

SCHEDULE 1
SUPPLEMENTAL FUNDING AGREEMENT

THIS AGREEMENT made 2012

BETWEEN

(1) **THE SECRETARY OF STATE FOR EDUCATION**; and

(2) **GREENWOOD ACADEMIES TRUST** whose registered office is at Sneinton Boulevard, Sneinton, Nottingham, NG2 4GL **(The “Company”)**

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated 30 June 2009 as varied by a deed of variation dated 27 August 2009 and further varied by a deed of variation dated 25 August 2010 (the “**Master Agreement**”).

1 DEFINITIONS AND INTERPRETATION

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

“Academy” means Houghton Regis Academy to be established at Parkside Drive, Houghton Regis, Dunstable, Bedfordshire, LU5 5PX.

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

“Chief Inspector” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills or his successor;

“Land” means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Kings Houghton Middle School, Parkside Drive, Houghton Regis, Dunstable, Bedfordshire, LU5 5PX.

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

- 1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.
- 1.4 All references in the Master Agreement to DCSF shall mean a reference to DfE.
- 1.5 All references in the Master Agreement to the Department for Children, Schools and Families shall mean a reference to the Department for Education.

2 THE ACADEMY

- 2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement.
- 2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.
- 2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

2A ACADEMY OPENING DATE

- 2A.1 The Academy shall open as a school on September 1st 2012 replacing Kings Houghton Middle School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010.
- 2A.2 The planned capacity of the Academy is 480 in the age range 9 - 13.

3 CAPITAL GRANT

- 3.1 Pursuant to clauses 63 - 65 of the Master Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

- 4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

4A COMPLAINTS

- 4A.1 If a complaint is made about matters arising in whole or in part prior to the opening of the Academy, and all or part of that complaint was being or had been investigated by the Local Government Ombudsman under Part III or the Local Government Act 1974 ('Part III') or that complaint in whole or in part could have been investigated under Part III had the school the Academy replaced remained a maintained school, the Company:

- a) will abide by the provisions of Part III as though the Academy were a maintained school;
- b) agrees that the Secretary of State shall have the power to investigate the matter complained of as if it had taken place after conversion;
- c) agrees to act in accordance with any recommendation from the Secretary of State as though that recommendation had been made under Part III and the Academy were a maintained school.

- 4A.2 If the Secretary of State could have given an order and/or a direction under section 496 and/or section 497 of the Education Act 1996 to the governing body of the school the Academy replaced (as referred to in clause 2A.1 of this Agreement) and that order and/or direction related to matters occurring within the 12 months immediately prior to conversion, the Company agrees:

- a) the Secretary of State may give orders and/or directions to the Company as though the Academy were a maintained school and sections 496 and 497 applied to the governing body of that maintained school;
- b) to act in accordance with any such order and/or direction from the Secretary

of State.

5 TERMINATION

- 5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.
- 5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 8.2 of this Agreement or that the conditions and requirements set out in clauses 13 to 59F of the Master Agreement (as amended by this Agreement) and clauses 8.7 to 8.10 of this Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.
- 5.3 Any such notice shall be in writing and shall:
 - 5.3.1 state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 8.2 of this Agreement or is not meeting the conditions and requirements of clauses 13–59F of the Master Agreement (as amended by this Agreement) and clauses 8.7 to 8.10 of this Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;
 - 5.3.2 specify the measures needed to remedy the situation or breach;
 - 5.3.3 specify a reasonable date by which these measures are to be implemented;
and
 - 5.3.4 state the form in which the Company is to provide its response and a reasonable date by which it must be provided.
- 5.4 If no response is received by the date specified in accordance with clause 6.3d), the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.
- 5.5 If a response is received by the date specified in accordance with clause 6.3d), the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:

- 5.5.1 he is content with the response and/or that the measures which he specified are being implemented; or
- 5.5.2 he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or
- 5.5.3 he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.
- 5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body of the Academy to discuss his concerns. If following such meeting he has good reasons for remaining satisfied that the Academy does not and will not have the characteristics set out in clause 8.2 of this Agreement or does not and will not meet the conditions and requirements set out in clauses 13 to 59F of the Master Agreement (as amended by this Agreement) and clauses 8.7 to 8.10 of this Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.
- 5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.
- 5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "Indicative Funding"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "Critical Year") and of the

taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 100 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company (“All Other Resources”), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

- 5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:
- 5.9.1 the grounds upon which the Company’s opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and
 - 5.9.2 the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and
 - 5.9.3 a detailed budget of income and expenditure for the Academy during the Critical Year (the “Projected Budget”).
- 5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the

pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

- 5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the "Expert") for resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "Shortfall"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.
- 5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.
- 5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.
- 5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require

the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A “Special Measures Termination Event Occurs” when:

5.16.1 the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the “Special Measures Notice”) stating that in his opinion special measures are required to be taken in relation to the Academy; and

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

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

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

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

5.17.1 by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2 subject to clause 123 of this Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months’ notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the

Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

- 6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.
- 6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13–59F of the Master Agreement (as amended by this Agreement) or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.
- 6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.
- 6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.
- 6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:
- (a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later; or

- (b) if the Secretary of State confirms that a transfer under clause 7.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets at the date of termination, or, by agreement with the Secretary of State, at the date of subsequent disposal of those assets. Such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.
- 6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:
- a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or
 - b) The Secretary of State directs all or part of the repayment to be paid to the L A.
- 6.7 The sale or disposal by other means of publicly funded land held for the purposes of an Academy is now governed by Part 3 of Schedule 1 to the Academies Act 2010.

LAND

Restrictions on Land transfer

- 6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:
- a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the Secretary of

State for Education, of Sanctuary Buildings, Great Smith Street, London SW1P 3BT

- b) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,
- c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,
- d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),
- e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 ANNEX

- 7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 THE MASTER AGREEMENT

- 8.1 Except where expressly provided in this Agreement the Master Agreement shall continue in full force and effect.
- 8.2 The wording in clause 12 in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“The characteristics of the Academy are as set down in section 1A(1) of the Academies Act 2010;

- a) It is an independent school;
- b) it has a curriculum satisfying the requirements of section 78 of the Education Act 2002 (balanced and broadly based curriculum);

- c) it provides education for pupils of different abilities;
- d) it provides education for pupils who are wholly or mainly drawn from the area in which the school is situated, and;
- e) it is not an alternative provision Academy.

8.3 The wording in clause 13(b) of the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“there will be assessments of pupils performance as they apply to maintained schools and the opportunity to study for external qualifications as defined by section 96 of the Learning and Skills Act 2000”

8.4 A new clause 13(h) consisting of the following wording is inserted into the Master Agreement for the purpose of the Academy;

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

8.5 The wording in clause 15(a) of the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

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

8.6 Clause 17 in the Master Agreement shall not apply to the Academy.

8.7 Clause 19 in the Master Agreement shall not apply to the Academy.

8.8 The wording in clause 22 in the Master Agreement is deleted and replaced with the wording below for the purpose of the Academy;

“The Academy will be an all ability inclusive school whose requirements for:

- a) the admission of pupils to the Academy are set out in Annex 1 to this Agreement;
- b) the admission to the Academy of and support for pupils with SEN and with disabilities (for pupils who have and who do not have statements of SEN) are set out in Annex B to the Master Agreement;

- c) pupil exclusions are set out in regulations made by virtue of section 51A of the Education Act 2002 (as may be amended from time to time, and includes any successor provisions).”

8.9 The wording in clause 24(c)(i) in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002 and registered with full registration with the appropriate body, or”

8.10 The wording in clauses 34 to 42 in the Master Agreement are deleted and replaced by the following new clauses 34 to 42 for the purpose of the Academy;

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

35. The Company shall publish information in relation to its current curriculum provision. Such information shall include details relating to

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

36. Subject to the requirements of clauses 34 to 42A the curriculum will be the responsibility of the Company.

37. The Company shall ensure that the broad and balanced curriculum includes English, Mathematics and Science.

38. Sections 42A (provision of careers guidance) and 45A (guidance as to discharge of duties) of the Education Act 1997 shall be deemed to apply to the Academy with the following modifications:
- a) the Academy shall be treated as falling within the meaning of “a school” under section 42A (2);
 - b) the Company shall be deemed to be the “responsible authorities” for the purposes of subsection 42A(3); and
 - c) references to registered pupils shall be treated as references to registered pupils at the Academy.
39. The Company shall make provision for the teaching of religious education and for a daily act of collective worship at the Academy.
40. The Academy has not been designated with a religious character in accordance with section 124B of the School Standards and Framework Act 1998 or further to Section 6(8) of the Academies Act 2010;
- a) subject to clause 42, the Company shall ensure that provision shall be made for religious education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998;
 - b) subject to clause 42, the Company shall ensure that the Academy complies with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a community, foundation or voluntary school which does not have a religious character, except that the provisions of paragraph 4 of that Schedule do not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule, the Secretary of State’s consent to such an application not to be unreasonably withheld or delayed;
 - c) the Company;
 - (i) agrees that before making an application pursuant to the Religious Character of Schools (Designation Procedure) (Independent Schools)

(England) Regulations 2003 for the Academy to be designated as a school with religious character it shall seek the prior written consent of the Secretary of State;

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

41. Section 71(1) – (6) and (8) of the School Standards and Framework Act 1998 shall apply as if the Academy were a community, foundation or voluntary school, and as if references to “Religious Education” and to “Religious Worship” in that section were references to the religious education and religious worship provided by the Academy in accordance with clauses 25 or 26 as appropriate.

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

8.11 The wording in clause 42A in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

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

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

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

8.12 Clauses 43-50 in the Master Agreement are deleted and replaced with new clause 43 consisting of the wording below for the purpose of the Academy;

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

- a) The Company shall ensure that the Academy complies with any guidance issued by the Secretary of State from time to time to ensure that pupils take part in assessments and in teacher assessments of pupil’s performance as they apply to maintained schools.
- b) The Company shall report to any body on assessments under clause 43 as the Secretary of State shall prescribe and shall provide such information as may be required by that body as applies to maintained schools.
- c) In respect of all Key Stages, the Company will submit the Academy to monitoring and moderation of its assessment arrangements as prescribed by the Secretary of State.
- d) The Company may not offer courses at the Academy which lead to relevant qualifications, as defined in section 96 of the Learning and Skills Act 2000, unless the Secretary of State gives specific approval for such courses.”

8.13 A new clause 43A consisting of the following wording is inserted into the Master Agreement for the purpose of the Academy;

“The Company shall ensure that the following information is published on the Academy’s website:

- a) The school’s most recent key stage 2 results as published by the Secretary of State under the following column headings in the School Performance Tables published on the Department for Education’s website:
 - (i) “% achieving Level 4 or above in English and Maths”;

- (ii) “% making expected progress”;
 - (iii) in relation to English, “% achieving Level 5 or above”; and
 - (iv) in relation to Maths, “% achieving Level 5 or above”.
- b) The school’s most recent key stage 4 results as published by the Secretary of State under the following column headings in the School Performance Tables published on the Department for Education’s website:
- (i) “% achieving 5 + A* - C GCSEs (or equivalent) including English or Maths GCSEs”;
 - (ii) “% achieving the English Baccalaureate”; and
 - (iii) “% of pupils making expected progress”.
- c) Information as to where and by what means parents (including prospective parents) may access the most recent report about the school published by her Majesty’s Chief Inspector of Education, Children’s Services and Skills.
- d) Information as to where and by what means parents (including prospective parents) may access the School Performance Tables published by the Secretary of State on the Department for Education’s website;

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

8.14 A new clause 59C consisting of the following wording is inserted into the Master Agreement for the purpose of the Academy;

“Criminal Records Bureau Checks

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

members of staff, supply staff, individual Directors and the Chair of the Local Governing Body.”

- 8.15 A new clause 59D consisting of the following wording is inserted into the Master Agreement for the purpose of the Academy;

“International Education Surveys

The Secretary of State may, by notice in writing to the Company, require the Company to participate in an international education survey and the Company shall, upon receipt of such notice, participate in that survey and provide to the Secretary of State or to those carrying out the survey all such assistance and information as may reasonably be required for the purposes of the Academy’s participation in that survey.”

- 8.16 A new clause 59E consisting of the following wording is inserted into the Master Agreement for the purpose of the Academy;

“Pupil Premium

The Company shall publish in each Academy Financial Year information in relation to;

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

- 8.17 A new clause 59F consisting of the following wording is inserted into the Master Agreement for the purpose of the Academy;

“The duration of the school day and year will be the responsibility of the Company.”

- 8.18 The wording in clause 62(c) of the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“the installation of electrical, mechanical or other services other than necessary replacements, repairs and maintenance due to normal wear and tear;”

- 8.19 The wording in clause 62(g) in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“the provision and equipping of premises, including playing fields and other facilities for social activities and physical recreation other than necessary replacements, repairs and maintenance due to normal wear and tear.”

- 8.20 The wording in clause 63 in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“Where an Academy is to open in new premises, or where existing premises are to be substantially refurbished or remodelled to enable the Academy to open in such premises, the Secretary of State, may, in his absolute discretion be responsible for meeting the incurred Capital Expenditure for that Academy. To that end, the Secretary of State will consider providing funding in accordance with any arrangements as he considers appropriate.”

- 8.21 New clause 65(c) consisting of the following wording is inserted into the Master Agreement for the purpose of the Academy;

“Any other conditions that the Secretary of State may specify”

- 8.22 The wording in clause 66 in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“Capital Grant will be paid by the Secretary of State to the Company on the basis of claims for grant submitted to the Secretary of State in the notified format with supporting invoices and certificates as required by the Secretary of State. If a dispute arises as to whether a claim is or is not acceptable both parties undertake to attempt to resolve it in good faith. In the event of such a dispute, the Secretary of State shall pay to the Company so much of the claim as shall not be in dispute.”

8.23 Clauses 67 to 68D in the Master Agreement shall not apply to the Academy.

8.24 The wording in clause 69(g) in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“insurance, provided that the Secretary of State shall not be obliged to pay GAG in relation to insurance to the extent that insurance and/or comparable arrangements are made available to the Company (whether at a cost to the Company or otherwise and whether made available by and/or on behalf of the Secretary of State or otherwise) save that, to the extent that such insurance and/or comparable arrangements as may be made available constitute a cost for the Company, the Secretary of State shall provide a contribution through GAG in relation to such cost;”

8.25 Clauses 70 to 83 in the Master Agreement are deleted and replaced with the following clauses 70 to 81 for the purposes of the Academy;

70. Subject to clauses to 78 to 79, GAG for the Academy Financial Year for the Academy will include;

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

b) funding in respect of functions which would be carried out by the Local Authority if the Academy was a maintained school.

71. The GAG for the Academy Financial Year for the Academy will also include, payable on a basis equivalent to that applied to maintained schools:

a) funding for matters for which it is necessary for the Academy to incur extra costs, for as long as those costs are deemed necessary by the Secretary of State; and

b) payments in respect of further, specific grants made available to maintained schools, where the relevant Academy meets the requisite conditions and criteria necessary for a maintained school to receive these grants.

72. Subject to clause 74, the basis of the pupil number count for the purposes of determining GAG for the Academy Financial Year in which the Academy opens shall be the same basis as that used by the Local Authority for determining the budget share of the predecessor maintained school as adjusted by numbers counted in any subsequent Schools Census, as determined by the Secretary of State. In subsequent years the basis of the pupil count will be as determined by the Secretary of State.
73. Subject to clause 74 the basis of the pupil number count for the purpose of determining GAG the Academy for Academy Financial Years after the Academy Financial Year in which the Academy opens will be:
- a) for the pupil number count for pupils in Year 11 and below, the Schools Census which is used to fund maintained schools for the financial year overlapping with 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.
74. Where either of the following conditions applies in respect of an Academy Financial Year, the basis of the pupil count shall be determined by the Secretary of State, taking account of any diseconomies of scale that the Academy will be under as a result of such condition(s) applying. The conditions are:
- a) not all planned Year-groups will be present at the Academy (that is, not all the pupil cohorts relevant to the age-range of the Academy will have some pupils present); or
 - b) the total number of pupils as measured in the Schools Census which is used to fund maintained schools for the financial year overlapping with the Academy Financial Year in question is less than 90% of the planned final size of the Academy, as specified in the Academy's

Supplemental Agreement, and has not at any previous time been greater than 90% of that number.

75. For any Academy Financial Year in which GAG for the Academy has been calculated in accordance with clause 72, no adjustment shall be made to the following Academy Financial Year's formula funding element of GAG for that Academy to recognise variation from the pupil count basis used.

- 76 For any Academy Financial Year in which GAG for the Academy is calculated in accordance with clause 73, no adjustment will be made to the formula funding element in the following Academy Financial Year's formula funding element of GAG unless the Company demonstrates to the satisfaction of the Secretary of State that there has been a significant impact on costs, such as an extra class. For any other element of GAG the Secretary of State may make adjustments to recognise a variation in pupil numbers from that used to calculate the element of grant in question; the basis of these will be set out in the annual letter of funding.

- 77 The Secretary of State recognises that:
 - a) if the Academy opens with an intake representing only a proportion of the final planned size of the Academy, payments based simply upon the number of pupils present are unlikely to be sufficient to meet the Academy's needs in the Academy Financial Years before all age groups are present at their planned size (the "Start-up Period") because of a lack of economies of scale. The Secretary of State may pay an appropriately larger GAG in the Start-up Period than would be justified solely on the basis of the methods set out in clauses 78 and 79 in order to enable the Academy to operate effectively¹;

 - b) if the Academy opens with pupils transferred from one or more maintained schools which have closed, additional GAG resources may be required to take account of transitional costs including any costs

¹ Note that a larger GAG for the Start-Up Period is only applicable to Academies with approved Expressions of Interest.

associated with supporting the integration of pupils from the closed schools and, where necessary, to offer a dual curriculum. If the Secretary of State has indicated that such additional GAG will be payable, the Company will make a bid for this addition to GAG based upon need and providing appropriate supporting evidence.

78. During the Start-up Period or during the period when year groups are present who have transferred from a predecessor school or schools, the Secretary of State will pay a further element of GAG additional to that calculated in accordance with the methods set out in clauses 70 to 76 to allow the Academy to:
- a) purchase a basic stock of teaching and learning materials (including library books, text books, software, stationery, science equipment and equipment for physical education) and other consumable materials;
 - b) meet the costs associated with the recruitment and induction of additional teaching and other staff.

After the Start-up Period these costs will be met through the ordinary GAG.

79. The Secretary of State recognises that if he serves notice of intention to terminate the Supplemental Agreement under that Supplemental Agreement the intake of new pupils during the notice period is likely to decline and that in such circumstances payments based simply upon the number of pupils attending the Academy are unlikely to be sufficient to meet the Academy's needs during the notice period. The Secretary of State undertakes to pay a reasonable and appropriately larger GAG with respect to that Academy in the notice period than would be justified solely on the basis of the methods set out in clauses 70-76, in order to enable the Academy to operate effectively.
80. The Secretary of State also recognises that if this Agreement or the Supplemental Agreement is terminated for any reason by either party the number of pupils at the Academy is likely to decline. In these circumstances both parties undertake to attempt to resolve issues arising from such termination in good faith and with the aim of

protecting the interests and the education of the pupils at the Academy.

81. Subject to clause 100 in the Master Agreement, the GAG paid by the Secretary of State in respect of the Academy shall only be spent by the Company towards the normal running costs of the Academy.

8.26 The wording in clause 84 in the Master Agreement is deleted and replaced with the following with the following wording for the purposes of the Academy;

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

8.27 The wording in clause 87 in the Master Agreement is replaced with the following wording for the purposes of this Agreement;

“The amounts of GAG for an Academy Financial Year will be determined annually by the Secretary of State. The amount of GAG for the Academy for the initial Academy Financial Year will be notified to the Company in a funding letter at a date preceding that year. For subsequent years the amount of GAG will be notified to the Company in a funding letter preceding that Academy Financial Year (the “Annual Letter of Funding”). The Annual Letter of Funding will not include the amount that the Company will receive in respect of grants for which information to enable timely calculation is not available or is incomplete, such grants will be notified as soon as practicable later in the year. Amounts of EAG will be notified to the Company wherever possible in the Annual Letter of Funding or as soon as practicable thereafter.”

8.28 Clause 89 in the Master Agreement shall not apply to the Academy.

8.29 Clause 92 in the Master Agreement shall not apply to the Academy.

8.30 The wording in clause 94 in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

“The Company shall abide by the requirements of and have regard to the Charity Commission’s guidance to charities and charity trustees and in particular the Charity Commission’s guidance in the Protecting Charities from

Harm ('the compliance toolkit'). Any references in this document which require charity trustees to report to the Charity Commission should instead be interpreted as references to report to the Principal Regulator."

- 8.31 The wording in clause 95 in the Master Agreement is deleted and replaced with the following wording for the purpose of the Academy;

"The formal budget plan must be approved each Academy Financial Year by the Directors of the Company."

- 8.32 The wording in clause 100 of the Master Agreement is replaced with the following wording for the purpose of the Academy;

"At the beginning of any Academy Financial Year the Company may hold unspent GAG for any Academy from previous Academy Financial Years amounting to such percentage (if any) as the Secretary of State may specify by notice in writing to the Company 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 Company shall use such carried forward amount for such purpose, or subject to such restriction on its use, as the Secretary of State may specify by notice in writing to the Company."

- 8.33 The wording in clause 109 of the Master Agreement is replaced with the following the following wording for the purpose of the Academy;

"The sale or disposal by other means, or reinvestment of proceeds from the disposal, of a capital asset by the Company shall require the consent of the Secretary of State, such consent not to be unreasonably withheld or delayed, where:

- a) the Secretary of State paid capital grant in excess of the value for the time being specified by the Secretary of State for the asset; or
- b) the asset was transferred to the Company from an LA for no or nominal consideration. "

Furthermore, reinvestment of a percentage of the proceeds of disposal of a capital asset paid for with a capital grant from the Secretary of State shall require the Secretary of State's consent in the circumstances set out above

and reinvestment exceeding the value for the time being specified by the Secretary of State or with other special features will be subject to Parliamentary approval. The percentage of the proceeds for which consent is needed is the percentage of the initial price of the asset which was paid by capital grant from the Secretary of State.

- 8.34 A new clause 114A consisting of the following wording is inserted into the Master Agreement for the purposes of the Academy;

“If, following the exercise of the Secretary of State’s powers to appoint Additional Directors or Further Directors, pursuant to the Articles of Association the Members pass an ordinary or special resolution to remove one or more of those Additional or Further Directors appointed by the Secretary of State, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement or, as the Secretary of State may in his absolute discretion decide the Supplemental Funding Agreement.”

- 8.35 New clause 114B consisting of the following wording is inserted into the Master Agreement for the purposes of the Academy;

“The Secretary of State’s right to terminate this Agreement under clause 114A shall cease if he removes any of the Additional Directors or Further Directors which he has appointed pursuant to the Articles of Association.”

- 8.36 New clause 115A consisting of the following wording is inserted into the Master Agreement for the purposes of the Academy under the heading “Change of Control of the Company”:

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

- (a) either by means of the holding of shares in that Entity or having an interest conferring voting rights at general meetings of the membership of the Entity or of any other body corporate;
- (b) by virtue or any powers conferred by the articles of association or other document regulating that Entity or any other Entity or partnership

including, without limitation, the power to appoint or remove a majority of the governing body thereof, or
(c) by virtue of any agreement, understanding or arrangement between any person or persons,
that the affairs of the first-mentioned Entity are conducted in accordance with the wishes of A and 'Controls' shall be construed accordingly.

The Secretary of State may at any time by notice in writing, subject to clause 115C below, terminate this Agreement forthwith (or on such other date as he may in his absolute discretion determine) in the event that there is a change:

- (a) in the Control of the Company;
- (b) in the Control of a legal entity that Controls the Company.

Provided that where a person ('P') is a member or director of the body corporate (as a corporation sole or otherwise) by virtue of an office, no change of Control arises merely by P's successor becoming a member or director in P's place."

8.37 A new clause 115B consisting of the following wording is inserted into the Master Agreement for the purposes of the Academy;

"The Company shall, as soon as it is reasonably practicable to do so after it has become aware of any change or proposed change of Control within the meaning of clause 115A, give written notice to the Secretary of State of such change or proposed change of Control."

8.38 A new clause 115C consisting of the following wording is inserted into the Master Agreement for the purposes of the Academy;

"When notifying the Secretary of State further to clause 115B), the Company may seek the Secretary of State's agreement that, if he is satisfied that the person assuming Control is suitable, he will not in those circumstances exercise his right to terminate this Agreement further to clause 115A)."

9. ENGLISH LAW

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

This Agreement was executed as a Deed on 31 August 2012

Executed on behalf of Greenwood Academies Trust by:



.....
Director

In the presence of:



Witness...K.A.D.E. MICHELVON

Address...MOLIBRAY HOUSE, LASTIE MEADOW RD, NOTTINGHAM

Occupation...SOLICITOR

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



Duly Authorised



ANNEX TO THIS SUPPLEMENTAL FUNDING AGREEMENT

Requirements for the Admission for pupils at Houghton Regis
Academy

Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO HOUGHTON REGIS ACADEMY

GENERAL

1. This Annex may be amended in writing at any time by agreement between the Secretary of State and the Company.
2. The Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education (“the Codes”) as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to “admission authorities” shall be deemed to be references to the Directors of the Company.
3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority (“LA”) in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.
4. Notwithstanding any provision in this Agreement, the Secretary of State may:
 - (a) direct the Company to admit a named pupil to Houghton Regis Academy on application from an LA. This will include complying with a School Attendance Order². Before doing so the Secretary of State will consult the Company.
 - (b) direct the Company to admit a named pupil to Houghton Regis Academy if the Company has failed to act in accordance with this

² Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes.

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

5. The Company shall ensure that parents and ‘relevant children³’ will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

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

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

Requirement to admit pupils

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

9. The Academy will:

- a. Subject to its right of appeal to the Secretary of State in relation to a

³ ‘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.

named pupil, admit all pupils with a statement of special educational needs naming the Academy;

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

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

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group³. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Company should make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the Schools Adjudicator (OSA).

12. A determination of an objection by the OSA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

³ 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.