interest in the Land is transferred to the Secretary of State or his nominee for nil consideration by the Academy Trust pursuant to clause 108E, the Academy Trust's obligation to pay the Debt shall be deemed to have been satisfied in full, the obligation on the Academy Trust to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 101(b) shall be deemed to been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process;

c) in the event that upon termination of this Agreement for whatever reason the Secretary of State enforces the Legal Charge, the Academy Trust's obligation to pay the Debt shall be deemed to have been satisfied in full following the realisation of the Debt by any receiver, the obligation on the Academy Trust to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 101(b) shall be deemed to been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process;

d) in the event that upon termination of this Agreement for whatever reason, the Secretary of State exercises his rights under clause 101, the Academy Trust's obligations to pay the Debt shall be deemed to have been satisfied in full and the Secretary of State shall take all steps reasonably required to carry out the

Discharge Process; and

e) in the event that upon termination of this Agreement for whatever reason, the Secretary of State agrees that pursuant to clause 102 the Academy Trust may invest the proceeds of the sale of the Land for its charitable objects or directs the Academy Trust to pay all or part of the proceeds of sale of the Land to the LA, the Academy Trust's obligations to pay the Debt shall be deemed to have been satisfied in full and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process.

108K) On the Academy Trust applying to the Secretary of State for consent to the disposal of all or part of the Land during the lifetime of this Agreement, the Secretary of State shall, should he agree that the Land is no longer required or cannot be used for the purposes of the Academy, subject to clause 76,

a) consent to the disposal subject to any one or a combination of the following conditions:-

iii. that (notwithstanding the provisions of clause 78) the Academy Trust pays the Debt in full or, in the event of a proposed disposal of part, repays to the Secretary of State the Market Value;

iv. that pursuant to clause 78, the Academy Trust may retain some or all proceeds of the disposal for its charitable purposes, subject to the Academy Trust accounting to the Secretary of State for any remaining proceeds of sale that the Secretary of State does not agree that the Academy Trust may retain for such charitable purposes; or

v. that pursuant to clause 79, the Academy Trust pays all or some of the proceeds of sale to the LA and / or may reinvest all or some of the proceeds of sale for its charitable purposes,

and any such notice of consent and conditions shall be in writing; or

b) exercise the option granted to him pursuant to clause 108E to transfer the relevant part of the Land to him or his nominee for nil consideration.

108L) In the event that the Secretary of State consents to the disposal of the Land during the lifetime of this Agreement, subject to any of the conditions set out in

clause 108K(a):

a) if the Secretary of State enforces the Legal Charge, the Academy Trust's obligation to pay the Debt shall be deemed to have been satisfied in full following the realisation of the Debt by any receiver, the obligations on the Academy Trust to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 78 shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process.

b) if the Secretary of State agrees that the Academy Trust may retain some or all proceeds of the disposal for its charitable purposes, subject to the Academy Trust accounting to the Secretary of State for any remaining proceeds of sale that the Secretary of State does not agree that the Academy Trust may retain for such charitable purposes, the Academy Trust's obligations to pay the Debt shall be deemed to have been satisfied in full, the obligations on the Academy Trust to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 78 shall be deemed to have been complied with and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of a disposal of part of the Land, the Academy Trust's obligation to pay the Debt shall be deemed to have been satisfied to the extent of the Market Value, the Academy Trust's obligation under clause 78 shall be deemed to have been satisfied in relation to the relevant part of the Land, the Legal Charge shall be released and the restriction and the notice shall be removed in relation to such part and the Legal Charge, the restriction and the notice shall remain in place in relation to the balance of the Land.

c) if the Secretary of State directs the Academy Trust to pay all or part of the proceeds of sale of the Land to the LA pursuant to clause 79 or agrees that the Academy Trust may reinvest the proceeds of the sale for its charitable purposes, the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of a disposal of part of the Land the restriction and notice shall remain in place in relation to the balance of the Land.

108M) In the event that the Secretary of State exercises his option during the lifetime of this Agreement under clause 108K(b) and the legal interest in the Land is

transferred to the Secretary of State or his nominee for nil consideration by the Academy Trust pursuant to clause 108E, the Academy Trust's obligation to pay the Debt shall be deemed to have been satisfied in full, the obligations on the Academy Trust to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 78 shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of the exercise of the option in relation to part of the Land, the Academy Trust's obligation to pay the Debt shall be deemed to have been satisfied to the extent of the Market Value, the Academy Trust's obligation under clause 78 shall be deemed to have been satisfied in relation to the relevant part of the Land and the Legal Charge shall be released and the restriction and notice shall be removed in relation to such part and the Legal Charge, the restriction and the notice shall remain in place in relation to the balance of the Land.

Payment of Debt

108N) In the event that the Academy Trust pays all the Debt, upon termination of this Agreement or at any other time, the Secretary of State shall take all steps reasonably required to carry out the Discharge Process.

Notices

109) 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 Academy Trust at its registered office or such other addressee/address as may be notified in writing from time to time by the Academy Trust and, in the case of a notice or communication from the Academy Trust to the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT; or such other address as may be notified from time to time by the Secretary of State and where any such notice or communication is sent by post, unless the contrary is proved, it shall be deemed, subject to satisfactory proof of posting, to be effected at the time at which the letter would be received in the ordinary course of post.

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

General

111) This Agreement shall not be assignable by the Academy Trust.

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

113) The Secretary of State and the Academy Trust agree that, notwithstanding the termination of this Agreement, any obligation upon the Academy Trust and/or the Secretary of State expressed as arising upon the termination of this Agreement shall continue to subsist.

This Agreement was executed as a Deed on 13TH AUGUST 2012

Executed on behalf of by: ZIAD AMJAD

.....
Director

In the presence of:

Witness Sign .....

Witness Name BURHAAN ISMAIL KHANDIA

Witness Address [redacted]

Occupation TEACHER

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

authenticated by: P. Schofield

Duly Authorised

THE COMPANIES ACT 2006

A COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

AL-MADINAH EDUCATION TRUST

THE COMPANIES ACT 2006

COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

AL-MADINAH EDUCATION TRUST

INTERPRETATION

1. In these Articles:-

a. “the Academy" means the school referred to in Article 4 and established by the Academy Trust;

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

c. “the Academy Trust” means the company intended to be regulated by these Articles and referred to in Article 2;

d. “Additional Governors” means the Governors appointed pursuant to Article 62 and 62A;

e. “the Articles” means these Articles of Association of the Academy Trust;

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

i. “Funding Agreement” means the agreement made under section 1 of the Academies Act 2010 between the Academy Trust and the Secretary of State to establish the Academy;

j. “Further Governors” means the Governors appointed pursuant to Article 63;

k. “the Governors” means the directors of the Academy Trust (and “Governor” means any one of those directors), subject to the definition of this term at Article 6.10(b) in relation to Articles 6.2-6.10;

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. “Member” means a member of the Academy Trust and someone who as such is bound by the undertaking contained in Article 8;

n. “the Memorandum” means the Memorandum of Association of the Academy Trust;

o. “Office” means the registered office of the Academy Trust;

p. “the Parent Governors” means the Governors appointed pursuant to Articles 53 to 58 inclusive;

q. “Principal" means the head teacher of the Academy;

r. “Principal Regulator” means the body or person appointed as the Principal Regulator under the Charities Act 2006;

s. “the seal” means the common seal of the Academy Trust if it has one;

t. “Secretary” means the secretary of the Academy Trust or any other person appointed to perform the duties of the secretary of the Academy Trust, including a joint, assistant or deputy secretary;

u. “Secretary of State” means the Secretary of State for Education or successor;

v. “Staff Governor” means an employee of the Academy Trust who may be appointed as a Governor pursuant to Article 50A;

w. “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 the Academy;

x. “the United Kingdom” means Great Britain and Northern Ireland;

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

z. 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;

aa. 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 Al-Madinah Education Trust (and in this document it is called "**the Academy Trust**").

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

OBJECTS

4. The Academy Trust's object ("**the Object**") is specifically restricted to the following: to advance for the public benefit education in the United Kingdom, in particular but without prejudice to the generality of the foregoing by establishing, maintaining, carrying on, managing and developing a school with a designated Islamic religious character offering a broad and balanced curriculum conducted in accordance with the principles practices and ethos of Islam both generally and in particular in relation to arranging for religious education and daily acts of worship as required by the Funding Agreement ("the Academy").

5. In furtherance of the Object but not further or otherwise the Academy Trust may exercise the following powers:-

(a) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and to operate bank accounts in the name of the Academy Trust;

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

(c) to acquire, alter, improve and (subject to such consents as may be required by law) to charge or otherwise dispose of property;

(d) subject to Article 6 below to employ such staff, as are necessary for the proper pursuit of the Object 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 companies, trusts, associations or institutions formed for all or any of the Object;

(f) to co-operate with other charities, other independent and maintained schools, voluntary bodies and statutory authorities operating in furtherance of the Object and to exchange information and advice with them;

(g) to pay out of funds of the Academy Trust the costs, charges and expenses of and incidental to the formation and registration of the Academy Trust;

(h) to establish, maintain, carry on, manage and develop the Academy in the Normanton and Arboretum areas of Derby;

(i) to offer scholarships, exhibitions, prizes and awards to pupils and former pupils, and otherwise to encourage and assist pupils and former pupils;

(j) to provide educational facilities and services to students of all ages and the wider community for the public benefit;

(k) to carry out research into the development and application of new techniques in education in particular in relation to its approach to curriculum development and delivery and to publish the results of such research, and to develop means of benefiting from application of the experience of industry, commerce, other schools and the voluntary sector to the education of pupils in academies;

(l) subject to such consents as may be required by law and/or by any contract entered into by or on behalf of the Academy Trust to borrow and raise money for the furtherance of the Object in such manner and on such security as the Academy Trust may think fit;

(m) to deposit or invest any funds of the Academy Trust not immediately required for the furtherance of its Object (but to invest only after obtaining such advice from a financial expert as the Governors 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 Governors;

(ii) every transaction is reported promptly to the Governors;

(iii) the performance of the investments is reviewed regularly with the Governors;

(iv) the Governors 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 Governors on receipt; and

(vii) the financial expert must not do anything outside the powers of the Governors.

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

(p) to provide indemnity insurance to cover the liability of Governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to the Academy Trust: Provided that any such insurance shall not extend to any claim arising from any act or omission which the Governors knew to be a breach of trust or breach of duty or which was committed by the Governors in reckless disregard of whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against the Governors in their capacity as Governors;

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

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

6.1 The income and property of the Academy Trust shall be applied solely towards the promotion of the Object.

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

a) benefit as a beneficiary of the Academy Trust;

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

c) be paid rent for premises let by the member of the Academy Trust 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 Academy Trust 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 Governors, or 0.5%, whichever is the higher.

6.3 A Governor may benefit from any indemnity insurance purchased at the Academy Trust's expense to cover the liability of the Governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default or breach of trust or breach of duty of which they may be guilty in relation to the Academy Trust: Provided that any such insurance shall not extend to any claim arising from any act or omission which the Governors knew to be a breach of trust or breach of duty or which was committed by the Governors in reckless disregard to whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against the Governors in their capacity as directors of the Academy Trust.

6.4 A company, which has shares listed on a recognised stock exchange and of

which any one Governor 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 Academy Trust.

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

6.6 No Governor may:

(a) buy any goods or services from the Academy Trust;

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

(c) be employed by or receive any remuneration from the Academy Trust (other than the Principal or a Staff Governor whose employment and/or remuneration is subject to the procedure and conditions in Article 6.8);

(d) receive any other financial benefit from the Academy Trust;

unless:

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

(ii) the Governors 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 Governor may:

a) receive a benefit from the Academy Trust in the capacity of a beneficiary of the Academy Trust.

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

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

(d) receive rent for premises let by the Governor to the Academy Trust if the amount of the rent and the other terms of the lease are reasonable and proper.

6.8 The Academy Trust and its Governors 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 Governor do not exceed an amount that is reasonable in all the circumstances.

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

(d) save in relation to employing or contracting with the Principal or a Staff Governor (a Governor pursuant to Articles 46, 50A and 52) the other Governors are satisfied that it is in the interests of the Academy Trust to employ or to contract with that Governor rather than with someone who is not a Governor. In reaching that decision the Governors must balance the advantage of employing a Governor against the disadvantages of doing so (especially the loss of the Governor's services as a result of dealing with the Governor's conflict of interest).

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

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

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

6.10 In Articles 6.2-6.10:

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

- 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) "Governor" shall include any child, stepchild, parent, grandchild, grandparent, brother, sister or spouse of the governor or any person living with the governor as his or her partner

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

Governor holds less than 1% of the issued capital.

7. The liability of the members of the Academy Trust is limited.

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

9. If the Academy Trust 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 Academy Trust, but shall be given or transferred to some other charity or charities having objects similar to the Object which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the Academy Trust by Article 6 above, chosen by the members of the Academy Trust at or before the time of dissolution and if that cannot be done then to some other charitable object.

10. No alteration or addition shall be made to or in the provisions of the Articles without the written consent of the Secretary of State.

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

MEMBERS

12. The Members of the Academy Trust shall comprise

    a. the signatories to the Memorandum;

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

    c. the chairman of the Governors; and

d. any person appointed under Article 16.

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

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

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

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

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

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

d) ceases to be a Member;

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

15. Membership will terminate automatically if:

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

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

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

16. The Members may agree unanimously in writing to appoint such additional Members as they think fit and may unanimously (save that the agreement of the

Member(s) to be removed shall not be required) in writing agree to remove any such additional Members.

17. Every person nominated to be a Member of the Academy Trust 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 three. A Member shall cease to be one immediately on the receipt by the Academy Trust of a notice in writing signed by the person or persons entitled to remove him under Articles 13 or 16 provided that no such notice shall take effect when the number of Members is less than three unless it contains or is accompanied by the appointment of a replacement Member.

GENERAL MEETINGS

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

20. The Governors 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 Governors to call a general meeting, any Governor or any Member of the Academy Trust 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 Governors 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 Governors may determine.

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

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

27. A Governor 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, date 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, date 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, date 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 Academy Trust 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

Governors may approve) -.

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

Signed on ….. 20[ ]"

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

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

(a) be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any

instrument of proxy sent out by the Academy Trust in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or

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

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

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

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

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

GOVERNORS

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

46. Subject to Articles 48-49 and 64, the Academy Trust shall have the following Governors:

a. up to 8 Governors, appointed under Article 50;

b. any Staff Governors, if appointed under Article 50A;

c. a minimum of 2 Parent Governors appointed under Articles 53-58;

d. the Principal;

e. any Additional Governors, if appointed under Article 62, 62A or 68A; and

f. any Further Governors, if appointed under Article 63 or Article 68A;

47. The Academy Trust may also have any Co-opted Governor appointed under Article 59.

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

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

APPOINTMENT OF GOVERNORS

50. The Members may appoint up to eight Governors.

50A. The Members may appoint Staff Governors through such process as they may determine, provided that the total number of Governors (including the Principal) who are employees of the Academy Trust does not exceed one third of the total number of Governors.

51. Not used.

52. The Principal shall be treated for all purposes as being an ex officio Governor.

53. Subject to Article 57, the Parent Governors shall be elected by parents of registered pupils at the Academy. A Parent Governor must be a parent of a pupil at the Academy at the time when he is elected.

54. The Governing Body shall make all necessary arrangements for, and

determine all other matters relating to, an election of Parent Governors, including any question of whether a person is a parent of a registered pupil at the Academy. Any election of Parent Governors which is contested shall be held by secret ballot.

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

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

57. The number of Parent Governors required shall be made up by Parent Governors appointed by the Governing Body if the number of parents standing for election is less than the number of vacancies.

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

CO-OPTED GOVERNORS

59. The Governors may appoint up to 1 Co-opted Governor. A 'Co-opted Governor' means a person who is appointed to be a Governor by being Co-opted by Governors who have not themselves been so appointed. The Governors may not co-opt an employee of the Academy Trust as a Co-opted Governor if thereby the number of Governors who are employees of the Academy Trust would exceed one third of the total number of Governors (including the Principal).

APPOINTMENT OF ADDITIONAL GOVERNORS

60. The Secretary of State may give a warning notice to the Governors where he is satisfied—

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

ii) that there has been a serious breakdown in the way the Academy is managed or governed, or

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

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

a) the matters referred to in Article 60;

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

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

62. The Secretary of State may appoint such Additional Governors as he thinks fit if the Secretary of State has:

a) given the Governors a warning notice in accordance with Article 60 ; and

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

62A The Secretary of State may also appoint such Additional Governors where following an Inspection by the Chief Inspector in accordance with the Education Act 2005 (an "Inspection") the Academy Trust receives an Ofsted grading (being a grade referred to in The Framework for School Inspection or any modification or replacement of that document for the time being in force) which amounts to a drop, either from one Inspection to the next Inspection or between any two Inspections carried out within a 5 year period, of two Ofsted grades.

63. The Secretary of State may also appoint such Further Governors as he thinks fit if a Special Measures Termination Event (as defined in the Funding Agreement) occurs in respect of the Academy or if he is satisfied that any Governor or Member of the Academy Trust is not a suitable person and he exercises his powers further to clause 91A of the Funding Agreement.

63A. An Additional or Further Governor shall become a Governor upon the Secretary of State delivering, or posting (by registered post), to the Office of the

Academy Trust a notice appointing that person as an Additional or Further Governor.

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

TERM OF OFFICE

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

RESIGNATION AND REMOVAL

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

67. A Governor shall cease to hold office if he is removed by the person or persons who appointed him. This Article does not apply in respect of a Parent Governor.

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

68A. Where an Additional or Further Governor appointed pursuant to Articles 62, 62A or 63 ceases to hold office as a Governor for any reason, other than being removed by the Secretary of State, the Secretary of State shall be entitled to appoint an Additional or Further Governor in his place.

DISQUALIFICATION OF GOVERNORS

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

70. A Governor shall cease to hold office if he becomes incapable by reason of

mental disorder, illness or injury of managing or administering his own affairs.

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

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

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

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

73. A person shall be disqualified from holding or continuing to hold office as a Governor at any time when he is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).

74. A Governor shall cease to hold office if he ceases to be a Governor by virtue of any provision in the Companies Act 2006 or is disqualified from acting as a trustee by virtue of section 72 of the Charities Act 1993 (or any statutory re-enactment or modification of that provision).

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

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

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

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

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

77. A person shall be disqualified from holding or continuing to hold office as a Governor if he is a person in respect of whom a direction has been made under section 142 of the Education Act 2002 or is subject to any prohibition or restriction which takes effect as if contained in such a direction.

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

79. After the Academy has opened, a person shall be disqualified from holding or continuing to hold office as a Governor if he has not provided to the chairman of the Governors a criminal records certificate at an enhanced disclosure level under section 113B of the Police Act 1997. In the event that the certificate discloses any information which would in the opinion of either the chairman or the Principal confirm their unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final.

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

81. Articles 69 to 80 and Articles 98-99 also apply to any member of any committee of the Governors who is not a Governor.

SECRETARY TO THE GOVERNORS

82. The Secretary shall be appointed by the Governors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them. The Secretary shall not be a Governor or a Principal. Notwithstanding this Article, the Governors may, where the Secretary fails

to attend a meeting of theirs, appoint any one of their number or any other person to act as Secretary for the purposes of that meeting.

CHAIRMAN AND VICE-CHAIRMAN OF THE GOVERNORS

83. The Governors shall each school year, at their first meeting in that year, elect a chairman and a vice-chairman from among their number. A Governor who is employed by the Academy Trust shall not be eligible for election as chairman or vice-chairman.

84. Subject to Article 85, the chairman or vice-chairman shall hold office as such until his successor has been elected in accordance with Article 86.

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

a) he ceases to be a Governor;

b) he is employed by the Academy Trust;

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

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

86. Where by reason of any of the matters referred to in Article 85, a vacancy arises in the office of chairman or vice-chairman, the Governors shall at their next meeting elect one of their number to fill that vacancy.

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

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

89. The Secretary shall act as chairman during that part of any meeting at which

the chairman is elected.

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

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

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

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

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

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

POWERS OF GOVERNORS

94. Subject to provisions of the Companies Act 2006, the Articles and to any directions given by special resolution, the business of the Academy Trust shall be managed by the Governors who may exercise all the powers of the Academy Trust. No alteration of the Articles and no such direction shall invalidate any prior act of the Governors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Governors by the Articles and a meeting of Governors at which a quorum is present may exercise all the powers exercisable by the Governors.

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

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

b) to enter into contracts on behalf of the Academy Trust.

96. In the exercise of their powers and functions, the Governors may consider any advice given by the Principal and any other executive officer.

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

CONFLICTS OF INTEREST

98. Any Governor 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 Governor shall disclose that fact to the Governors as soon as he becomes aware of it. A Governor must absent himself from any discussions of the Governors in which it is possible that a conflict will arise between his duty to act solely in the interests of the Academy Trust and any duty or personal interest (including but not limited to any Personal Financial Interest).

99. For the purpose of Article 98, a Governor has a Personal Financial Interest in the employment or remuneration of, or the provision of any other benefit to, that Governor as permitted by and as defined by articles 6.5-6.10.

THE MINUTES

100. The minutes of the proceedings of a meeting of the Governors 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 Governors) at the same or next subsequent meeting by the person acting as chairman thereof. The minutes shall include a record of:

a) all appointments of officers made by the Governors; and

b) all proceedings at meetings of the Academy Trust and of the Governors and of committees of Governors including the names of the Governors present at each such meeting.

COMMITTEES

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

DELEGATION

102. The Governors may delegate to any Governor, committee, the Principal 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 may be made subject to any conditions the Governors may impose and may be revoked or altered.

103. Where any power or function of the Governors is exercised by any committee, any Governor, Principal or any other holder of an executive office, that person or committee shall report to the Governors in respect of any action taken or decision made with respect to the exercise of that power or function at the meeting of the Governors immediately following the taking of the action or the making of the decision.

PRINCIPAL

104. The Governors shall appoint the Principal. The Governors may delegate such powers and functions as they consider are required by the Principal for the internal organisation, management and control of the Academy (including the implementation of all policies approved by the Governors and for the direction of the teaching and curriculum at the Academy).

MEETINGS OF THE GOVERNORS

105. Subject to these Articles, the Governors may regulate their proceedings as they think fit.

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

a) given by the Governors; or

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

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

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

1. a) notice in writing thereof, signed by the Secretary, and sent to each Governor at the address provided by each Governor from time to time; and

2. b) a copy of the agenda for the meeting;

3. 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.

109. 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.

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

111. A meeting of the Governors shall be terminated forthwith if—

(a) the Governors so resolve; or

(b) the number of Governors present ceases to constitute a quorum for a meeting of the Governors in accordance with Article 114 , subject to Article 116 .

112. Where in accordance with Article 111 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.

113. Where the Governors resolve in accordance with Article 111 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Governors 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.

114. Subject to Article 116 the quorum for a meeting of the Governors, and any vote on any matter thereat, shall be any three Governors, or, where greater, any one third (rounded up to a whole number) of the total number of Governors holding office at the date of the meeting. If the Secretary of State has appointed Additional or Further Governors then a majority of the quorum must be made up of Additional or Further Governors.

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

116. The quorum for the purposes of—

a. appointing a parent Governor under Article 57;

b. any vote on the removal of a Governor in accordance with Article 67;

c. any vote on the removal of the chairman of the Governors in accordance with Article 91;

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

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

118. Subject to Article 114-116, 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.

119. The proceedings of the Governors shall not be invalidated by

a. any vacancy among their number; or

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

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

121. Subject to Article122, the Governors shall ensure that a copy of:

a. the agenda for every meeting of the Governors;

b. the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;

c. the signed minutes of every such meeting; and

d. any report, document or other paper considered at any such meeting,

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

122. There may be excluded from any item required to be made available in pursuance of Article 121, 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 Governors are satisfied should remain confidential.

123. Any Governor shall be able to participate in meetings of the Governors 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 Governors 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

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

THE SEAL

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

ACCOUNTS

126. Accounts shall be prepared in accordance with the relevant Statement of Recommended Practice as if the Academy Trust 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

127. The Governors shall prepare its Annual Report in accordance with the Statement of Recommended Practice as if the Academy Trust 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

128. The Governors shall comply with their obligations under Part 24 of the Companies 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 Academy Trust was a non-exempt charity and to the Secretary of State and the Principal Regulator by 31 December each Academy Financial Year.

NOTICES

129. Any notice to be given to or by any person pursuant to the Articles (other than a notice calling a meeting of the Governors) 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.

130. A notice may be given by the Academy Trust to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at his registered address or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the Academy Trust by the Member. A Member whose registered address is not within the United Kingdom and who gives to the Academy Trust 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 Academy Trust.

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

132. 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

133. Subject to the provisions of the Companies Act 2006 every Governor or other officer or auditor of the Academy Trust shall be indemnified out of the assets of the Academy Trust against any liability incurred by him in that capacity in defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Academy Trust.

RULES

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

a. the admission and classification of Members of the Academy Trust (including the admission of organisations to membership) and the rights and privileges of such Members, and the conditions of membership and the terms on which Members may resign or have their membership terminated and the entrance fees, subscriptions and other fees or

payments to be made by Members;

b. the conduct of Members of the Academy Trust in relation to one another, and to the Academy Trust's servants;

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

d. the procedure at general meetings and meetings of the Governors and committees of the Governors 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.

135. The Academy Trust in general meeting shall have power to alter, add or to repeal the rules or bye laws and the Governors shall adopt such means as they think sufficient to bring to the notice of Members of the Academy Trust all such rules or bye laws, which shall be binding on all Members of the Academy Trust. 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

136. 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.

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

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

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

140. If at any time the number of Governors or Members who are also Local Authority Associated Persons would (but for Articles 136 to 139 inclusive) represent 20% or more of the total number of Governors or Members (as the case may be) then a sufficient number of the Governors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned as Governors 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 Governors or Members (as the case may be) is never equal to or greater than 20% of the total number of Governors or Members (as the case may be). Governors 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.

141. The Members will each notify the Academy Trust and each other if at any time they believe that the Academy Trust 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

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO THE AL-MADINAH ACADEMY

GENERAL

1. This Annex may be amended in writing at any time by agreement between the Secretary of State and the Academy Trust.

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

3. Notwithstanding the generality of paragraph 2 of this Annex, the Academy Trust will not participate in the co-ordinated admission arrangements operated by the LA for the first year of opening but will participate in such arrangements operated by the LA in subsequent years and the local Fair Access Protocol.

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

(a) direct the Academy Trust to admit a named pupil to the Al-Madinah Academy on application from a LA. This will include complying with a School Attendance Order[1]. Before doing so the Secretary of State will consult the Academy Trust.

(b) direct the Academy Trust to admit a named pupil to the Al-Madinah Academy if the Academy Trust has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

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

4A Al-Madinah Academy is a Muslim Academy. The relevant faith body is the Association of Muslim Schools Uk.

5. The Academy Trust shall ensure that parents and 'relevant children[2]' will have

---

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

[2] relevant children' means:

a) in the case of appeals for entry to a sixth form, the child, and;

b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

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

Relevant Area

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

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

Requirement to admit pupils

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

9. The Academy will:

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

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

   c. adopt admission criteria that provide that, if oversubscribed, at least 50% of its places available each year will be allocated without reference to any faith-based admission criteria.

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

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

11. The Academy Trust must make it clear, when determining the Academy's

---

[3] 'Relevant age group' means 'normal point of admission to the school: for example, year R, Year7 and Year 12.

admission arrangements, that objections should be submitted to the Schools Adjudicator.

12. A determination of an objection by the Schools Adjudicator will be binding upon the Academy.

ANNEX C

Arrangements for pupils with Special Educational Needs ('SEN') and disabilities at Al-Madinah Academy

Duties in relation to pupils with SEN

1. The Governing Body of the Academy Trust must comply with all of the duties imposed upon the governing bodies of maintained schools in:

- Part 4 of the Education Act 1996 as amended from time to time[4];
- The Education (Special Educational Needs) (Information) Regulations 1999 as amended from time to time;
- The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2008 as amended from time to time[5].

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

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, 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 Academy Trust must ensure that the 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; and the facilities provided to assist access to the Academy by disabled pupils (disabled pupils meaning pupils who are disabled for the purposes of the Equality Act 2010[6]).

Admissions

5. The Academy Trust must ensure that pupils with SEN are admitted on an equal basis with others in accordance with its admissions policy.

---

[4] 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).

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

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

6. Where a local authority ("LA") proposes to name the Academy in a statement of SEN made in accordance with section 324 of the Education Act 1996, it must give the Academy Trust 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 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 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 Trust must have regard to the relevant guidance issued by the Secretary of State to maintained schools.

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

8. After service by the Academy Trust 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 Academy Trust must seek to establish from the LA, as soon as is reasonably practicable, whether or not the LA agrees with the Academy Trust. If the LA notifies the Academy that it does not agree with the Academy Trust's response, and names the Academy in the child's statement, the Academy Trust 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 Academy Trust considers that the Academy should not have been named in a child's statement, they may ask the Secretary of State to determine that the LA has acted unreasonably in naming the Academy and to make an order directing the LA to reconsider.

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

11. If a parent or guardian of a child in respect of whom a statement is maintained by the local authority appeals to the First-tier Tribunal (Special Educational Needs and Disability) either against the naming of the Academy in the child's SEN statement or asking the Tribunal to name the 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 Academy, the Secretary of State or the First-tier Tribunal (Special Educational Needs and Disability) have determined that it should be named, the Academy Trust shall admit the child to the Academy notwithstanding any provision of Annex B to this agreement.

Annex D

Serious incidents of misbehaviour leading to fixed period or permanent exclusion

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

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

3. Subject to the exception in paragraph 5, the Academy Trust shall ensure that the Principal and the Governing Body of the Academy have regard to the Secretary of State's guidance on exclusions when excluding, or reviewing the exclusion of a pupil and in relation to any appeals or review process as if the Academy were a maintained school[7].

4. The Academy Trust shall make arrangements for enabling appeals against, or review of any decision of the Governing Body to permanently exclude a pupil in accordance with the functions assigned to the Local Authority in relation to a maintained school. The Academy Trust shall ensure that appeal/review panels are impartial, and are constituted in accordance with the Secretary of State's guidance. The Academy Trust shall comply with any decision of an appeals panel, or direction of a review panel[8].

5. The exception to the duties imposed under paragraphs 1 and 4 is:

- the Governing Body of the Academy Trust is not expected to seek the advice of a Local Authority officer when considering an exclusion, although a Local Authority officer may attend any meeting to consider an exclusion (including an appeal hearing or review) at the request of a parent.

---

[7] References in this annex to the Secretary of State's guidance are to "Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units", which is published on the DfE website at: https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00573-2008 The guidance may be subject to amendment, and the Academy is required to have regard to the guidance as it stands at any given time.

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

- subject to the Academy Trust's obligations under clause 30 of this Agreement relating to an agreement with the LA on the flow of funds following an exclusion, the arrangements for money to follow pupils who have been permanently excluded from school does not apply.