



Department
for Education

Church of England academies: Church supplemental agreement: single and multi-academy model

*******Church of England*******

St Gabriel's Church of England Primary School

November 2018

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INTRODUCTION

- 1) This Agreement is supplemental to a Supplemental Funding Agreement (the "Supplemental Funding Agreement") which, with its Master Funding Agreement (the "Master Funding Agreement") dated 30 November 2018 (together the "Funding Agreement") are made under section 1 of the Academies Act 2010 each between the Secretary of State for Education ("the Secretary of State") and The Academies for Character and Excellence a company limited by guarantee registered at Companies House with company number 10098444 ("the Company").
- 2) This Agreement is made between
 - a) the Secretary of State and
 - b) The Board of Education of the Diocese of Exeter established pursuant to the Diocesan Boards of Education Measure 2021 (the "appropriate diocesan authority" for the Academy for the purposes of the Education Acts (which shall include the Academies Act 2010)) is also a party to this Agreement in recognition of its role in relation to the Academy ("the Diocesan Authority"); and
 - d) the Company.
- 3) Not used.
- 4) The Company is also a party to this Agreement solely to acknowledge the commitments made by the Secretary of State and to make the commitments set out in clause 28.
- 5) In this Agreement the following words and expressions shall have the following meanings:-

"Articles of Association" means the Memorandum and Articles of Association of the Company for the time being in force;

"Capital Grant" has the meaning given to it in clause 3.5 of the Master Funding Agreement;

“DfE” means Department for Education;

“Insurance/cover” means either (i) a commercial insurance policy taken out with a reputable insurance office or (ii) cover through the Risk Protection Arrangement for academy trust companies provided by the Secretary of State (“the Risk Protection Arrangement”).

“Insured/covered Risks” means fire, lightning, explosion, earthquake, storm, tempest, flood, subsidence, landslip, heave impact, terrorism, bursting or overflowing of water tanks and pipes, earthquake, damage by aircraft and other aerial devices or articles dropped there from, riot and civil commotion, labour disturbance and malicious damage and such other risks as the Company insures against from time to time subject in all cases to any exclusions or limitations as may apply from time to time.

“Land” means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) at Landhayes Road, Redhills, Exeter, Devon, EX4 2BY being the land registered with title number DN512053 and held by the Company from which the Academy operates demised by the transfer dated 1 June 2016 and made between (1) Exeter Learning Trust and (2) the Company from which the academy operates.

“Termination Warning Notice” means any warning notice that may be served under and in accordance with the terms of the Funding Agreement.

- 6) The Interpretation Act 1978 shall apply for the interpretation of this Agreement as it applies for the interpretation of an Act of Parliament, and references to:

“party” means any party to this Agreement;

“persons” includes a body of persons, corporate or incorporate;

“school” shall where the context so admits be references to the Academy.

- 7) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement.

LEGAL AGREEMENT FOR USE OF LAND

- 8) Not used.
- 9) This Agreement shall commence on the date hereof and shall subject to clause 10 (and except in respect of clause 16) continue in force until the earlier of:
 - a) the termination of the Funding Agreement; and
 - b) the date upon which any termination of this Agreement arises pursuant to clause 24.
- 10) The termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of any party hereto accrued prior to termination.
- 11) Clause 16 of this Agreement shall continue to apply for as long as the Secretary of State has power to exercise any discretion in relation to the Land pursuant to Schedule 1 of the Academies Act 2010.

PARTNERSHIP IN THE PROVISION OF EDUCATION

- 12) This Agreement recognises the desire of the parties to foster the development and provision of high quality education in particular at the Academy and in the area which it serves and the parties acknowledge the commitment being made by each to this aim. Recognising the Diocesan Authority's respective strategic roles in the provision of education through the Diocesan family of Church of England schools both in relation to the Academy and more generally (which role has been acknowledged in but is not derived from the Education Acts (as defined pursuant to the Education Act 1996)), the Secretary of State acknowledges the value of:
 - a) maintaining a good working relationship between the parties at all levels, and
 - b) the support (financial and otherwise) provided to the Company by the Diocesan Authority; and

agrees:

A) to consider the use of his termination powers as set out in the Funding Agreement if requested to do so in writing by the Diocesan Authority in consequence of (i) unacceptable standards as measured by the relevant statutory denominational inspection using criteria equivalent to those triggering the right to serve a Termination Warning Notice under the Funding Agreement or (ii) a serious breakdown in the way the Academy is managed or governed such that the ethos requirements of designation or conditions set out in the Funding Agreement are no longer being complied with; and

B) to maintain an open and frank dialogue with the Diocesan Authority so that any matters that in the reasonable opinion of the parties may have a significant effect on the running of the Academy as a Church of England school shall be discussed in an appropriate manner recognising each party's viewpoint.

13) Whilst recognising the desire of the parties to work together in good faith and with mutual respect, nothing in this Agreement shall:

a) Not used.

b) interfere with the right of each party to arrange its affairs in whatever manner it considers fit in order to perform its obligations under this Agreement in the manner in which it considers to be the most effective and efficient;

c) oblige any party to incur any additional cost or expense or suffer any undue loss in the proper performance of its obligations under this Agreement;

d) fetter the ability of any party to exercise or fulfil its contractual or statutory powers and duties including under the Diocesan Boards of Education Measure 2021;

e) prevent the Company from teaching the tenets of the Church of England.

14) Not used.

- 15) Not used.
- 16) In the exercise of any discretion that the Secretary of State shall have either in relation to the Land as a consequence of this agreement or pursuant to Schedule 1 of the Academies Act 2010, the Secretary of State agrees to comply with any guidance issued by him in relation to the disposal of publicly funded land that is no longer to be used for the Academy.
- 17) In relation to any land owned or leased by the Company the Secretary of State agrees not to give consent to any disposal or grant of security in respect of such land to the Company as envisaged in the Funding Agreement without first consulting the Diocesan Authority and having due regard to any concerns expressed by the Diocesan Authority.

CAPITAL GRANTS

- 18) Not used.
- 19) Not used.

INTERVENTION AND SUPPORT

- 20) The Diocesan Authority acknowledge the Secretary of State's right to terminate the Funding Agreement in the circumstances envisaged in the Funding Agreement. The Secretary of State agrees with the Diocesan Authority before taking any such action and in particular serving any Termination Warning Notice to notify the Diocesan Authority that he intends to take action giving his reasons for such action and to allow the Diocesan Authority a reasonable opportunity to make representations regarding such action, including any actions that the Diocesan Authority intend to take to remedy any failing of the Academy, to which the Secretary of State will have due regard before finally taking any action.
- 20A) Without prejudice to the generality of clause 20 above, to the extent the Secretary of State has concerns as to the suitability of any director or member of the Company (the **Relevant Appointee**), the Secretary of State will notify the

Diocesan Authority of his concerns before exercising any available remedies in respect of the Relevant Appointee under the Funding Agreement.

20B) As soon as possible following the Secretary of State providing notification under clause 20A, the Secretary of State and the Diocesan Authority will meet to discuss the Secretary of State's concerns. The Diocesan Authority agrees to provide any further information on the Relevant Appointee which is reasonably requested by the Secretary of State and:

- (a) the Diocesan Authority acknowledges that the Secretary of State may, in his absolute discretion, carry out any additional due diligence on the Relevant Appointee and agrees to act reasonably in co-operating with any requests for assistance by the Secretary of State; and

- (b) the Secretary of State agrees to share any information of concern with the Diocesan Authority and to consult with the Diocesan Authority as to what remedial action should be taken in respect of the Relevant Appointee.

20C) To the extent the Diocesan Authority agrees that the Secretary of State's concerns regarding a Relevant Appointee have merit, the Secretary of State acknowledges that the Diocesan Authority may, in the first instance, determine what remedial action to take in respect of that Relevant Appointee before the Secretary of State exercises any available remedies under the Funding Agreement.

20D) If the Diocesan Authority does not agree with the Secretary of State's concerns regarding a Relevant Appointee, or the Diocesan Authority (in the Secretary of State's opinion) unreasonably delays taking remedial action or does not otherwise (in the Secretary of State's opinion) take appropriate remedial action, the Secretary of State shall issue a notice under the Funding Agreement requesting that the Diocesan Authority reconsiders its approach, together with any further supporting information of concern.

20E) To the extent the Diocesan Authority does not reconsider its approach, or

otherwise does not take remedial action to the Secretary of State's satisfaction, the Secretary of State reserves the right to exercise any available remedies available to him under the Funding Agreement.

20F) Notwithstanding clauses 20D and 20E, the Secretary of State acknowledges and agrees that the decision to remove a Relevant Appointee is the sole responsibility of the Diocesan Authority.

21) Not used.

22) In the spirit of partnership, where the Diocesan Authority put forward a school improvement plan, whether or not in the circumstances envisaged in clause 20, the Secretary of State will consider any proposals within it and in good faith will consider any resource or funding implications, without, for the avoidance of doubt, being under any obligation pursuant to this Agreement to agree to fund such proposals.

23) The Secretary of State agrees to meet the costs of any relevant statutory denominational inspection proposed by the Diocesan Authority provided these do not occur any more often than once every three years.

23A) Not used

23B) Not used

23C) Not used

23D) Not used

23E) The parties acknowledge that clauses 2.24 and 2.25 of the Master Funding Agreement apply to all academies.

23F) The parties recognise that the provisions set out in clauses 2.24 and 2.25 of the Master Funding Agreement prohibit the teaching as scientifically proven fact, of theories which are contrary to scientific evidence and ensure that schools teach evolutionary theory. The parties recognise that they apply to church schools as

they would to all other schools. The parties also recognise that the requirement on every academy and free school to provide a broad and balanced curriculum, including the provision for the teaching of evolution, does not preclude church academies' curriculum conforming to, or their teaching being in accordance with, the tenets of the Church of England.

- 23G) The Secretary of State acknowledges that clauses 2.24 and 2.25 of the Master Agreement and clause 23B above, do not prevent discussion of a range of beliefs about the origins of the Earth and living things, as long as it is not presented as a valid alternative to academically defensible scientific facts.

TERMINATION

- 24) Not used.
- 25) In the event of any termination of the Funding Agreement in circumstances where the Academy would not otherwise be closing, the Secretary of State will have due regard to any wishes of the Diocesan Authority with regard to the future of the school as a "voluntary" maintained school for the purposes of the School Standards & Framework Act 1998.
- 26) Notwithstanding any termination or expiry of this Agreement the provisions of clause 25 shall continue to apply.

MISCELLANEOUS

- 27) Any notice or other communication concerning this Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the Diocesan Authority at their registered offices or such other addressees/addresses as may be notified in writing from time to time by the Diocesan Authority and, in the case of a notice or communication from the Diocesan Authority to the Secretary of State to Head of Academies Division, Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT; or such other address as may be notified from time to time by the Secretary of State and where

any such notice or communication is sent by post, unless the contrary is proved, it shall be deemed, subject to satisfactory proof of posting, to be effected at the time at which the letter would be received in the ordinary course of post.

28) a) The Company shall not enter into any other agreement with any person, the terms of which are inconsistent with, or contrary, the terms of this Agreement.

(b) If the Company, in breach of clause 28(a), enters into such an agreement, then, in so far as any clause or clauses of that agreement are inconsistent with, or contrary to, the terms of this Agreement ('the conflicting clauses') the parties agree that, to the extent they are lawfully permitted to do so, they will:

i) treat the conflicting clauses as if they were void and of no effect;

ii) not rely on or enforce the conflicting clauses; and

iii) not act in accordance with the conflicting clauses.

29) No term of this Agreement is intended to give any entitlement as against any party to any person who is not a party to this Agreement and no term of this Agreement may be enforced by any person other than a party under the Contracts (Rights of Third Parties) Act 1999.

30) Save for clause 28 the obligations of the parties are several and for the avoidance of doubt none of the Company or Diocesan Authority shall be deemed to be liable in respect of the acts or omissions of the other as between these parties and the Secretary of State.

31) For the avoidance of doubt nothing in this Agreement is intended to vary or amend any provision of the Funding Agreement or any obligation arising under it.

This Agreement was executed as a Deed on 20 October 2022

Executed on behalf of **The Academies for Character and Excellence** by:

Wayman
Director

In the presence of:

Witness [Signature]

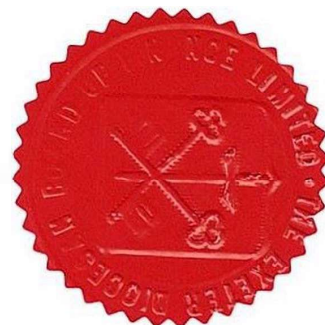
Address 2 Brookvale, Brook Lane, Sheldon, TQ14 0UJ

Occupation People Lead

Executed on behalf of Diocesan Authority by
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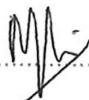
A.M. Beane
Director/

Neil Williams
Director/Secretary



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




.....
Duly Authorised

20/10/2022



Department
for Education

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