

**FREEDOM OF INFORMATION REDACTION SHEET  
SLADE PRIMARY SCHOOL  
FUNDING AGREEMENT**

**Exemptions in full**

n/a

**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 of the **SLADE PRIMARY SCHOOL** will further the public understanding of Academies. The whole of the **SLADE PRIMARY SCHOOL SUPPLEMENTAL 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.

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**SUPPLEMENTAL AGREEMENT**

**THIS AGREEMENT** made 30 / 8 / 2012

**BETWEEN**

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

(2) **THE ARTHUR TERRY LEARNING PARTNERSHIP**

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated 1 May 2012 (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:

"the Academy" means the Slade Primary School established at Slade Road, Erdington, Birmingham, West Midlands, B23 7PX;

"this Agreement" means this agreement and its annexes;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Slade Junior and Infant School as more particularly defined in the lease to be entered into between Birmingham City Council and the Academy Trust which Birmingham City Council has certified as being within its legal and beneficial ownership"

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

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### 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 (as amended by this Agreement) and this Agreement.
- 2.2 The curriculum provided by the Academy to pupils up to the age of 11 shall be broad and balanced.
- 2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

### **ACADEMY OPENING DATE**

- 2.4 The Academy shall open as a school on 1 September 2012 replacing Slade Infant and Junior School (a community 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.
- 2.5 The planned capacity of the Academy is 420 in the age range 3-11 and a nursery unit of 39 places.

### **CHARACTERISTICS OF THE ACADEMY**

- 2.6 In respect of this Agreement, Clause 12 of the Master Agreement shall be replaced with the following;

*"12) The characteristics of an 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 to pupils of different abilities;*
- (d) it provides education for pupils who are wholly or mainly drawn from the area in which the Academy is situated; and*
- (e) it is not an alternative provision Academy."*

### **CONDITIONS OF GRANT**

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- 2.7 In respect of this Agreement, Clause 13, sub-clause (b) of the Master Agreement shall be replaced with the following:

*"b) there will be assessments of pupils' performance as they apply to maintained schools and the opportunity to study for relevant qualifications in accordance with clause 30 (d);"*

- 2.8 In respect of this Agreement, Clause 13, sub-clause (d) of the Master Agreement shall be replaced with the following:

*"d) teachers' levels of pay and conditions of service for all employees will be the responsibility of the Company;"*

- 2.9 In respect of this Agreement, the following Clause shall be inserted after Clause 13 of the Master Agreement:

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

### **GOVERNANCE**

- 2.10 In respect of this Agreement, Clause 15 of the Master Agreement shall be replaced with the following:

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

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

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

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

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### **CRIMINAL RECORDS BUREAU CHECKS**

- 2.11 In respect of this Agreement, Clause 17 of the Master Agreement shall be replaced with the following:

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

### **PUPILS**

- 2.12 In respect of this Agreement, Clause 18, sub-clause c) of the Master Agreement shall be replaced with the following:

*“18c) 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).”*

and for the avoidance of doubt, Annex C of the Master Agreement shall not apply in respect of this Agreement.

- 2.12A In respect of this Agreement, Clause 18, sub-clause b) of the Master Agreement shall not apply and the requirements for 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 2 to this Agreement. For the avoidance of doubt, Annex B of the Master Agreement shall not apply in respect of this Agreement.

### **CURRICULUM, CURRICULUM DEVELOPMENT AND DELIVERY AND RE COLLECTIVE WORSHIP**

- 2.13 In respect of this Agreement, the references to “clause 20 (a)” and “clause 20 (b) in the final paragraph of Clause 20 of the Master Agreement shall be replaced with “clause 19 (a) and “clause 19 (b)” respectively.
- 2.14 In respect of this Agreement, Clause 23 of the Master Agreement shall be replaced with the following:

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*"23) The curriculum provided by the Academy to pupils up to the age of 11 shall be broad and balanced."*

- 2.15 In respect of this Agreement, the following Clauses shall be inserted after Clause 23 of the Master Agreement:

*"23A) Not used.*

*23B) 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 names of any phonics or reading schemes in operation for Key Stage 1; and*

*d) how parents (including prospective parents) can obtain further information in relation to the Academy's curriculum.*

*23C) Subject to the requirements of clauses 22 to 29A, the curriculum will be the responsibility of the Company."*

- 2.16 In respect of this Agreement, Clause 26, sub-clause (a) of the Master Agreement shall be replaced with the following:

*"a) subject to clause 28, and paragraph 4 of Schedule 19 to the School Standards and Framework Act 1998 which shall apply as if the Academy were a voluntary aided school with a religious character, the Company shall ensure that provision is made for religious education to be given to all pupils at the Academy in accordance with the tenets of the specified religion or religious denomination of the Academy;"*

- 2.17 In respect of this Agreement, the following sub-clause shall be inserted after Clause 27, sub-clause b) of the Master Agreement:

*"c) the Company:*

*(1) agrees that before making an application pursuant to the Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003 for each Academy to be designated as a school*

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*with religious character it shall seek the prior written consent of the Secretary of State;*

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

- 2.18 In respect of this Agreement, Clause 29 of the Master Agreement shall be replaced with the following:

*"29) The Company shall have regard to any guidance issued by the Secretary of State, further to section 403 of the Education Act 1996, on sex and relationship education to ensure that children at 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."*

- 2.19 In respect of this Agreement, the following Clause shall be inserted after Clause 29 of the Master Agreement:

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

- a) references to a 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."*

- 2.20 In respect of this Agreement, the following Clause shall be inserted after Clause 30 of the Master Agreement:

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*"30A) 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) *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.*
- c) *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."*

### **INTERNATIONAL EDUCATION SURVEYS**

- 2.21 In respect of this Agreement, the following Clauses shall be inserted after Clause 34 of the Master Agreement:

*"34A) 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."*

### **PUPIL PREMIUM**

*"34B) The Company shall publish in each Academy Financial Year information in relation to:*

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- 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."*

### **DURATION OF SCHOOL DAY AND YEAR**

*"34C) The duration of the school day and year will be the responsibility of the Company."*

### **3 CAPITAL GRANT**

3.1 Pursuant to clause 38 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.

3.2 In respect of this Agreement, Clause 37, sub-clause (c) of the Master Agreement shall be replaced with the following:

*"c) the installation of electrical, mechanical or other services other than necessary replacements, repairs and maintenance due to normal wear and tear;"*

3.3 In respect of this Agreement, Clause 37, sub-clause (g) of the Master Agreement shall be replaced with the following:

*"g) 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;"*

3.4 In respect of this Agreement, the following sub-clause shall be inserted at the end of Clause 37 of the Master Agreement:

*"“Capital Grant” means grant paid to the Company in respect of Capital Expenditure”*

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- 3.5 In respect of this Agreement, the following sub-clause shall be inserted after Clause 40, sub-clause (b) of the Master Agreement:

*"c) Any other conditions that the Secretary of State may specify"*

### **ARRANGEMENTS FOR PAYMENT OF CAPITAL GRANT**

- 3.6 In respect of this Agreement, Clause 41 of the Master Agreement shall be replaced with the following;

*"41) 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"*

### **IMPLEMENTATION GRANT**

- 3.7 Clauses 42 to 47 (inclusive) of the Master Agreement shall not apply in respect of this Agreement.

## **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 (as amended by this Agreement)

- 4.2 In respect of this Agreement, Clauses 48 to 53 (inclusive) of the Master Agreement will be replaced with the following:

*"48) GAG will be paid by the Secretary of State to the Company in order to cover the normal running costs of the Academy. These will include, but are not limited to:*

- a) teachers' salaries and related costs (including full and part time teaching staff and seconded teachers);*

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- b) *non-teaching staff salaries and related costs (including pension contributions, educational support staff, administrative and clerical staff and manual and premises related staff);*
- c) *employees' expenses;*
- d) *the purchase, maintenance, repair and replacement:*
  - (i) of teaching and learning materials and other educational equipment, including books, stationery and ICT equipment and software, sports equipment and laboratory equipment and materials;*
  - (ii) of other supplies and services;*
- e) *examination fees;*
- f) *repairs, servicing and maintenance of buildings (including redecoration, heating, plumbing, lighting etc); maintenance of grounds (including boundary fences and walls); cleaning materials and contract cleaning; water and sewage; fuel and light (including fuel oil, solid and other fuel, electricity and gas); rents; rates; purchase, maintenance, repairs and replacement of furniture and fittings;*
- g) *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;*
- h) *medical equipment and supplies;*
- i) *staff development (including in-service training);*
- j) *curriculum development;*
- k) *the costs of providing school meals for pupils (including the cost of providing free school meals to pupils who are eligible to receive them), and discretionary grants to pupils to meet the cost of pupil support,*

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*including support for pupils with special educational needs or disabilities (taking account of the fact that separate additional money will be available for pupils with statements of special educational needs);*

*l) administration;*

*m) establishment expenses and other institutional costs.*

*49) Subject to clauses 57 and 58, GAG for each 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 LA if the Academy was a maintained school.*

*50) The GAG for each 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 that 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 Academy meets the requisite conditions and criteria necessary for a maintained school to receive these grants.*

*51) Subject to clause 53, 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.*

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*52) Subject to clause 53 the basis of the pupil number count for the purpose of determining GAG for 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.*

*53) 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 this Supplemental Agreement, and has not at any previous time been greater than 90% of that number.”*

4.3 Clauses 71 of the Master Agreement shall not apply in respect of this Agreement.

4.4 In respect of this Agreement, Clause 79 of the Master Agreement shall be replaced with the following:

*“79) At the beginning of any Academy Financial Year the Company may hold unspent GAG for the 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*

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*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."*

- 4.5 In respect of this Agreement, Clause 85 of the Master Agreement shall be replaced with the following:

*"85) Each discovered loss of an amount exceeding the amount for the time being specified by the Secretary of State and arising from suspected theft or fraud, shall be reported by the Company to the Secretary of State at the earliest opportunity."*

- 4.6 In respect of this Agreement, Clause 90, sub-clause a) of the Master Agreement shall be replaced with the following:

*"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"*

- 4.7 In respect of this Agreement, Clause 91 of the Master Agreement shall be replaced with the following:

*"91) 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."*

- 4.8 This Agreement shall not be assignable by the Company.

### 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

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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 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 2020 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 12 of the Master Agreement (as amended by this Agreement) or that the conditions and requirements set out in clauses 13-34B of the Master Agreement (as amended by 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 (as amended by this Agreement), the Secretary of State may give notice of his provisional intention to terminate this Agreement.

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- 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 12 of the Master Agreement (as amended by this Agreement) or is not meeting the conditions and requirements of clauses 13-34B of the Master Agreement (as amended by 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 5.3.4, 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 5.3.4, 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 this 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

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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 12 of the Master Agreement (as amended by this Agreement) or does not and will not meet the conditions and requirements set out in clauses 13-34B of the Master Agreement (as amended by this Agreement) or the Company is in material breach of the provisions of this Agreement or the Master Agreement (as amended by this 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 79 of the Master Agreement (as amended by this 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

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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

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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 this 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

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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

5.16.4. 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 108 of the Master 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.

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### 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 (as amended by this Agreement), or is no longer meeting the conditions and requirements set out in clauses 13-34B 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 (as amended by this 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 this 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

## Multi Academy Model

(b) if the Secretary of State confirms that a transfer under clause 6.5(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.

### **6A LAND: RESTRICTIONS ON LAND TRANSFER**

6A.1 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*

## Multi Academy Model

*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 Annexes to this Agreement form part of and are incorporated into this Agreement.

## 8 THE MASTER AGREEMENT

- 8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

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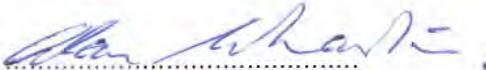
9 **ENGLISH LAW**

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

This Agreement was executed as a Deed on

30/8/ 2012

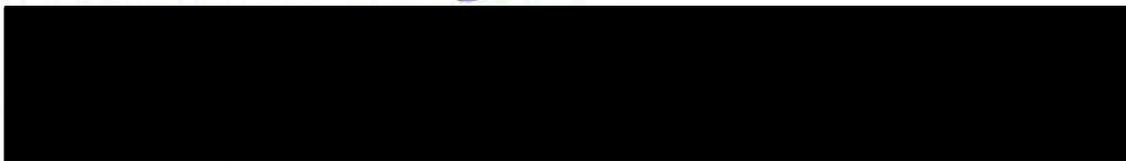
Executed on behalf of The Arthur Terry Learning Partnership by:



Director

In the presence of:

Witness... MARK HUGHES 



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





Duly Authorised

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### **ANNEX TO THIS SUPPLEMENTAL AGREEMENT**

Requirements for the Admission for pupils at the  
Academy                      Annex 1

Arrangements for pupils with SEN and disabilities at each Academy – for Mainstream  
Academies only              Annex 2

## Annex 1

### **REQUIREMENTS FOR THE ADMISSION OF PUPILS TO THE SLADE PRIMARY SCHOOL**

#### **GENERAL**

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Company.
2. Except as provided in paragraphs 2A to 2B below 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 legislation to "admission authorities" shall be deemed to be references to the Directors of the Company.
  - 2A The Company is permitted to determine admission arrangements (subject to consultation in accordance with the School Admissions Code) that give priority for admission (but not above looked after children and previously looked after children<sup>1</sup>) to other children attracting the pupil premium, including the service premium ('the pupil premium admission criterion'). Where a Company exercises this freedom it will provide information in its admission arrangements of eligibility for the premiums.
  - 2B For the purposes of applying the pupil premium admission criterion only, sections 1.9(f) and 2.4(a) of the School Admissions Code do not apply insofar as they prevent admission authorities from giving priority to children according to the financial or occupational status of parents or using supplementary forms that ask for:
    - any personal details about their financial status; or
    - whether parents are serving in the armed forces (of any nation), stationed in England, and exercising parental care and responsibility for the child in question.
3. Notwithstanding the generality of paragraph 2 of this Annex, the Company will participate in the co-ordinated admission arrangements operated by the Local Authority (LA) and the local Fair Access Protocol.
4. Notwithstanding any provision in this Annex, the Secretary of State may:
  - (a) direct the Company to admit a named pupil to the Academy on application from an LA. This will include complying with a School

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<sup>1</sup> As defined in the School Admissions Code.

## Multi Academy Model

Attendance Order<sup>2</sup>. Before doing so the Secretary of State will consult the Company;

- (b) direct the Company to admit a named pupil to the Academy if the Company 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;
- (c) direct the Company to amend its admission arrangements where they fail to comply with the School Admissions Code or the School Admission Appeals Code.

5. The Company shall ensure that parents and 'relevant children'<sup>3</sup> 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 Company 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 consult the Company and the 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.

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<sup>2</sup> 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.

<sup>3</sup> '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.

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9. The Company will:
  - a. subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;
  - b. determine admission oversubscription criteria for the Academy that give highest priority to looked after children and previously 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 group<sup>4</sup>. The Company will consult on the Academy's admission arrangements and determine them in line with the requirements within the School Admissions Code.

11. The Office of the School's Adjudicator (OSA) will consider objections to the Academy's admission arrangements<sup>5</sup>. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the OSA.

12. A determination of an objection by the OSA will be binding upon the Academy and the Company will make appropriate changes as quickly as possible.

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<sup>4</sup> 'Relevant age group' means 'normal point of admission to the school, for example, year R, Year7 and Year 12.

<sup>5</sup> The OSA has no jurisdiction to consider objections against the agreed variation from the Codes set out in paragraphs 2A and 2B.

**Slade Primary School. Arrangements for pupils with Special Educational Needs ('SEN') and disabilities at Mainstream Academies**

**Duties in relation to pupils with SEN<sup>1</sup>**

1. The Directors of the Company must, in respect of Slade Primary School, comply with all of the duties imposed upon the governing bodies of maintained schools in;  
Part 4 of the Education Act 1996 as amended from time to time<sup>2</sup>;  
The Education (Special Educational Needs) (Information) Regulations 1999 as amended from time to time;  
The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2008 as amended from time to time<sup>3</sup>.
2. Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Company to comply with an obligation described in this Annex where the Company has failed to comply with any such obligation.
3. Where a child who has SEN is being educated in Slade Primary School, those concerned with making special educational provision for the child must 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.
4. In addition to complying with the duties imposed upon the governing bodies of maintained schools set out in The Education (Special Educational Needs) (Information) Regulations 1999 (as amended from time to time) the Company must ensure that the website for Slade Primary School includes details of the implementation of its policy for pupils with special educational needs; 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 Equality

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<sup>1</sup> Duties in relation to pupils with SEN at Special Academies are at clause 12A of the Master Funding Agreement.

<sup>2</sup> Currently these duties are in sections 313 (Duty to have regard to the Special Educational Needs Code of Practice 2001); 317 (Duties in relation to pupils with special educational needs), 317A (Duty to advise parents that special educational provision is being made); and 324(5)(b) (Duty to admit the child where a school is named in the statement).

<sup>3</sup> These Regulations are amended by The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2009 (SI 2009 No 1387).

Act

2010<sup>1</sup>).

**Admissions<sup>2</sup>**

5. The Company must ensure that for Slade Primary School pupils with SEN are admitted on an equal basis with others in accordance with the Academy's admissions policy.
6. Where a local authority ("LA") proposes to name Slade Primary School in a statement of SEN made in accordance with section 324 of the Education Act 1996, it must give the Company 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 Company must 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 Company must have regard to the relevant guidance issued by the Secretary of State to maintained schools.
7. If the Company 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 Company relies upon in support of its contention that: (a) admitting the child would be incompatible with efficiently educating other children; and (b) the Company cannot take reasonable steps to secure this compatibility.
8. After service by the Company on the LA of any notice (further to paragraph 7 above) stating that it does not agree with the LA's proposal that the Academy be named, the Company must seek to establish from the LA, as soon as is reasonably practicable, whether or not the LA agrees with the Company. If the LA notifies the Company that it does not agree with the Company's response, and names the Academy in the child's statement, then the Company must admit the child to the school on the date specified in the statement or on the date specified by the LA.
9. Where the Company consider that the Academy should not have been named in a child's statement, they may ask the Secretary of State to determine that the LA has acted unreasonably in naming the Academy and to make an order directing the LA to reconsider.
10. 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-

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<sup>1</sup> For the meaning of 'disabled', see section 6 of the Equality Act 2010.

<sup>2</sup> SEN Admissions requirements for special academies are set out in the Special Academy Supplemental Funding Agreement Annex 1.

## Multi Academy Model

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 an Academy in the child's SEN statement or asking the Tribunal to name an 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 9 above, be substituted for the Secretary of State's decision.
12. Where the Company, the Secretary of State or the First-tier Tribunal (Special Educational Needs and Disability) have determined that it should be named, the Company shall admit the child to the Academy notwithstanding any provision of Annex 1 of the Supplemental Agreement of Slade Primary School.