

## DEED OF VARIATION TO THE FUNDING AGREEMENT

THIS DEED is made the 30 day of October 2013

### BETWEEN

- 1) The Secretary of State for Education (the "Secretary of State"); and
- 2) Alban City Free School Limited, (the "Company") a charitable company incorporated in England and Wales with registered number 07644208, together, the "Parties".

### INTRODUCTION

- A. The Parties entered into a funding agreement executed as a deed on 30 March 2011 (the "Funding Agreement") relating to the establishment, maintenance and funding of an Academy in accordance with the Funding Agreement.
- B. The Parties now wish to vary and amend certain terms and conditions of the Funding Agreement in accordance with the terms of this Deed.
- C. This Deed is supplemental to the Funding Agreement.

### 1. INTERPRETATION

- 1.1 Words, expressions and interpretations used in this Deed shall, unless the context expressly requires otherwise, have the meaning given to them in, and shall be interpreted in accordance with, the Funding Agreement.

### 2. VARIATION OF THE FUNDING AGREEMENT

- 2.1 The Parties agree that with effect from the date of this Deed the Funding Agreement shall be amended as follows:

Clauses 43 – 43D shall be deleted and replaced with:

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

*43A) The Secretary of State shall in advance of each Academy Financial Year for the Academy, at such time or times as he shall determine, request that the Academy Trust provides an estimate of the number of pupils on roll in the following September for the Academy for the purposes of determining GAG for an Academy Financial Year, and the Academy Trust shall provide the requested estimate (such estimate to be based on an objective assessment of numbers) to the Secretary of State as soon as reasonably practicable.*

*43AA) Once the condition specified in clause 43B has been satisfied with respect to the Academy for the Academy Financial Year for which*

*funding is being calculated, the basis of the pupil number count for the purpose of determining GAG for the Academy will be:*

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

*b) for the pupil number count for pupils in Year 12 and above, the formula which for the time being is in use for maintained schools for the calculation of pupil numbers for pupils in Year 12 and above for the purpose of calculating their level of funding.*

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

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

*43D) For any Academy Financial Year in which GAG for the Academy is calculated in accordance with clause 43AA, no adjustment will be made to the equivalence funding element in the following Academy Financial Year's equivalence funding element of GAG unless the Academy Trust demonstrates to the satisfaction of the Secretary of State that there has been a significant impact on balances. For any other element of GAG the Secretary of State may make adjustments to recognise a variation in pupil numbers from that used to calculate the element of grant in question; the basis of these will be set out in the Annual Letter of Funding or its equivalent."*

Clause 65 be deleted and replaced with:

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

*Trust."*

2.2 Except as varied by this Deed, the Funding Agreement shall remain in full force and effect.

**3. Governing law and jurisdiction**

3.1 This Deed, and any disputes or claims arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with English law.

3.2 The parties irrevocably agree that the English courts 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).

**4. Counterparts**

4.1 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 date first above written.

**EXECUTED** as a deed by Alban City Free School Limited,  
acting by:

.....

**Director**

.....

**Director/Secretary**

OR

EXECUTED as a deed by Alban City Free School Limited,  
acting by:

*Linda Crawley*  
.....

**Director**

In the presence of:

W Sign  
I  
T Name  
N  
E Address  
S  
S Occu



EXECUTED as a deed by affixing the corporate )  
seal of the **Secretary of State for Education** )  
authenticated by:- )

*H. [Signature]*  
.....  
Duly authorised by the Secretary of State for Education

