

FREEDOM OF INFORMATION REDACTION SHEET

[KEARSLEY ACADEMY]

[KEARSLEY ACADEMY FUNDING AGREEMENT]

Exemptions in full

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.

Factors for disclosure

- further to the understanding of and increase participation in the public debate of issues concerning Academies.
- to ensure transparency in the accountability of public funds

Factors for Withholding

- To comply with obligations under the Data Protection Act

Reasons why public interest favours withholding information

Whilst releasing the majority **KEARSLEY ACADEMY FUNDING AGREEMENT** will further the public understanding of Academies, the whole of the **FUNDING AGREEMENT** cannot be revealed. If the personal information redacted was to be revealed under the FOI Act, Personal Data and Commercial interests would be prejudiced.

THE COMPANIES ACT 2006
& COMPANIES (REGISTRATION) REGULATIONS 2008 (SI 2008/3014)

A COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION
OF
ACADEMY FOR KEARSLEY

THE COMPANIES ACT 2006

& COMPANIES (REGISTRATION) REGULATIONS 2008 (SI 2008/3014)

SCHEDULE 2

A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

Regulation 2(b)

MEMORANDUM OF ASSOCIATION OF

ACADEMY FOR KEARSLEY

Each subscriber to this memorandum of association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

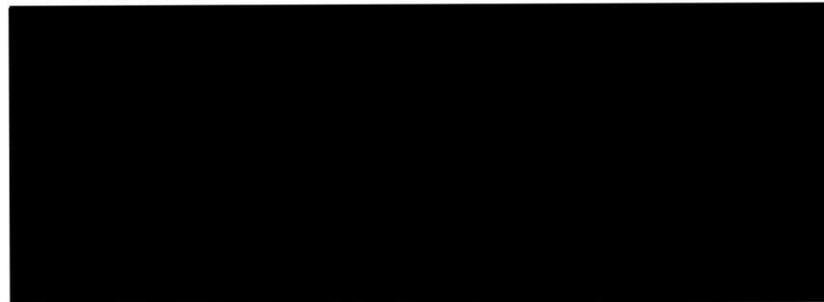
Name of each subscriber Authentication by each subscriber

Name:

Signature:

Northern Education
Associates Limited

On Behalf Of



Witness to the above signature:

Name:

Address:

Dated:

THE COMPANIES ACT 2006

A COMPANY LIMITED BY GUARANTEE

AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

OF

ACADEMY FOR KEARSLEY

THE COMPANIES ACT 2006

A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE

CAPITAL

ARTICLES OF ASSOCIATION

OF

ACADEMY FOR KEARSLEY

INTERPRETATION

1. In these Articles:-
 - a. "the Academy" means the school referred to in Article 4 and established by the Academy Trust;
 - b. "the Academy Trust" means the company intended to be regulated by these Articles and referred to in Article 2;
 - c. "Additional Governors" means the Governors appointed pursuant to Article 62;
 - d. "the Articles" means these Articles of Association of the Academy Trust;
 - e. "The Borough Council of Bolton" means The Borough Council of Bolton of Town Hall, Victoria Square, Bolton, BL1 1RU;
 - f. "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;
 - g. "financial expert" means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;
 - h. "Funding Agreement" means the agreement made under section 482 of the Education Act 1996 between the Academy Trust and the Secretary of State to establish the Academy;
 - i. "Further Governors" means the Governors appointed pursuant to Article 63 ;
 - j. "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 6.9(b) in relation to Articles 6.2-6.9;

- k. "the LA" means the local authority covering the area in which the Academy is situated;
- 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. "Principal Sponsor" means Northern Education Associates Limited, a subscriber to the Memorandum and Articles;
- q. "Principal" means the head teacher of the Academy;
- r. "the seal" means the common seal of the Academy Trust if it has one;
- s. "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;
- t. "Secretary of State" means the Secretary of State for Children, Schools and Families or successor;
- u. "Sponsor Governors" means the Governors appointed in accordance with Article 50 and "Sponsor Governor" shall mean any one of these Governors;
- v. "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;
- w. "the United Kingdom" means Great Britain and Northern Ireland;
- x. words importing the masculine gender only shall include the feminine gender. Words importing the singular number shall include the plural number, and vice versa;
- y. 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;

- z. 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 Academy for Kearsley (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 offering a broad curriculum with a strong emphasis on, but in no way limited to Mathematics and Computing and Leadership ("the Academy").
- 5. In furtherance of the Objects 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 Objects and to make all reasonable and necessary provision for the payments of pensions and superannuation to staff and their dependants;
 - (e) to establish or support, whether financially or otherwise, any charitable trusts, associations or institutions formed for all or any of the Objects;

- (f) to co-operate with other charities, other independent and maintained schools, voluntary bodies and statutory authorities operating in furtherance of the Objects and to exchange information and advice with them;
- (g) to pay out of funds of the 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 at Springfield Road, Kearsley, Bolton, Lancashire, BL4 8HY;
- (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 the areas of curricular specialisation of the Academy and 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 Company to borrow and raise money for the furtherance of the Objects 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 objects (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;
the performance of the investments is reviewed regularly with the Governors;
- (iii) the Governors are entitled to cancel the delegation arrangement at any time;
- (iv) the investment policy and the delegation arrangement are reviewed at least once a year;
- (v) 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
- (vi) 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 Objects.

6.1 The income and property of the Academy Trust shall be applied solely

towards the promotion of the Objects.

6.2 None of the income or property of the Company may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the Company. Nonetheless a member of the 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 and any representative of the staff at the Academy appointed in accordance with Articles 46.e, 52A, 52B and 52C 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 (a Governor pursuant to Articles 46 and 52) and/or any representative of the staff at the Academy appointed in accordance with Articles 46.e, 52A, 52B and 52C, 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 In Articles 6.2-6.9:

(a) "company" 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
- (v) 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 483 of the Education Act 1996) 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 Objects 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 Memorandum or Articles of Association without the explicit consent of the Secretary of State.
11. No alteration or addition shall be made to or in the provisions of the Memorandum or Articles of Association 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 Principal Sponsor;
 - b. up to 4 persons appointed by the Principal Sponsor;
 - c. The Borough Council of Bolton;
 - d. 1 person appointed by the Secretary of State, in the event that the Secretary of State appoints a person for this purpose;
 - e. the chairman of the Governors; and
 - f. any person appointed under Article 16 ;
13. Each of the persons entitled to appoint Members in Article 12 shall have the right from time to time by written notice delivered to the Office to remove any Member appointed by them and to appoint a replacement Member to fill a vacancy whether resulting from such removal or otherwise.
14. If any of the persons entitled to appoint Members in Article 12:

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

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

15. Membership will terminate automatically if:

- a) a Member (which is a corporate entity) ceases to exist and is not replaced by a successor institution;
- b) a Member (which is an individual) dies or becomes incapable by reason of 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. Four 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 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.
 - (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 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 and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent continuance of a meeting for the transaction of any business other than the question on which the poll is demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
34. No notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In other cases at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
35. A resolution in writing agreed by such number of members as required if it

had been proposed at a general meeting shall be as effectual as if it had been passed at a general meeting duly convened and held and 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 appointof.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 Governors 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 9 Sponsor Governors, appointed under Article 50;
 - b. 1 LA governor if appointed under Article 51 ;
 - c. 1 parent governor appointed under Articles 53-58 ;
 - d. 1 Governor appointed by The Borough Council of Bolton under Article 50 in its capacity as co-sponsor of the Academy;
 - e. 1 Governor appointed from among the staff at the Academy;
 - f. 1 Governor appointed from the local community;
 - g. the Principal;
 - h. any Additional Governors, if appointed under Article 62 ; and

- i. any Further Governors, if appointed under Article 63 .
- 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 Principal Sponsor shall appoint the Sponsor Governors and may appoint himself as a Sponsor Governor. The Borough Council of Bolton may appoint 1 Governor.
- 51. The LA may appoint the LA governor.
- 52. The Principal shall be treated for all purposes as being an ex officio Governor.
- 52A. The staff governor shall be elected by the teachers and such other staff as shall be employed by the Academy Trust at the time of the election from amongst their number.
- 52B. The Governing Body shall make all necessary arrangements for and determine all other matters relating to any election of the staff governor. Any election of the staff governor which is contested shall be held by secret ballot.
- 52C. Where a vacancy for the staff governor is required to be filled by election the Governing Body shall take such steps as are reasonably practical to secure that all teachers and other staff employed by the Academy Trust at that time are informed of the vacancy and that it is required to be filled by election, informed that they are entitled to stand as a candidate and vote at the election and given an opportunity to do so.
- 53. Subject to Article 57, the Parent Governor(s) 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 3 co-opted Governors. 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.

APPOINTMENT OF ADDITIONAL GOVERNORS

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

- i) that the standards of performance of pupils at the Academy is unacceptably low and is likely to remain so unless the Secretary of State exercises his powers under Article 62 , or
- ii) that there has been a serious breakdown in the way the Academy is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or
- iii) that the safety of pupils or staff of the Academy is threatened (whether by a breakdown of discipline or otherwise); and

(b) the Secretary of State has previously informed the Governors of the matters on which that conclusion is based; and

(c) those matters have not been remedied to the Secretary of State's satisfaction within a reasonable period.

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 (a);

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; and

c) the Secretary of State has given reasonable notice in writing to the Governors that he proposes to exercise his powers under this Article.

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.

64. Within 5 days of the Secretary of State appointing any Further Governors in accordance with clause 63, any Sponsor Governors holding office immediately preceding the appointment of such Governors, shall resign immediately and the Principal Sponsor's power to appoint Governors under Article 50 shall cease.

TERM OF OFFICE

65. The term of office for any Governor shall be 4 years, save that this time limit shall not apply to either the Principal or the Principal Sponsor (during any period that the Principal Sponsor is a Governor). 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.

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 of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999; or
 - b) disqualified from working with children under sections 28, 29, 29A and 29B 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)(a) 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.
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 Memorandum and 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 Memorandum or 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 Objects 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 Objects;

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 **6.5-6.9** .

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 -
- 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
 - b) a copy of the agenda for the meeting;
- provided that where the chairman or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman, so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda thereof are given within such shorter period as he directs.
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 111a 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 Article 122, 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 every 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 provisions of the Charities Act 2006 and Parts 15 and 16 of the Companies Act 2006.

ANNUAL REPORT

127. The Governors shall comply with their obligations under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual report and its transmission to the Charity Commission.

ANNUAL RETURN

128. The Governors shall comply with their obligations under the Charities Act 1993 and 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 and its transmission to the Charity Commission and the Registrar of Companies respectively.

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;

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 Memorandum or 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).

ATTACHMENTS AND ANNEXES

ANNEX B

THE ACADEMY FOR KEARSLEY (Working title)

ANNEX B TO THE MASTER FUNDING AGREEMENT

ADMISSION OF PUPILS TO THE ACADEMY FOR KEARSLEY

THE ADMISSION OF PUPILS TO THE ACADEMY FOR KEARSLEY

GENERAL

1. This document sets out the admissions arrangements for The Academy for Kearsley and forms an annex to the Funding Agreement for The Academy for Kearsley. This annex may be amended in writing at any time by agreement between the Secretary of State and The Academy for Kearsley Trust.

2. The Academy for Kearsley Trust will act in accordance with, and will ensure that the 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 Children, Schools and Families ("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 law to "admission authorities" shall be deemed to be references to the governing body of The Academy for Kearsley Trust.

3. Notwithstanding the generality of paragraph 2 of this Annex B, The Academy for Kearsley Trust will take part in the Admissions Forum set up by Bolton MBC and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by Bolton MBC and the local in-year fair access protocol.

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

- (a) direct The Academy for Kearsley Trust to admit a named pupil to The Academy for Kearsley on application from a local authority. Before doing so the Secretary of State will consult The Academy for Kearsley Trust.
- (b) direct The Academy for Kearsley Trust to admit a named pupil to The Academy for Kearsley if The Academy for Kearsley 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.

5. The Academy for Kearsley Trust shall ensure that parents and 'relevant children' will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of The Academy for Kearsley Trust. The Independent Appeal Panel will be independent of The Academy for Kearsley Trust. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Children, Schools and Families as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

6. The Academy for Kearsley Trust shall prepare guidance for parents and relevant children about how the appeals process will work and provide them with a named contact who can answer any enquiries they may have about the process. The Academy for Kearsley Trust may, if it chooses, enter into an agreement with a LA or any other organisation for it to recruit, train and appoint appeal panel members, and to arrange for the process to be independently administered and clerked.

7 In paragraphs 5 and 6 above, '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.

Relevant Area

8 Subject to paragraph 9, "relevant area for consultation" means the "Relevant Area" determined by the local authority for maintained schools in the area (in accordance with the meaning of "Relevant Area" within the Schools Admissions Code).

9 If the Academy does not consider this meaning to be appropriate, it must apply to the Secretary of State by 1 August for a determination, setting out the reasons for this view.

10. The Secretary of State will consider the Academy's application and will by 30 September either:

- a. determine the area for consultation; or
- b. determine that the meaning within paragraph 8 should apply.

11. The Secretary of State may consult the local authority before making such a determination

12. Within 14 days of the Secretary of State's determination, the Academy will notify the consultees listed in paragraph 14 of the determination

13. In the event of a paragraph 10a determination, a map of the relevant area (or a list of post codes) will be attached as an appendix to this annex B.

ANNUAL PROCEDURES FOR DETERMINING ADMISSION ARRANGEMENTS

Consultation

14. The Academy for Kearsley Trust shall consult the following parties on the

Academy's proposed admission arrangements for a minimum of eight weeks between 1 November and 1 March in the 'Determination Year'¹:

- a) Bolton MBC
- b) The admission forum for Bolton MBC
- c) Any other admission authorities for primary and secondary schools located within the relevant area for consultation.
- d) Any other governing body for primary and secondary schools (as far as not falling within paragraph c)) located within the relevant area for consultation.
- e) Affected admission authorities in neighbouring local authority areas.
- f) Parents living in the relevant area for consultation whose children have attained the age of two but are not above compulsory school age and who are or will be eligible to apply to be admitted to the Academy;
- g) Community groups which the Academy considers relevant;
- h) Teaching unions if the consultation includes an increase in admission number.

Such consultation shall be in line with the requirements of the Codes and relevant admissions legislation, which at the date of this Agreement is section 89 of the School Standards and Framework Act 1998 as amended, and Regulations under that section.

15. From 2011-12, and for subsequent years, consultation in line with paragraph 14 is not required in any year where the following conditions are met:

- a) the admission arrangements were consulted upon in one or both of the previous two years; and
- b) there have been no changes, or proposed changes, since the last consultation.

16. As soon as any changes are made to arrangements, or proposed, the consultation cycle in paragraph 14 must be followed for the next determination year.

The Academy for Kearsley Trust Determination of Admission Arrangements

17. The Academy for Kearsley Trust will consider comments made by those consulted in accordance with paragraph 14, including any requests to amend the proposed admission number, before determining the admission arrangements for the Academy.

18. The Academy for Kearsley Trust will determine the Academy's admission arrangements annually by 15 April of the Determination Year and notify consultees listed in paragraph 14 what has been determined within 14 days of that decision being made.

¹ A 'determination year' is the Academy Financial Year beginning two years before the Academy Financial Year which the admissions arrangements will be for e.g. consultation to end in March 2009 and determination to be in April 2009 for admissions in September 2010

Representations about admission arrangements

19. Where the Academy for Kearsley Trust has determined the Academy's admission arrangements and notified all consultees listed in paragraph 14, if any of those persons or bodies object to the Academy's admission arrangements, including the proposed admission number, they can make representations to the Secretary of State. Any representations must be made by 30 June in the Determination Year.

Secretary of State's Consent for Changes to Admission Arrangements

20. Where the admission arrangements determined in a Determination Year in accordance with paragraph 18 are different from the admission arrangements currently in existence for the Academy, The Academy for Kearsley Trust shall by 30 June in the Determination Year apply to the Secretary of State for him to consent to such amended admission arrangements.

Secretary of State's Power to Accept, Modify or Reject Admission Arrangements

21. Where the Secretary of State has received any representations made in accordance with paragraph 19, the Secretary of State must consult the The Academy for Kearsley Trust on such representations. Following such consultation, by 31 July in the Determination Year the Secretary of State may direct that The Academy for Kearsley Trust amends the proposed admission arrangements for the Academy. The Academy for Kearsley Trust shall comply with any such direction.

22. Where the Secretary of State has received an application made in accordance with paragraph 20 seeking his consent to any amended admission arrangements, the Secretary of State must by 31 July in the Determination Year either approve the amended admission arrangements or direct that the amended admission arrangements are not implemented or must be modified. The Academy for Kearsley Trust must comply with any such direction.

Publication of Admission Arrangements

23. The Academy for Kearsley Trust shall each Determination Year publish The Academy for Kearsley's agreed admission arrangements by:

- a) copies being sent to the persons consulted in paragraph 14;
- b) copies being sent to primary and secondary schools in Bolton MBC area;
- b) copies being sent to the offices of Bolton MBC;
- c) copies being made available without charge on request from the Academy;
- d) copies being sent to public libraries in the area of Bolton MBC for the purposes of being made available at such libraries for reference by parents and other persons.
- e) a copy being uploaded to the Academy's website .

24. The published admission arrangements will set out:

- a) the name and address of The Academy for Kearsley and contact details;
- b) a summary of the admission policy, including full oversubscription criteria and any arrangements for post-16 admission;
- c) a statement of any religious affiliation if relevant;
- d) numbers of places and applications for those places in the previous year; and
- e) arrangements for hearing appeals.

Proposed Changes to Admission Arrangements by The Academy for Kearsley After Arrangements Have Been Published

25 Subject to paragraph 26, once the Academy's admission arrangements have been determined for a particular year and published, The Academy for Kearsley Trust will not make any change to such arrangements unless there is a major change of circumstances and the following procedures have been followed:

- a) The Academy for Kearsley Trust has consulted those who are required to be consulted under paragraph 14 above on the proposed variation;
- b) following such consultation, The Academy for Kearsley Trust has applied to the Secretary of State to approve the change setting out:
 - i) the proposed change;
 - ii) reasons for wishing to make such a change;
 - iii) any comments or objections to the proposal from those consulted; and
- c) following such application, the Secretary of State has provided his consent to the proposed variation.

26 The Academy for Kearsley Trust shall following the prior written agreement or direction of the Secretary of State vary the Academy's admission arrangements where such changes are necessary to ensure compliance with the relevant provisions of admissions law or the Codes as they apply to maintained schools. Such changes may be made at any time.

27 Any changes to the Academy's admission arrangements brought about through the variation processes in paragraphs 25 or 26 above must be published within the Academy's prospectus and on its website and be communicated within 7 days to those persons who must be consulted under paragraph 14.

28 The Academy for Kearsley Trust must make arrangements for a parent of a child who has attained the age of two but is not above compulsory school age and who has been, is or will be eligible to apply to be admitted to the Academy to make representations to the Secretary of State that any aspect of the Academy's admission arrangements does not comply with the relevant provisions of admissions law or the Codes as they apply to maintained schools.

29 Where a representation is made in accordance with paragraph 28, the Secretary of State may, after consulting The Academy for Kearsley Trust, direct that The Academy for Kearsley Trust modify its arrangements for the admission of pupils to the Academy so that they comply with the relevant provisions of admissions law and the Codes as they apply to maintained schools. The Academy for Kearsley Trust must comply with any such direction.

30 Records of applications and admissions to the Academy shall be kept by The Academy for Kearsley Trust for a minimum period of ten years and shall be open for inspection by the Secretary of State.

PROCEDURE FOR ADMITTING PUPILS TO THE ACADEMY

Admission Number(s)

31. The Academy for Kearsley Trust has the following agreed admission number[s] for the Academy for the year 2010/2011 and, subject to any changes approved or required by the Secretary of State, for subsequent years:

a) 150 for pupils in Year 7

b) 25 for pupils in year 12.

- The Academy for Kearsley will have capacity for 200 pupils in the sixth form, with 100 places in year 12. It will not admit external applicants unless it is undersubscribed by pupils progressing from its own year 11 and in such circumstances it will apply the same academic entry requirements as it does to pupils already on roll in the Academy. If a tie-break is necessary to determine who is admitted, it will apply the oversubscription criteria in paragraph 38.

32. In any specific year, The Academy for Kearsley Trust may set a higher admission number than The Academy for Kearsley's agreed admission number for an applicable year group. Before setting an admission number higher than its agreed admission number, The Academy for Kearsley Trust will consult those listed at paragraph 14. Pupils will not be admitted in any year group above the published admission number for that year group unless exceptional circumstances apply and such circumstances shall be reported to the Secretary of State.

33. If the Academy admits a total of 26 pupils in excess of its admission number in any 3 year period it will determine a higher admission number, after consulting those bodies listed at paragraph 14.

Process of Application

34. Arrangements for applications for places at The Academy for Kearsley will be made in accordance with Bolton MBC's co-ordinated admission arrangements and will be made on the Common Application Form provided and administered by the relevant local authority.

35. The Academy for Kearsley Trust will use Bolton MBC's timetable for applications to The Academy for Kearsley each year (exact dates within the months may vary from year to year). This will fit in with the timetable for the co-ordination of

admission arrangements within Bolton LA as agreed by the, Admissions Forum, Bolton LA, local schools and Academies

a) By September - The Academy for Kearsley Trust will publish in The Academy for Kearsley's prospectus information about the arrangements for admission, including oversubscription criteria, for the following September (e.g. in September 2007 for admission in September 2008). This will include details of open evenings and other opportunities for prospective pupils and their parents to visit the school. The Academy for Kearsley Trust will also provide information in relation to The Academy for Kearsley to the Bolton LA for inclusion in the composite prospectus, as required;

b) September/October - The Academy for Kearsley Trust will provide opportunities for parents to visit The Academy for Kearsley

c) October - Common Application Form to be completed and returned to the pupil's home LA to administer

d) Bolton LA sends The Academy for Kearsley applications to The Academy for Kearsley Trust;

e) The Academy for Kearsley Trust sends list of pupils to be offered places at The Academy for Kearsley to Bolton LA;

f) February - Bolton LA applies agreed scheme for own schools, informing other neighbouring LA's of offers to be made to their residents.

g) 1st March offers made to parents.

36. From 2011-12 there will be a national closing date for applications as follows:

a) 31 October for secondary applications; and

b) 15 January for Primary applications

The Academy will ensure its application processes enable parents to apply before these deadlines.

Consideration of Applications

37. The Academy for Kearsley Trust will consider all applications for places at The Academy for Kearsley. Where fewer than the published admission number(s) for the relevant year groups are received, The Academy for Kearsley Trust will offer places at The Academy for Kearsley all those who have applied.

Procedures where The Academy for Kearsley is oversubscribed

38. Admissions at age 11, Year 7

The Academy for Kearsley is committed to adopt the same admission arrangements and oversubscription criteria as the L.A. Where the number of applications for admission is greater than the published admission number, after the admission of pupils with statements of Special Educational Needs where The Academy for Kearsley is named on the statement, the following criteria will be

applied in order:

Children in public care.

Other children who are considered "vulnerable" as defined in the LA Admissions Policy, whose application is supported by Social Services.

Children who have older siblings at the Academy at the date of admission. In this context the term "sibling" includes full, step, half, foster and adopted brothers and sisters living at the same address.

Children with a certified medical condition or disability which makes it better for them to attend the Academy rather than another school. Strong professional medical evidence must support the application.

Proximity. This is defined in the L.A. Admissions Policy as: "Shortest walking distance to the preferred school, minus shortest walking distance to the nearest/next nearest school." In the event of a tie-break situation, priority will be given to the child who has the longer journey to the nearest/next nearest school.

Post 16 admission criteria

39. From September 2013, the Academy will operate a 16-19 Learning Centre for a maximum of 200 students. It will operate an open enrolment policy with no minimum academic requirements, but students will need to satisfy minimum entry requirements for the courses for which they intend to follow. If applicants fail to meet the minimum course requirements they will be given the option of pursuing any alternative courses for which they do meet the minimum academic requirements.

These academic entry requirements will be the subject of consultation with those listed in paragraph 14 and published in the academy's prospectus and in the LA composite admissions process.

Should there be more internal applications than places available internal students would fill all the available places, and no external applicants admitted. Students will be offered their chosen courses if there are sufficient spaces on them. Where options are oversubscribed students will be offered alternative courses.

The Academy will admit a number of external students each year if places are available. Where there more external applicants than places available, priority would be given on the same basis as admissions at age 11.

If the Learning Centre is undersubscribed, all applicants meeting the minimum academic entry requirements for courses they wish to study, will be admitted.

The Academy will admit any student with a Statement which named the Academy, and to which the Academy had agreed

40. There will be a right of appeal to an Independent Appeals Panel for internal pupils refused transfer and external applicants refused admission.

Operation of waiting lists

41. Subject to any provisions regarding waiting lists in Bolton MBC's co-ordinated admission scheme, the Academy will operate a waiting list for each year group. Where in any year The Academy for Kearsley receives more applications for places than there are places available, a waiting list will operate until at least the end of the first term in December. This will be maintained by The Academy for Kearsley Trust and it will be open to any parent to ask for his or her child's name to be placed on the waiting list, following an unsuccessful application.

42. Children's position on the waiting list will be determined solely in accordance with the oversubscription criteria set out in paragraph 38, [or for post-16 paragraph 39] above. Where places become vacant they will be allocated to children on the waiting list in accordance with the oversubscription criteria.

Arrangements for Admitting Pupils to Other Year Groups, Including To Replace any Pupils who have Left The Academy for Kearsley

43. From 2011-2012 local authorities will co-ordinate admissions for in-year applications and for applications for year groups other than the normal point(s) of entry. This will not affect Academies' right to determine which applicants have priority for admission.

44. Subject to any provisions in Bolton MBC's co-ordinated admission arrangements relating to applications submitted for years other than the normal year of entry, The Academy for Kearsley Trust will consider all such applications and if the year group applied for has a place available, admit the child unless one of the permitted reliefs apply. If more applications are received than there are places available, the oversubscription criteria in paragraph 38 or for post-16 places, paragraph 39 shall apply. Parents whose application is turned down shall be entitled to appeal.

Arrangements for Admission of pupils as The Academy for Kearsley builds to its Full Capacity

45. The Academy for Kearsley will open on 1 September 2010 with a Published Admission Number relating solely to pupils in Year 7 and, where relevant, Year 12. Pupils in subsequent Years will have been transferred automatically from the predecessor school, George Tomlinson School, which will close on 31 August 2010.

46. Admission to Year groups without a Published Admission Number will be based upon the size of teaching groups already existing in The Academy for Kearsley and the efficient use of resources.

47. There will be a right of appeal to an Independent Appeal Panel for unsuccessful applicants.

Annex C

Arrangements for pupils with SEN and disabilities at The Academy for Kearsley

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

1. The Academy for Kearsley Trust shall have regard to the Special Educational Needs Code of Practice (2001) and any guidance issued by the Secretary of State relating to sections 316 and 316A of the Education Act 1996.

Duties in relation to pupils with SEN

2. The Governing Body of the Academy for Kearsley Trust shall designate the Principal, the chair of governors or another governor to be the responsible person for the purposes of the following duties in relation to pupils with SEN.

3. The Governing Body of the Academy for Kearsley Trust shall:

- use their best endeavours, in exercising their functions in relation to the school, to secure that, if any registered pupil has special educational needs, the special educational provision which the pupil's learning difficulty calls for is made;
 - secure that, where the responsible person has been informed by a local authority that a registered pupil has special educational needs, those needs are made known to all who are likely to teach the pupil;
 - secure that the teachers in the school are aware of the importance of identifying, and providing for, those registered pupils who have special educational needs; and
- ® consult Bolton MBC and the governing bodies of other schools in the area, to the extent that this is necessary for co-ordinating provision for pupils with SEN.

4. Where a child who has special educational needs is being educated in the Academy, those concerned with making special educational provision for the child shall secure 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.

5. The Academy prospectus shall include details of the Academy for Kearsley Trust's policy for pupils with SEN and in particular shall include the information specified in Schedule 1 to the Education (Special Educational Needs) (Information) Regulations 1999 as amended or re-enacted from time to time. It shall also include 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 Disability Discrimination Act 1995).

Admissions

6. The Academy for Kearsley Trust shall ensure that pupils with SEN are admitted on an equal basis with others in accordance with its admissions policy.

7. 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 shall give the Academy for Kearsley 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 for Kearsley Trust shall consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children; and where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Academy for Kearsley Trust shall have regard to the relevant guidance issued by the Secretary of State to maintained schools.

8. If the Academy for Kearsley 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 for Kearsley Trust cannot take reasonable steps to secure this compatibility.

9. After service by the Academy for Kearsley Trust on the LA of any notice (further to paragraph 8 above) stating that it does not agree with the LA's proposal that the Academy be named, the Academy for Kearsley Trust shall seek to establish from the LA, as soon as is reasonably practicable, whether or not the LA agrees with the Academy for Kearsley Trust. If the LA notifies the Academy that it does not agree with the Academy's response, then the Academy for Kearsley Trust must immediately contact the SEN Dispute Resolution Service and attempt to resolve the disagreement with the LA through negotiation with the LA.

10. In the event that the disagreement between the Academy for Kearsley Trust and the LA is not resolved through the SEN Dispute Resolution, the Academy for Kearsley Trust may ask the Secretary of State to determine whether the Academy should be named. 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 7 above, be substituted for the Secretary of State's decision.

12. Where the Academy for Kearsley Trust has consented to the Academy being named in a child's statement of SEN, or the Secretary of State or the First-tier Tribunal (Special Educational Needs and Disability) have determined that it should be named, the Academy for Kearsley Trust shall admit the child to the Academy notwithstanding any provision of Annex B to this agreement.

THE ACADEMY FOR KEARSLEY (Working title)

ANNEX D TO THE MASTER FUNDING AGREEMENT

Serious incidents of misbehaviour leading to fixed period or permanent exclusion

General Duties

1. Subject to the exceptions in paragraph 4, The Academy for Kearsley Trust shall act and shall ensure that the Principal shall act in accordance with the law on exclusions as if The Academy for Kearsley 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 for Kearsley Trust.
2. Without limiting the generality of paragraph 1, The Academy for Kearsley Trust shall ensure that the Local Authority is informed of an exclusion decision in the same circumstances as required by maintained schools under the law on exclusions.
3. Subject to the exceptions in paragraph 4, The Academy for Kearsley Trust shall ensure that in carrying out their functions the Principal, the Governing Body and the Independent Appeal Panel (established in accordance with paragraph 5) have regard to the Secretary of State's guidance on exclusions¹, as if The Academy for Kearsley were a maintained school.
4. The exceptions to the duties imposed under paragraphs 1 and 3 are:
 - Ⓜ The Academy for Kearsley Trust, and not the Local Authority, is responsible for making arrangements for Independent Appeal Panels to hear appeals against permanent exclusions where the governors do not direct reinstatement;
 - a the Governing Body 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 at the request of a parent; and
 - subject to The Academy for Kearsley Trust's obligations under clause 52 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.

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 DCSF website at: <http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance/>. 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.

Independent Appeal Panels

5. The Academy for Kearsley Trust shall, in relation to the Academy, carry out the functions assigned to the Local Authority to establish and manage the appeal procedure for exclusions under the law on exclusions, as if the Academy were a maintained school.

6. Independent Appeals Panels must be impartial and constituted in accordance with the detailed provisions of paragraphs 123-126 of the Secretary of State's guidance on exclusions. The Academy for Kearsley Trust shall arrange suitable training for appeal panel members and clerks.

7. The Independent Appeal Panel's decision is final and binding on The Academy for Kearsley Trust. A parent may seek a judicial review of an Independent Appeal Panel's decision. A parent may not, however, appeal to the Commissioner for Local Administration (the Local Government Ombudsman) about maladministration because the Commissioner's remit is limited to considering the conduct of appeal panels constituted by local authorities.