

**GOLDSWORTH PRIMARY SCHOOL
ACADEMIES**

MASTER FUNDING AGREEMENT

1 - 2 - 2012

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INTRODUCTION

- 1) This Agreement is made under Section 1 of the Academies Act 2010, between the Secretary of State for Education ("the Secretary of State") and Goldsworth Primary School (the "Company").
- 2) The Company is a company incorporated in England and Wales, limited by guarantee with registered Company number 7887259.
- 3) The Company intends to establish and maintain, and to carry on or provide for the carrying on of a number of Academies in accordance with this Agreement and the Supplemental Agreements.
- 4) This Agreement and the Supplemental Agreements will apply in respect of an Academy from such time as a Supplemental Agreement relating to that Academy shall have been entered into between the Secretary of State and the Company.
- 5) The following expressions used in this Agreement have the respective meanings assigned to them by the numbered clauses of this Agreement referred to immediately after the reference to the expressions -
 - a) "Academies Financial Handbook" - clause 67;
 - b) "Accounting Officer" – clause 62;
 - c) "Annual Letter of Funding" - clause 60;
 - d) "GAG" – clause 36;
 - e) "Capital Expenditure" - clause 37;
 - f) "Capital Grant" – clause 37;
 - g) "EAG" - clause 36;
 - h) "Local Governing Body" – clause 15;
 - i) "Recurrent Expenditure" – clause 36;
 - j) "Start-up Period" – clause 50;
- 6) In this Agreement the following words and expressions shall have the following meanings:-

"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;

"Additional Directors" means Directors who may be appointed by the Secretary of State under the Articles of Association;

"Academy" means a Mainstream Academy or a Special Academy in respect of which a Supplemental Agreement has been entered into between the Secretary of State and the Company and the expression "Academies" shall refer to all or any of such Academies;

"admission requirements" – are annexed to the relevant Supplemental Agreement;

"this Agreement" means this agreement and its annexes and a reference in this Agreement to a numbered clause or annex is a reference to the clause or annex of this Agreement bearing that number or letter as the same may be amended or supplemented from time to time;

"Business Day" means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday with the meaning given to that expression in the Banking and Financial Dealings Act 1971;

"Control" in relation to a body corporate ('Entity') means 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) 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;

"DfE" means Department for Education;

"Further Directors" means Directors who may be appointed by the Secretary of State under the Articles of Association if a Special Measures Termination Event, as defined in the relevant Supplemental Agreement, occurs;

"LA" means the Local Authority in the area in which the relevant Academy is situated;

"Mainstream Academy" means an Academy having the characteristics referred to in clause 12;

"Memorandum" and "Articles" means the Memorandum and Articles of Association of the Company for the time being in force, a copy of the current version of which is annexed to this Agreement as Annex A;

"parents" means parents or guardians;

"persons" includes a body of persons, corporate or incorporate;

"Principal" means the head teacher of an Academy;

"Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2006.

references to "school" shall where the context so admits be references to a Academy;

"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;

"Special Academy" means an Academy specially organised to make special educational provision for pupils with SEN;

"Supplemental Agreement" means an agreement supplemental to this Agreement, substantially in the form set out in Schedule 1 to this Agreement to be entered into by the Secretary of State and the Company pursuant to which the Company agrees to

establish and maintain, and to carry on or provide for the carrying on, and the Secretary of State agrees to fund, an Academy in accordance with the terms and conditions of that Supplemental Agreement and this Agreement;

- 7) The Interpretation Act 1978 shall apply for the interpretation of this Agreement and any Supplemental Agreement as it applies for the interpretation of an Act of Parliament.
- 8) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement or Supplemental Agreement.
- 9) Questions arising on the interpretation of the arrangements in this Agreement shall be resolved by the Secretary of State after consultation with the Company
- 10) Section 1 (3) of the Academies Act 2010 states that -

(3) An Academy agreement is an agreement between the Secretary of State and the other party under which-

- (a) the other party gives the undertakings in subsection (5), and
- (b) the Secretary of State agrees to make payments to the other party in consideration of those undertakings."

LEGAL AGREEMENT

11) In consideration of the Company undertaking to establish and maintain, and to carry on or provide for the carrying on of, of a number of independent schools in England specially organised to make special educational provision for pupils with SEN (**"the Special Academies"**) or having the characteristics referred to in clause 12 (**"the Mainstream Academies"**), the Secretary of State agrees to make payments to the Company in accordance with the conditions and requirements set out in this Agreement and Supplemental Agreements. If it is agreed between the Secretary of State and the Company that the Company will establish and maintain, and to carry on or provide for the carrying on of an Academy, the parties will enter into a Supplemental Agreement in relation to that Academy. For the avoidance of doubt, any obligations imposed upon or powers given to an Academy by this Agreement or any Supplemental Agreement are also imposed upon the Company.

CHARACTERISTICS OF A MAINSTREAM ACADEMY

12) The characteristics of a **Mainstream Academy** are as set down in Section 1(6) of the

Academies Act 2010:

- a) The school has a curriculum satisfying the requirements of section 78 of EA 2002 (balanced and broadly based curriculum)
- b) If the school provides secondary education, its curriculum for the secondary education has an emphasis on a particular subject area, or particular subject areas, specified in the Agreement;
- c) The school provides education for pupils of different abilities¹
- d) the school provides education for pupils who are wholly or mainly drawn from the area in which the school is situated.

THE SEN OBLIGATIONS

12A) In respect of **Special Academies**:

- a) The Company must comply with all of the obligations imposed upon the governing bodies of maintained special schools in Chapter 1 of Part 4 of the Education Act 1996 and in Regulations in force at the date of this agreement or made from time to time under any provision in that Chapter (as amended from time to time²).
- b) 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 imposed by this Agreement where the Company has failed to comply with any such obligation.
- c) The Company must ensure that each Academy's website includes details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; the facilities provided to assist access to the Academy by disabled pupils; and the plan prepared by the Company under paragraph 3 of Schedule 10 to the Equality Act 2010. Disabled pupils in this paragraph mean pupils who are disabled for the purposes of the Equality Act 2010³.

¹ This clause will not apply to any Supplemental Funding Agreement entered into in relation to an Academy which is a "selective school" within the meaning of Section 6[4] of the Academies Act 2010

² Currently these duties are in section 313 (Duty to have regard to the Special Educational Needs Code of Practice 2001); section 317(5), (6) and (6A) (Duties in relation to the publication of information relating to arrangements and facilities for disabled pupils at the school); and 324(5)(b) (Duty to admit the child where a school is named in the statement); and The Education (Special Educational Needs)(Information)(England) Regulations 1999 (S.I. 1999/2506). For the avoidance of doubt, the obligations in paragraph 12 of this agreement are in addition to any obligations imposed upon Academy proprietors directly in legislation or regulations.

³ This obligation is in addition to the obligation to comply with the duties to publish information imposed upon the governing bodies of maintained special schools set out in The Education (Special Educational Needs) (Information) Regulations 1999 (as

CONDITIONS OF GRANT

General

13) Other conditions and requirements in respect of an Academy, unless specified otherwise in a Supplemental Agreement, are that:

- a) the school will be at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community;
- b) there will be assessments of pupils performance as they apply to maintained schools and the opportunity to study for external qualifications in accordance with clause 30 (d);
- c) in respect of **Mainstream Academies**, the admissions policy and arrangements for the school will be in accordance with admissions law, and the DfE Codes of Practice, as they apply to maintained schools;
- d) teachers' levels of pay and conditions of service for all employees will be the responsibility of the Company;
- e) there will be an emphasis on the needs of the individual pupils including pupils with SEN, both those with and without statements of SEN;
- f) there will be no charge in respect of admission to the school and the school will only charge pupils where the law allows maintained schools to charge.
- g) the Company shall as soon as reasonably practicable establish an appropriate mechanism for the receipt and management of donations and shall use reasonable endeavours to procure donations through that mechanism for the purpose of the objects specified in the Articles.

Governance

14) Each Academy will be governed by the Company. The Company shall have regard to (but for the avoidance of doubt shall not be bound by) any guidance as to the governance of Academies that the Secretary of State may publish.

15) The Company shall establish, for each Academy, an Advisory Body, whose role shall be to provide advice to the Company in relation to the functioning of that 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) a minimum of two employees at the Academy (to be elected by employees of the Academy) shall be members of the Advisory Body⁴;

c) not used.

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

e) 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.

Conduct

16) Each Academy shall be conducted in accordance with:

a) the Articles, which shall not be amended by the Company without the written consent of the Secretary of State, such consent not to be unreasonably withheld;

b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the independent schools standards prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy

c) the terms of this Agreement and the relevant Supplemental Agreement.

Criminal Records Bureau Checks

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

18) Each **Mainstream Academy** will be an all ability inclusive⁵ school whose requirements for:

⁴ Delete if not required.

⁵ If one of the Mainstream Academies is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 then the Supplemental Funding Agreement for that Academy will provide that that Academy is not required to be an all ability inclusive school.

- a) the admission of pupils to the Academy are set out in the relevant annex to the Supplemental 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 this Agreement;
- c) pupil exclusions are set out in Annex C to this Agreement.

18AA) Each **Special Academy** will be a special school whose requirements for:

- a) the admission of pupils to the Academy are set out in the relevant annex to the Supplemental Agreement;
- b) pupil exclusions are set out in Annex C to this Agreement.

Designated Teacher for Looked after Children

18A) The Company will in respect of each Academy act in accordance with, and be bound by, all relevant statutory and regulatory provisions and have regard to any guidance and codes of practice issued pursuant to such provisions, as they apply at any time to a maintained school, relating to the designation of a person to manage the teaching and learning programme for children who are looked after by an LA and are registered pupils at the school. For the purpose of this clause, any reference to the governing body of a maintained school in such statutory and regulatory provisions, or in any guidance and code of practice issued pursuant to such provisions, shall be deemed to be references to the Directors of the Company.

Teachers and other staff

19) Subject to clause 20, the Company shall not employ anyone under a contract of employment or for services to carry out planning and preparing lessons and courses for pupils, delivering lessons to pupils, assessing the development, progress and attainment of pupils, and reporting on the development, progress and attainment of pupils ("specified work") who is not either:-

- a) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002; or
- b) otherwise eligible to do specified work under the Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003/1663), which for the purpose of this

clause shall be construed as if the relevant Academy were a maintained school.

20) Clause 19 does not apply to anyone who:

- a) was transferred to the employment of the Company by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006; and
- b) immediately prior to the transfer, was employed to do specified work; and
- c) immediately prior to the transfer, was not:
 - i) 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
 - ii) eligible to do specified work under the Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003/1663)

("transferred staff member"). The Company shall use its best endeavours to ensure that any transferred staff member who undertakes specified work and does not meet the requirements of either clause 20(a) or clause 20(b) meets such requirements as soon as possible.

21) The Company shall ensure that all teachers employed at each Academy have access to the Teachers Pension Scheme and, in so doing, will comply with the statutory provisions underlying the scheme.

22) The Company shall ensure that all employees at each Academy other than teachers have access to the Local Government Pension Scheme.

Curriculum, curriculum development and delivery and RE and collective worship

23) The curriculum provided by each Academy to pupils up to the age of 16 shall be broad and balanced.

23A) The specialism for each **Mainstream Academy** in relation to its secondary curriculum will be set out in the relevant Supplemental Agreement.

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

25) The Company shall make provision for the teaching of religious education and for a daily act of collective worship at each Academy.

26) Where a **Mainstream Academy** is designated with a religious character⁶ 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 28, 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;
- b) subject to clause 28, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school with a religious character or a voluntary school, and as if references to 'the required collective worship' were references to collective worship in accordance with the tenets and practices of the specified religion or religious denomination of the Academy;
- c) the Company shall ensure that the quality of religious education given to pupils at the Academy and the contents of the Academy's collective worship given in accordance with the tenets and practice of the specific religion or religious denomination are inspected. Such inspection shall be conducted by a person chosen by the Company and the Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

27) Where a **Mainstream 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 28, 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 28, 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

⁶ Alternative provisions are available and would be potentially appropriate for non-denominational faith schools.

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:

(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 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.

28) Section 71(1) – (6) and (8) of the School Standards and Framework Act 1998 shall apply as if each 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 each Academy in accordance with clauses 26 or 27 as appropriate.

28A) In respect of RE and collective worship at **Special Academies**:

- a) subject to c), the Company shall ensure that provision shall be made for religious education to be given to all pupils at each 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 c), the Company shall ensure that each Academy complies with the requirements of regulation 5A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 as if it were a maintained special school;
- c) Regulation 5A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 shall apply as if the Academy were a community or foundation special 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 this clause.

29) The Company shall have regard to any guidance issued by the Secretary of State on sex and relationship education to ensure that children at each 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.

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 any maintained school shall be treated as references to each Academy;
- b) references to registered pupils shall be treated as references to registered pupils at each 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 each Academy.

Assessment

30) The Secretary of State will notify the appropriate body for assessment purposes about each 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 30 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 each Academy to monitoring and moderation of its assessment arrangements as prescribed by the Secretary of State.