

**DEED OF NOVATION AND VARIATION
OF THE
FUNDING AGREEMENT FOR MONTGOMERY HIGH SCHOOL**

THIS DEED OF NOVATION AND VARIATION is made this 1st day of February 2010 between the following parties:

1. The State of New South Wales, as represented by the Minister for Education and Communities, and

2. The Catholic Education Office for the Diocese of Parramatta, as represented by the Executive Director of Catholic Education Parramatta.

WHEREAS the parties have agreed to vary the Funding Agreement for Montgomery High School, dated 1st February 2008, and

AND WHEREAS the parties have agreed to novate the Funding Agreement for Montgomery High School, dated 1st February 2008, to this Deed of Novation and Variation;

IT IS HEREBY AGREED that the Funding Agreement for Montgomery High School, dated 1st February 2008, is hereby varied and novated to this Deed of Novation and Variation.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals at Parramatta, New South Wales, this 1st day of February 2010.

Signed: _____
Minister for Education and Communities
State of New South Wales

Signed: _____
Executive Director of Catholic Education Parramatta
Catholic Education Parramatta

The Parties to this Deed are:

(1) **THE SECRETARY OF STATE FOR EDUCATION** of Sanctuary Buildings, Great Smith Street, London SW1P 3BT (the "**Secretary of State**");

(2) **FYLDE COAST ACADEMY TRUST**, a charitable company incorporated in England and Wales with registered company number 8364709 whose registered address is at The Blackpool Sixth Form College, Blackpool Old Road, Blackpool, Lancashire, FY3 7LR ("**FCAT**"); and

(3) **MONTGOMERY HIGH SCHOOL**, a charitable company incorporated in England and Wales with registered company number 7984008 whose registered address is at Montgomery High School, All Hallows Road, Bispham, Blackpool, Lancashire, FY2 0AZ (the "**Company**"),

together referred to as the "Parties".

INTRODUCTION

- A. Montgomery High School is an academy within the meaning of the Academies Act 2010 (the "academy") and is currently operated by the Company (a multi academy trust).
- B. The Secretary of State and the Company entered into a Funding Agreement on 1 April 2012 (the "**Agreement**") for the maintenance and funding of the academy (attached as Schedule 1).
- C. It is proposed that, with effect from 00.01 am on 1 October 2014 ("Transfer Date"), FCAT will assume responsibility for the management and operation of the academy in succession to the Company.
- D. The Parties wish to novate the Agreement to FCAT and the Secretary of State and FCAT wish to vary the terms of the Agreement subject to the provisions of this Deed.

LEGAL AGREEMENT

- 1. Any word or phrase used in this Deed shall, if that word or phrase is defined in the Agreement, bear the meaning given to it in the Agreement.

NOVATION

2. The Company transfers all its rights and obligations under the Agreement to FCAT with effect from the Transfer Date. With effect from the Transfer Date, FCAT shall enjoy all the rights and benefits of the Company under the Agreement and all references to the Company in the Agreement shall be read and construed as references to FCAT.

3. Not used.

4. With effect from the Transfer Date, FCAT agrees to perform the Agreement and be bound by its terms in every way as if it were the original party to it in place of the Company.

5. With effect from the Transfer Date, The Secretary of State agrees to perform the Agreement and be bound by its terms in every way as if FCAT were the original party to it in place of the Company.

OBLIGATIONS AND LIABILITIES

6. With effect from the Transfer Date, the Company and the Secretary of State release each other from all future obligations to the other under the Agreement.

7. Each of the Company and the Secretary of State release and discharge the other from all claims and demands under or in connection with the Agreement arising after the Transfer Date.

8. Each of FCAT and the Secretary of State will have the right to enforce the Agreement and pursue any claims and demands under the Agreement against the other with respect to matters arising before, on or after the date of this Deed as though FCAT were the original party to the Agreement instead of the Company.

INDEMNITY

9. The Company agrees to indemnify FCAT against any losses, liabilities, claims, damages or costs that FCAT suffers or incurs under or in connection with the Agreement as a result of the Company's failure to perform or satisfy its obligations under the Agreement on or before the Transfer Date.

10. FCAT agrees to indemnify the Company against any losses, liabilities, claims, damages or costs the Company suffers or incurs under or in connection with the Agreement as a result of FCAT's failure to perform or satisfy its obligations under the Agreement on or after the Transfer Date.

VARIATION

11. The Secretary of State and FCAT agree that with effect from the Transfer Date the Agreement shall be amended and restated so as to take effect in the form set out in Schedule 2 to this Deed.

12. As varied by this Deed, the Agreement shall remain in full force and effect.

13. This Deed shall be governed by and interpreted in accordance with English law.

14. The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this deed or its subject matter or formation (including non-contractual disputes or claims).

COUNTERPARTS

15. This Deed may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

IN WITNESS whereof this Deed has been executed by the parties hereto and is intended to be and is hereby delivered on the last date listed below.

EXECUTED as a deed by affixing the corporate seal)
of **THE SECRETARY OF STATE FOR EDUCATION**)
authenticated by:-)

[Handwritten Signature]
.....

Duly authorised by the **SECRETARY OF STATE FOR EDUCATION**

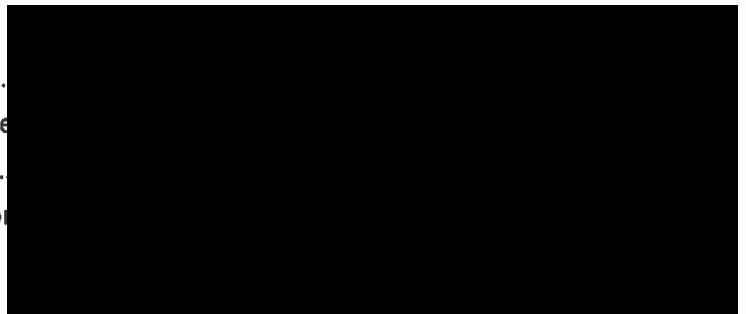
Date: *30/9/14*
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EXECUTED as a deed by **FCAT**
acting by one director in the
presence of a witness:

Director *F.M. Greaves*
Print name..... *F.M. Greaves*
Date *29.9.14*

Witness .
Print name
Address....
Occupation



EXECUTED as a deed by **the Company** acting by one director in the presence of a witness:

Director Orla.....

Print name A. NEALE.....

Date

Witness E. Trotter

Print name

Address

Occupation



Schedule 1
Funding Agreement

Schedule 2
Amended Funding Agreement