

**DEED OF NOVATION AND VARIATION  
OF THE  
SINGLE FUNDING AGREEMENT  
FOR  
NORTH TOWN ACADEMY**

The Parties to this Deed are:

(1) **THE SECRETARY OF STATE FOR EDUCATION** of Sanctuary Buildings, Great Smith Street, London SW1P 3BT (the "**Secretary of State**");

(2) **RICHARD HUISH TRUST**, a charitable company incorporated in England and Wales with registered company number 09320523 whose registered address is at Richard Huish College, South Road, Taunton, Somerset TA1 3DZ ("**Incoming Academy Trust**"); and

(3) **NORTH TOWN ACADEMY TRUST**, a charitable company incorporated in England and Wales with registered company number 07697356 whose registered address is at North Town Primary School, Staplegrove Road, Taunton, Somerset TA1 IDF ("**Outgoing Academy Trust**"),

together referred to as the "Parties".

## **INTRODUCTION**

- A. North Town Academy is an academy within the meaning of the Academies Act 2010 (the "**academy**") and is currently operated by the Outgoing Academy Trust (a single academy trust).
- B. The Secretary of State and the Outgoing Academy Trust entered into a Single Funding Agreement on 1 August 2011 (the "**Existing Funding Agreement**") for the maintenance and funding of the academy (attached as Schedule 1), which was further amended by Deed of Variation dated 3 March 2017.
- C. It is proposed that, with effect from 00.01 am on 1 April 2019 ("**Transfer Date**"), the Incoming Academy Trust will assume responsibility for the management and operation of the academy in succession to the Outgoing Academy Trust.
- D. The Parties wish to novate the Existing Funding Agreement to the Incoming Academy Trust and the Secretary of State and the Incoming Academy Trust wish to vary the terms of the Existing Funding Agreement subject to the provisions of this Deed.

## **LEGAL AGREEMENT**

1. Unless defined otherwise in this Deed, any word or phrase used in this Deed shall, if that word or phrase is defined in the Existing Funding Agreement, bear the meaning given to it in the Existing Agreement.

## **NOVATION**

2. The Outgoing Academy Trust transfers all its rights and obligations under the Existing Funding Agreement to the Incoming Academy Trust with effect from the Transfer Date. With effect from the Transfer Date, the Incoming Academy Trust shall enjoy all the rights and benefits of the Outgoing Academy Trust under the Existing Funding Agreement and all references to the Outgoing Academy Trust in the Existing Funding Agreement shall be read and construed as references to the Incoming Academy Trust.

3. Not used.

4. With effect from the Transfer Date, the Incoming Academy Trust agrees to perform the Existing Funding Agreement and be bound by its terms in every way as if it were the original party to it in place of the Outgoing Academy Trust.

5. With effect from the Transfer Date, The Secretary of State agrees to perform the Existing Funding Agreement and be bound by its terms in every way as if the Incoming Academy Trust were the original party to it in place of the Outgoing Academy Trust.

## **OBLIGATIONS AND LIABILITIES**

6. With effect from the Transfer Date, the Outgoing Academy Trust and the Secretary of State release each other from all future obligations to the other under the Existing Funding Agreement.

7. With effect from the Transfer Date, each of the Outgoing Academy Trust and the Secretary of State release and discharge the other from all claims and demands under or in connection with the Existing Funding Agreement arising before, on or after the Transfer Date.

8. With effect from the Transfer Date, each of the Incoming Academy Trust and the Secretary of State will have the right to enforce the Existing Funding Agreement and pursue any claims and demands under the Existing Funding Agreement against the other

with respect to matters arising before, on or after the Transfer Date as though the Incoming Academy Trust were the original party to the Existing Funding Agreement instead of the Outgoing Academy Trust.

## **INDEMNITY**

9. The Outgoing Academy Trust agrees to indemnify the Incoming Academy Trust against any losses, liabilities, claims, damages or costs that the Incoming Academy Trust suffers or incurs under or in connection with the Existing Funding Agreement as a result of the Company's failure to perform or satisfy its obligations under the Existing Funding Agreement on or before the Transfer Date.

10. The Incoming Academy Trust agrees to indemnify the Outgoing Academy Trust against any losses, liabilities, claims, damages or costs the Outgoing Academy Trust suffers or incurs under or in connection with the Existing Funding Agreement (as amended and varied as provided for below) as a result of the Incoming Academy Trust's failure to perform or satisfy its obligations under the Existing Funding Agreement on or after the Transfer Date.

## **VARIATION**

11. The Secretary of State and the Incoming Academy Trust agree that with effect from the Transfer Date the Existing Funding Agreement shall be amended and restated so as to take effect in the form of a new agreement which shall consist of the terms of a Master Funding Agreement contained in Schedule 2 to this Deed and separating other provisions in to a corresponding Supplemental Funding Agreement contained in Schedule 3 to this Deed.

12. As varied by this Deed, the Existing Funding Agreement shall remain in full force and effect.

13. This Deed shall be governed by and interpreted in accordance with English law.

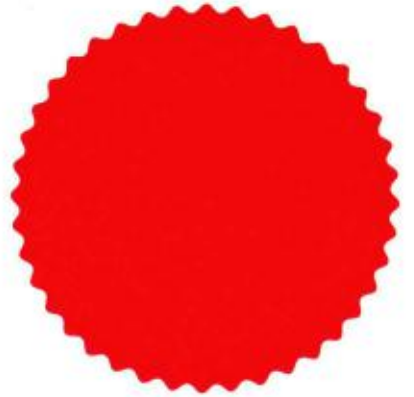
14. The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this deed or its subject matter or formation (including non-contractual disputes or claims).

## **COUNTERPARTS**

15. This Deed may be executed in any number of counterparts and by the Parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

IN WITNESS whereof this Deed has been executed by the parties hereto and is intended to be and is hereby delivered on the last date listed below.

EXECUTED as a deed by affixing the corporate seal)  
of **THE SECRETARY OF STATE FOR EDUCATION**)  
authenticated by:- )



*[Signature]*

Duly authorised by the **SECRETARY OF STATE FOR EDUCATION**

Date 29 March 2019

EXECUTED as a deed by  
**NORTH TOWN ACADEMY**  
acting by one director in the  
presence of a witness:

Director *[Signature]*  
Print name CLARE GREENGLADE  
Date 14/3/19

Witness *[Signature]*  
Print name MICHAEL SNOWDEN  
Address 27, STAPLE GLOVE ROAD, TAUNTON, TA1 1DG  
Occupation HEAD TEACHER

EXECUTED as a deed by  
**RICHARD HUISH TRUST**  
acting by one director in the  
presence of a witness:

Director *[Signature]*  
Print name GUY ADAMS  
Date 6/3/2019

Witness *[Signature]*  
Print name SARAH GALONEE  
Address RICHARD HUISH COLLEGE, SOUTH ROAD, TAUNTON TA1 30Z  
Occupation P.A.

**Schedule 1**  
**Existing Single Funding Agreement**

**SINGLE ACADEMY MODEL**

**NORTH TOWN ACADEMY**

**MODEL FUNDING AGREEMENT**

1 August 2011



# SINGLE ACADEMY MODEL

## NORTH TOWN ACADEMY

### FUNDING AGREEMENT

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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 North Town Academy Trust (the "Academy Trust").
- 2) The Academy Trust is a Company incorporated in England and Wales, limited by guarantee with registered Company number 7697356.
- 3) 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 72;
  - b) "Academy Financial Year" - clause 62;
  - c) "Accounting Officer" – clause 71;
  - d) "Annual Letter of Funding" - clause 65;
  - e) "Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;
  - f) "GAG" – clause 35;
  - g) "Capital Expenditure" - clause 36;
  - h) "Capital Grant" – clause 36;
  - i) "EAG" - clause 35;
  - j) "Recurrent Expenditure" – clause 35;
  - k) "Start-up Period" – clause 55;
- 4) In this Agreement the following words and expressions shall have the following meanings:-

"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;

"DfE" means Department for Education;

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

"Insured 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 Academy Trust insures against from time to time subject in all cases to any exclusions or limitations as may from time to time be imposed by the insurers or underwriters".

"Additional Governors" means Governors who may be appointed by the Secretary of State under the Articles of Association.

"Principal" means the head teacher of the Academy;

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

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

"the Land" means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as North Town Primary School Staplegrave Road Taunton Somerset TA1 1DF

"Memorandum" and "Articles" means the Memorandum and Articles of Association of the Academy Trust 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;

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

"SEN" means Special Educational Needs;

- 5) The Interpretation Act 1978 shall apply for the interpretation of this Agreement as it applies for the interpretation of an Act of Parliament.
- 6) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement.
- 7) Questions arising on the interpretation of the arrangements in this Agreement shall be resolved by the Secretary of State after consultation with the Academy Trust.
- 8) 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**

- 9) In consideration of the Academy Trust undertaking to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England to be known as the **North Town Academy** ("the Academy") and having such characteristics as are referred to in clause 10, the Secretary of State agrees to make payments to the Academy Trust in accordance with the conditions and requirements set out in this Agreement. For the avoidance of doubt, any obligations imposed upon or powers given to the Academy by this Agreement are also imposed upon the Academy Trust.

#### **CHARACTERISTICS OF THE ACADEMY**

- 10) The characteristics of the Academy set down in Section 1(6) of the Academies Act 2010, are that:
  - (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 abilities
- (d) the school provides education for pupils who are wholly or mainly drawn from the area in which the school is situated.

#### **ACADEMY OPENING DATE**

11) The Academy shall open as a school on 1<sup>st</sup> August 2011 replacing North Town Primary 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.

#### **CONDITIONS OF GRANT**

##### **General**

12) Other conditions and requirements in respect of the Academy 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 29 (d);
- (c) 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 Academy Trust save that when entering into a contract of employment with any person the Academy Trust shall be bound by and act in accordance with such guidance as the Secretary of State may publish in relation to the maximum salary that may be paid to employees of Academies;
- (e) there will be an emphasis on the needs of the individual pupils including pupils with special education needs (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 Academy Trust 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**

13) The Academy will be governed by a governing body ("the Governing Body") who are the

Directors of the company constituted under the Memorandum and Articles of the Academy Trust.

- 14) The Governing Body 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.

### **Conduct**

- 15) The Academy shall be conducted in accordance with:
- a) the Memorandum and Articles, which shall not be amended by the Academy Trust 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.

### **Criminal Records Bureau Checks**

- 16) The Academy shall comply with the requirements of paragraph 4 of the Schedule to the Education (Independent School Standards) (England) Regulations 2003 (as amended) 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 Governors and the Chair of the Governing Body.

### **Pupils**

- 17) The planned capacity of the Academy is 420 in the age range 5 – 11. The Academy will be an all ability inclusive school whose requirements for:
- a) the admission of pupils to the Academy are set out in Annex B to this Agreement;
  - b) the admission to the Academy of and support for pupils with SEN and with disabilities (for pupils who have and who do not have statements of SEN) are set out in Annex C to this Agreement;
  - c) pupil exclusions are set out in Annex D to this Agreement.



### **Designated Teacher for Children in Care**

17A) The Academy Trust will in respect of the 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 Governing Body of the Academy Trust.

### **Teachers and other staff**

18) Subject to clause 19, the Academy Trust 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 Academy were a maintained school.

19) Clause 18 does not apply to anyone who:

- a) was transferred to the employment of the Academy Trust by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006;
- 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 Academy Trust shall use its best endeavours to