

**NORTH EAST SHEFFIELD TRUST**

**MASTER FUNDING AGREEMENT**

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**ACADEMIES**

**MASTER FUNDING AGREEMENT**

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## **SCHEDULE 1**

Model Supplemental Funding Agreement for a Mainstream Academy

Model Supplemental Funding Agreement for a Special Academy

Model Supplemental Funding Agreement for an Alternative Provision Academy

## **ANNEXES TO THE MASTER FUNDING AGREEMENT**

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Memorandum and Articles of the Company	Annex A
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## INTRODUCTION

- 1) This Agreement is made under Section 1 of the Academies Act 2010, between the Secretary of State for Education ("the Secretary of State") and North East Sheffield Trust (the "Company").
- 2) The Company is a company incorporated in England and Wales, limited by guarantee with registered Company number 8863947.
- 3) The Company intends to establish and maintain, and to carry on or provide for the carrying on of a number of Academies in accordance with this Agreement and the Supplemental Agreements.
- 4) This Agreement and the Supplemental Agreements will apply in respect of an Academy from such time as a Supplemental Agreement relating to that Academy shall have been entered into between the Secretary of State and the Company.
- 5) The following expressions used in this Agreement have the respective meanings assigned to them by the numbered clauses of this Agreement referred to immediately after the reference to the expressions -
  - a) "Academies Financial Handbook" - clause 67;
  - b) "Accounting Officer" – clause 66;
  - c) "Annual Letter of Funding" - clause 60;
  - d) "GAG" – clause 36;
  - e) "Capital Expenditure" - clause 37;
  - f) "Capital Grant" – clause 37;
  - g) "EAG" - clause 36;
  - h) "Local Governing Body" – clause 15;
  - i) "Recurrent Expenditure" – clause 36;
  - j) "Start-up Period" – clause 50;

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

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

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

“admission requirements” – are annexed to the relevant Supplemental Agreement;

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

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

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

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

“Commissioner” means local authorities and/or schools referring children/pupils to the Alternative Provision Academy for admission under the legal powers set out in the relevant annex to the Supplemental Agreement;

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

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

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

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

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

"DfE" means Department for Education and any successor;

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

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

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

"parents" means parents or guardians;

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

"PFI Academy" means an Academy which forms part of a scheme procured pursuant to the Government's Private Finance Initiative;

"Principal" means the head teacher of an Academy;

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

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

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

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

“SENCO” means Special Educational Needs Co-ordinator;

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

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

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

- 7) The Interpretation Act 1978 shall apply for the interpretation of this Agreement and any Supplemental Agreement as it applies for the interpretation of an Act of Parliament.
- 8) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement or Supplemental Agreement.
- 9) Questions arising on the interpretation of the arrangements in this Agreement shall be resolved by the Secretary of State after consultation with the Company.
- 10) Section 1 (3) of the Academies Act 2010 states that -

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

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

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

## **LEGAL AGREEMENT**

- 11) In consideration of the Company undertaking to establish and maintain, and to carry on or provide for the carrying on of a number of schools/ independent schools in England specially organised to make special educational provision for pupils with SEN (“**the Special Academies**”) or meeting the requirements referred to in clause 12 (“**the**



**Mainstream Academies**”), or meeting such requirements as referred to in clause 12B (“**the Alternative Provision Academies**”), the Secretary of State agrees to make payments to the Company in accordance with the conditions and requirements set out in this Agreement and Supplemental Agreements. If it is agreed between the Secretary of State and the Company that the Company will establish and maintain, and to carry on or provide for the carrying on of an Academy, the parties will enter into a Supplemental Agreement in relation to that Academy. For the avoidance of doubt, any obligations imposed upon or powers given to an Academy by this Agreement or any Supplemental Agreement are also imposed upon the Company.

## **REQUIREMENTS OF A MAINSTREAM ACADEMY**

12) The requirements of a **Mainstream Academy** are those set down in Section 1A of the Academies Act 2010<sup>1</sup>.

## **THE SEN OBLIGATIONS**

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

- a) The Company must comply with all of the obligations imposed upon the governing bodies of maintained special schools in Chapter 1 of Part 4 of the Education Act 1996 and in Regulations in force at the date of this agreement or made from time to time under any provision in that Chapter (as amended from time to time<sup>2</sup>).
- b) Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Company to comply with an obligation imposed by this Agreement where the Company has failed to comply with any such obligation.

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

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

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

## **ALTERNATIVE PROVISION ACADEMY REQUIREMENTS**

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

## **CONDITIONS OF GRANT**

### **General**

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

- a) the school will be at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community;
- b) there will be assessments of pupils' performance as they apply to maintained schools (this will also apply to **Alternative Provision Academies** unless there are exceptional reasons to do otherwise), and the opportunity to study for qualifications in accordance with clause 30 (d);
- c) in respect of **Mainstream Academies**, the admissions policy and arrangements for the school will be in accordance with admissions law, and the DfE Codes of Practice, as they apply to maintained schools, and in respect of **Alternative Provision Academies** the admissions policy and arrangements for the school will be set out in the relevant annex to the Supplemental Agreement;

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<sup>3</sup> This obligation is in addition to the obligation to comply with the duties to publish information imposed upon the governing bodies of maintained special schools set out in the Education (Special Educational Needs) (Information) Regulations 1999 (as amended from time to time) which clause 12A has the effect of imposing.  
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d) teachers' levels of pay and conditions of service will be the responsibility of the Company;

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

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

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

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

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

## **Governance**

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

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

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

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

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

## **Conduct**

16) Each Academy shall be conducted in accordance with:

- a) the Articles;
- b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the independent schools standards prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy;
- c) the terms of this Agreement and the relevant Supplemental Agreement.

## **Disclosure and Barring Service Checks**

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

17A) The Company shall, on receipt of a copy of an enhanced criminal record certificate, on request from the Secretary of State or his agents, as soon as possible thereafter submit information contained in the certificate to the Secretary of State in accordance with section 124 of the Police Act 1997.

## **Pupils**

18) Each **Mainstream Academy** will be an all ability inclusive<sup>4</sup> school whose requirements for:

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

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

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

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

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

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

### **Designated Teacher for Looked after Children**

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

### **Teachers and other staff**

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

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

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

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

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

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

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

- a) was transferred to the employment of the Company by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006; and
- b) immediately prior to the transfer, was employed to do specified work; and
- c) immediately prior to the transfer, was not;
  - i) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002 and registered with full registration with the appropriate body, or
  - ii) eligible to do specified work under the Education (Specified Work) (England) Regulations 2012 (SI 2012/762)

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

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

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

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

- a) advise in writing whether or not, in the preceding two years, there has been any formal consideration of that teacher's capability to perform their role at the Academy, or the school the Academy replaced; and
- b) provide written details of the concerns which gave rise to any such consideration of that teacher's capability, the duration of the proceedings and their outcome.

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

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

23A) Not used.

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

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

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

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

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



- a) each Academy shall be treated as falling within the meaning of “a school” under section 42A (2);
  - b) the Company shall be deemed to be the “responsible authorities” for the purposes of subsection 42A(3); and
  - c) references to registered pupils shall be treated as references to registered pupils at each Academy.
- 25) The Company shall make provision for the teaching of religious education and for a daily act of collective worship at each **Mainstream** Academy.
- 26) Where a **Mainstream Academy** is designated with a religious character in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010:
- a) subject to clause 28, and paragraph 4 of Schedule 19 to the School Standards and Framework Act 1998 which shall apply as if the Academy were a voluntary aided school with a religious character, the Company shall ensure that provision is made for religious education to be given to all pupils at the Academy in accordance with the tenets of the specified religion or religious denomination of the Academy;
  - b) subject to clause 28, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school with a religious character or a voluntary school, and as if references to ' the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;
  - c) the Company shall ensure that the quality of religious education given to pupils at the Academy and the contents of the Academy’s collective worship given in accordance with the tenets and practice of the specific religion or religious denomination are inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

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

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

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

c) the Company<sup>5</sup>:

(1) agrees that before making an application pursuant to the Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003 for each Academy to be designated as a school with religious character it shall seek the prior written consent of the Secretary of State<sup>6</sup>;

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

27AAA) Where a **Mainstream Academy** is listed in the Register of Independent Schools as having a religious ethos, but has not been designated with a religious character in accordance with section 124B of the School Standards and Framework Act 1998 or further to Section 6(8) of the Academies Act 2010, the Company agrees that paragraph 5(b) of Schedule 11 of the Equality Act 2010 shall not apply to the Academy.

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<sup>5</sup> This is required in order to ensure that the process by which an Academy becomes designated as a school with a religious character is comparable to that which applies for maintained schools.

<sup>6</sup> The Company must undertake consultation on the proposal for designation prior to seeking the Secretary of State's consent.

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

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

- a) subject to clause 28, the Company shall ensure that any such provision shall be made for religious education to be given to all pupils at the Alternative Provision Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998;
- b) subject to clause 28, the Company shall ensure that the Alternative Provision Academy complies with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a community, foundation or voluntary school which does not have a religious character, except that the provisions of paragraph 4 of that Schedule do not apply. The Alternative Provision Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule, the Secretary of State's consent to such an application not to be unreasonably withheld or delayed;

28) Section 71(1) – (6) and (8) of the School Standards and Framework Act 1998 shall apply as if each Academy were a community, foundation or voluntary school, and as if references to “religious education” and to “religious worship” in that section were references to the religious education and religious worship provided by each Academy in accordance with clauses 26 or 27 as appropriate.

28A) The Company shall, so far as practical, make provision for the teaching of religious education and for acts of collective worship at each **Special Academy**.

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

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

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

c) Regulation 5A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 shall apply as if the Academy were a community or foundation special school, and as if references to “religious education” and to “religious worship” in that section were references to the religious education and religious worship provided by the Academy in accordance with this clause.

28C) Where a **Special Academy** is listed in the Register of Independent Schools as having a religious ethos, the Company agrees that paragraph 5(b) of Schedule 11 of the Equality Act 2010 shall not apply to the Academy.

29) The Company 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 each Academy are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children. The Company shall also have regard to the requirements set out in section 405 of the Education Act 1996 which shall apply to each Academy as if it were a maintained school.

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

- a) references to any maintained school shall be treated as references to each Academy;
- b) references to registered pupils shall be treated as references to registered pupils at each Academy;
- c) references to the governing body or the local authority shall, in each case, be treated as references to the Company; and
- d) references to the head teacher shall, in each case, be treated as references to the

Principal of each Academy<sup>7</sup>.

## Assessment

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

- a) The Company shall ensure that each **Mainstream Academy** and each **Special 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; and the Company shall also do so for each **Alternative Provision Academy** unless there are exceptional reasons to do otherwise.
- b) The Company shall report to any body on assessments under clause 30 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 Company will submit each Academy to monitoring and moderation of its assessment arrangements as required by the Secretary of State.
- d) In relation to courses of education or training at an Academy which are funded from its GAG, the Company may offer:
  - (i) any course of education or training 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.

30A) Subject to clause 30B, the Company shall ensure that the following information is published on the website for each **Mainstream Academy**, for each **Alternative Provision Academy**, and where relevant for each **Special Academy**:

- a) If applicable, the school's most recent Key Stage 2 results as published by the

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<sup>7</sup> Please also see the Charity Commission guidance (CC9): "Speaking out: Guidance on Campaigning and Political Activities by Charities" <http://www.charity-commission.gov.uk/Publications/cc9.aspx>  
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Secretary of State under the following column headings in the School Performance Tables published on the Department for Education's website:

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

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

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

c) Information as to where and by what means the most recent report about the school published by the Chief Inspector may be accessed.

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

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

### **Exclusions Agreement**

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

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

- b) the Company permanently excludes a pupil from the Academy;

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

### **School Meals**

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

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

### **Charging**

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

- a) references to any maintained school shall be treated as references to an Academy;
- b) references to registered pupils shall be treated as references to registered pupils at an Academy;

- c) references to the governing body or the local authority shall, in each case, be treated as references to the Company;
- d) the Company may charge persons who are not registered pupils at an Academy for education provided or for facilities used by them at that Academy<sup>8</sup>.

### **International Education Surveys**

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

- (a) references to the governing body shall be treated as references to the Company; and
- (b) references to a community, foundation or voluntary school shall be treated as references to the Academy.

### **Pupil Premium**

34B) For **Mainstream Academies**, and those **Special Academies** that receive Pupil Premium Funding<sup>9</sup>, the Company shall publish in each Academy Financial Year information in relation to:

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

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<sup>8</sup> For clarification, such charging is separate and distinct from any arrangement that the Company may make with Commissioners concerning the referral of pupils to the **Alternative Provision Academy**.

<sup>9</sup> The Pupil Premium is additional funding for schools to support pupils from low-income families. In instances when those pupils are in special settings, the funding can either be allocated to the setting where they are being educated, or held by the local authority to spend specifically on additional educational support to raise the standard of attainment for these pupils. The authority must consult non-mainstream settings about how the Premium for these pupils should be used. Where Pupil Premium is allocated to the Special Academy by the Local Authority, the company must publish information as set out in clause 34B. There is no requirement for Alternative Provision settings to publish such information.



