Department for Education

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Department for Education

16 to 19 academy and free school: supplemental funding agreement

March 2018 v2

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SUMMARY

Information about the Academy:

Name of Academy Trust	Dixons Academies Charitable Trust Ltd
Company number	02303464
Date of Master Funding Agreement	28 September 2018
Name of academy	Dixons Sixth Form Academy
Opening date	28 August 2019
Type of academy (indicate whether academy or free school)	Free School
Name of predecessor institution (where applicable)	N/A
Capacity number	880
Age range	16-19
Number of boarding places	N/A
Land arrangements **(Version 1-8 or other)**	Version 8
Address and title number of Land	Douglas Mill, Bowling Old Lane, Bradford, BD5 7JR Freehold: WYK666165 & WYK799354 Leasehold:WYK782603 & WYK782600

Please confirm which clause variations have been applied or marked as 'Not used'

Clause No.	Descriptor	Applied	Not used
1.J	Only applies to free schools and new provision academies	✓	
2.A.1	Only applies where an academy was previously a VC school or foundation school designated with a religious character.		✓
2.E	Only applies where there was a predecessor institution		✓
2.G	Clause does not apply to free schools (unless there was a predecessor institution), or new provision academies		✓
3.H	Clause relating to Start-up only applies in some cases (does not apply to academy converters)	✓	
3.J	Clause only applies to full sponsored and intermediate sponsored academies with approved Academy Action Plans		✓
3.K	Clause does not apply to free schools (unless there was a predecessor institution), or new provision academies		✓
5.G.1	Clause applies to a boarding academy/boarding free school only		✓
5.I	Clause only applies to sponsored academies		✓
5.J	Clause applies to free schools and may be applied to new provision academies	✓	
5.K	Clause applies to free schools and may be applied to new provision academies	✓	
5.L	Clause applies to free schools and may be applied to new provision academies	✓	

Clause No.	Descriptor	Applied	Not used
5.M	Clause applies to free schools and may be applied to new provision academies	✓	
5.N	Clause applies to free schools and may be applied to new provision academies	✓	
6.H	Clause only applies to schools which are designated with a Church of England or Roman Catholic character		✓

Please confirm whether additional clauses have been included (e.g. PFI clauses which will be supplied by your project lead if needed)

Descriptor	Clause No.	Applied	Not used

1. ESTABLISHING THE ACADEMY

1.A This Agreement made between the Secretary of State for Education and Dixons Academies Charitable Trust Ltd is supplemental to the master funding agreement made between the same parties and dated 28 September 2018 (the "**Master Agreement**").

Definitions and interpretation

1.B Except as expressly provided in this Agreement words and expressions defined in the Master Agreement will have those same meanings in this Agreement.

1.C The following capitalised words and expressions will have the following meanings:

"The **Academy**" means the Dixons Sixth Form Academy.

"**awarding organisations**" means organisations referred to as such by Ofqual.

References to "**educational institution**" shall where the context so admits be references to the Academy.

"**Individualised Learner Record**" is a dataset that collects information on learners and their learning in the Further Education system in England

"**SEN**" means Special Educational Needs and the expressions "**special educational needs**" and "**special educational provision**" have the meaning set out in sections 20(1) and 21(2) of the Children and Families Act 2014.

"**Predecessor Institution**" means the educational institution which the Academy has replaced, where applicable.

"**Start-Up Period**" means a period of three Academy Financial Years (and for the avoidance of doubt the calculation of student number count provided at clause 2B

will be used for the third academic year in which the Academy is open, and for each year thereafter).

"Termination Notice" means a notice sent by the Secretary of State to the Academy Trust, terminating this Agreement on the date specified in the notice.

"Termination Warning Notice" means a notice sent by the Secretary of State to the Academy Trust, stating his intention to terminate this Agreement.

1.D The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament.

1.E Reference in this Agreement to clauses and annexes will, unless otherwise stated, be to clauses and annexes to this Agreement.

The Academy

1.F The Academy is a 16-19 Academy as defined in clause 1.4 of the Master Agreement.

1.G The Academy Trust will establish and maintain the Academy in accordance with the Master Agreement and this Agreement.

1.H The Academy Trust will open the Academy on 28 August 2019.

1.I The Academy Trust agrees that, prior to the Academy opening date, the Academy is an institution for the purposes of the Chief Inspector's duties under section 118(2) and 125 of the Education and Inspections Act 2006 and accordingly, the Chief Inspector may inspect the Academy before that date.

1.J The Academy Trust must ensure that so far as is reasonably practicable and consistent with this Agreement and the Equality Act 2010, the policies and practices adopted by the Academy (in particular regarding curriculum, uniform and school food) enable students of all faiths and none to play a full part in the life of the Academy, and do not disadvantage students or parents of any faith or none. For the avoidance of doubt, this requirement applies irrespective of the proportion of pupils of any faiths or none currently attending or predicted to join the school.

1.K Further to clause 1.13 of the Master Agreement, the following conditions and requirements must also apply in relation to the Academy:

a) The Academy Trust must ensure that learning takes place in safe, healthy and supportive environments, which meet the needs of students;

b) The Academy Trust must comply with all relevant statutory requirements and the most recent policies and national minimum standards, including those in relation to financial health and/or control, which may be issued by DfE, ESFA, awarding organisations and the Chief Inspector, including but not limited to, those published on the relevant body's website.

2. RUNNING OF THE ACADEMY

Teachers and staff

2.A Subject to clause 2.A.2 and 7.A of this Agreement and section 67 of the Children and Families Act 2014, the Academy Trust may, in accordance with any relevant Guidance, employ anyone it believes is suitably qualified or is otherwise eligible to plan and prepare lessons and courses for students, teach students, and assess and report on students' development, progress and attainment.

2.A.1 Not used

2.A.2 The Academy Trust must designate a staff member at the Academy as responsible for promoting the educational achievement of registered pupils at the Academy who are being looked after by an LA, or are no longer looked after by an LA because of an adoption, special guardianship or child arrangements order, or because they have been adopted from 'state care' outside England and Wales, and in doing so must comply with the law, regulations and guidance that apply to maintained schools. The Academy Trust must ensure the designated person undertakes appropriate training and has regard to any guidance issued by the Secretary of State.

Pupils

2.B The planned capacity of the Academy is 880 in the age range 16 -19.

2.C The Academy Trust must ensure that the Academy meets the needs of individual students, including students with learning difficulties and disabilities.

2.D Where secondary education is provided to persons of compulsory school age by the Academy, the Academy Trust shall secure that, except when a teacher is present in the room, no education is provided to a person who has attained the age of nineteen years in a room in which any persons of compulsory school age are for the time being receiving secondary education. A teacher will be considered to be present in the room at a particular time even though no teacher is present if:

a) it would be impracticable to secure the presence of a teacher in a room at that time; and

b) the absence of a teacher at that time has not lasted more than five minutes.

Charging

2.E The Academy will only make charges where institutions within the further education sector are permitted to as set out in the current 16 to 19 Funding Guidance published by the Secretary of State, or such guidance on 16 to 19 funding issued by the Secretary of State as may from time to time be applicable.

2.F Not used.

Admissions

2.G The Academy will be an educational institution principally concerned with providing full-time or part-time education suitable to the requirements of persons over compulsory school age but under 19 whose requirements for:

a) the admission of students to the Academy;

b) the admission to the Academy and support for students with learning difficulties and with disabilities; and

c) student exclusions,

are set out in written policies to be agreed by the Secretary of State prior to the signing of this agreement. Such policies to be fair, objective and transparent, and formulated in accordance with the Academy Trust's legal powers and duties in relation to 16 to 19 provision.

2.H In respect of any policies agreed in accordance with clause 2.G:

a) The Secretary of State agrees that the Academy Trust may vary the policies subject to the Academy Trust informing the Secretary of State of any variation to the policies in writing as soon as reasonably practicable; and

2.I The Academy Trust agrees to vary the policies as may become necessary to comply with changes to future legislation and/or as the Secretary of State may require.

Curriculum

2.J Clause 2.22 of the Master Agreement will not apply to this Academy. The Academy Trust must ensure that the curriculum provided by the Academy is suitable to the requirements of students and can include vocational, social, physical and recreational training.

2.K The Academy Trust must provide for:

a) the teaching of religious education for any student at the Academy wishing to receive it; and

2.L Ensure that at an appropriate time, on at least one day each week during which the Academy is open, an act of collective worship is held which students at the Academy may attend.

3. GRANT FUNDING

Calculation of GAG

3.A Subject to clause 3.C, the basis of the pupil number count for the purposes of determining GAG for an Academy Financial Year will be the Academy Trust's most recent estimate provided in accordance with clause 3.B.

3.B The Secretary of State will, in advance of each Academy Financial Year for the Academy, request that the Academy Trust provides an estimate of the number of pupils on roll in the following September for the purposes of determining GAG for an Academy Financial Year. The Academy Trust must provide the requested estimate to the Secretary of State as soon as reasonably practicable.

3.C In the Academy Financial Year immediately following the Academy Financial Year in which the Academy reaches 90 per cent of planned capacity, but in any case from and including Academy Year starting September 2023, the basis of the pupil number count for the purpose of determining GAG will no longer be the estimate provided in accordance with clause 3.D, but in that all following Academy Financial Years will be determined in accordance with clause 3.F.

3.D For any Academy Financial Year in which GAG for the Academy has been calculated in accordance with clauses 3.A and 3.B, an adjustment may be made to the following Academy Financial Year's formula funding element of GAG for the Academy to recognise any variation from that estimate. The Secretary of State may for this purpose use the Census for the relevant month (determined at the Secretary of State's discretion) for the Academy Financial Year in question as a means of determining pupil numbers. The additional or clawed-back grant will be only the amount relevant to the number of pupils above or below that estimate.

3.E Not used

3.F Where this clause applies in accordance with clause 3.C, the basis of the pupil count for determining GAG will be:

a) 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 pupils in Year 12 and above, the formula which is in use at the time for maintained schools.

3.G The Secretary of State may, at his discretion, adjust the basis of the pupil count to take account of any diseconomies of scale which may affect the Academy if it is operating below the planned capacity in clause 2.B. If such an adjustment is made in any Academy Financial Year, this will not change the basis of the pupil count for calculating the following Academy Financial Year's GAG. If the Secretary of State has indicated that additional grant may be payable in such circumstances, the Academy Trust will bid for this additional grant based on need and providing appropriate supporting evidence. The Secretary of State may accept or refuse the bid at his discretion.

3.H The Secretary of State may pay a further element of GAG to the Academy Trust during the Start-Up Period or during the period when year groups are present who have transferred from the Predecessor School, in order to allow the Academy to:

a) purchase a basic stock of teaching and learning materials (including library books, text books, software, stationery, science equipment and equipment for physical education) and other consumable materials; and

b) meet the costs associated with the recruitment and induction of additional staff.

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

3.I The Secretary of State recognises that if a Termination Notice or a Termination Warning Notice is served, or the Master Agreement is otherwise terminated, the intake of new pupils during the notice period may decline and

therefore payments based on the number of pupils attending the Academy may be insufficient to meet the Academy's needs. In these circumstances the Secretary of State may pay a larger GAG in the notice period, to enable the Academy to operate effectively.

Other relevant funding

3.J Not used.

3.K Not used.

Carrying forward of funds

3.L Any additional grant made in accordance with clause 3.I, for a period after the Secretary of State has served a Termination Notice or a Termination Warning Notice under this Agreement, or otherwise has terminated the Master Agreement, may be carried forward without limitation or deduction until the circumstances set out in clause 3.I cease to apply or the Academy closes.

4. LAND

Version 8: new leasehold site provided by ESFA where the Secretary of State is the landlord

"**Land**" means the land at Douglas Mill, Bowling Old Lane, Bradford, BD5 7JR, being the land currently registered with title numbers WYK666165,WYK799354, WYK782603 and WYK782600 demised, or to be demised by the Lease.

"**Lease**" means the lease, any subsequent variations to the lease or other occupational agreement between the Academy Trust and the Secretary of State for Housing, Communities and Local Government (the **"Landlord"**) under which the Academy Trust derives title to the Land.

"**Property Notice"** means any order, notice, proposal, demand or other requirement issued by any competent authority (including the Landlord unless the Landlord is the Secretary of State for Education) which materially affects the Academy Trust's ability to use the Land for the purposes of the Academy.

Restrictions on Land transfer

4.A The Academy Trust must:

a) within 28 days of the signing of this Agreement in circumstances where the Land is demised to the Academy Trust prior to the date of this Agreement, or otherwise within 28 days of the demise of the Land to the Academy Trust, apply to the Land Registry using Form RX1 for the following restriction (the "**Restriction**") to be entered in the proprietorship register for the Lease:

No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the Secretary of State for Education of Sanctuary Buildings, Great Smith Street, London SW1P 3BT;

b) take any further steps required to ensure that the Restriction is entered on the proprietorship register of the Academy Trust's title;

c) promptly confirm to the Secretary of State when the Restriction has been registered;

d) if it has not registered the Restriction, allow the Secretary of State to do so in its place; and

e) not, without the Secretary of State's consent, apply to disapply, modify, cancel or remove the Restriction, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Academy Trust.

Obligations of the Academy Trust

4.B The Academy Trust must comply with the Lease.

The Academy Trust must not, without the Secretary of State's consent:

a) grant any consent or licence; or

b) create or allow any encumbrance including charging the land; or

c) part with or share possession or occupation; or

d) enter into any onerous or restrictive obligations

in respect of all or part of the Land Provided that that the Academy Trust may grant a licence or share occupation of part of the Land with a proprietor or proposed proprietor of an Academy or a body or individual providing services or facilities which are within the uses permitted by the Lease and where no relationship of landlord and tenant arises as a result of such occupation.

4.C The Academy Trust must obtain the Secretary of State's consent before taking any action, including the service of any notice or waiver of any condition, under any contract relating to the acquisition of the Land.

4.D If the Academy Trust is, or if it is reasonably foreseeable that it will be, in material breach of the Lease, the Academy Trust must immediately give written notice to the Secretary of State stating what the breach is and what action the Academy Trust has taken or proposes to take to remedy it, including timescales where appropriate.

4.E After notifying the Secretary of State under clause 4.D, the Academy Trust must:

a) promptly give the Secretary of State all the information he asks for about the breach;

b) allow the Secretary of State to take all necessary action, with or instead of the Academy Trust, to remedy or prevent the breach, and

c) use its best endeavours to help the Secretary of State to remedy or prevent the breach.

4.F If the Academy Trust has not entered into the Lease by 31 October 2020 the Secretary of State may serve a Termination Notice.

Property Notices

4.G If the Academy Trust receives a Property Notice , it must:

a) send a copy of it (where not issued by the Landlord) to the Secretary of State within 14 days, stating how the Academy Trust intends to respond to it;

b) promptly give the Secretary of State all the information he asks for about it;

c) allow the Secretary of State to take all necessary action, with or instead of the Academy Trust, to comply with it, and

d) use its best endeavours to help the Secretary of State in connection with it.

Sharing the Land

4.H If:

a) the Academy does not reach its planned capacity, as stated in clause 2.B, by 1 September 2021; or

b) the Academy Trust or the Secretary of State serves notice to terminate this Agreement under clause 5.A; or

c) the Secretary of State considers, having consulted with the Academy, that not all the Land is needed for the operation of the Academy at planned capacity,

the Academy Trust must share occupation of the Land with such other Academy as the Secretary of State considers appropriate and enter into any legal arrangements which the Secretary of State requires for this purpose subject to the terms of the Lease Provided that any associated reasonable costs directly arising from the legal arrangements will be payable by the Secretary of State.

4.I In the event of any inconsistency between the provisions of this Agreement and the Lease, the provisions of this Agreement will prevail and, for the avoidance of doubt, nothing in the Lease precludes any requirement for the Academy Trust to obtain the consent of the Secretary of State for any matters or dealings relating to the Land.

5. TERMINATION

Termination by either party

5.A Either party may give at least seven Academy Financial Years' notice to terminate this Agreement. Such termination would take effect on 31 August of the relevant year.

Termination Warning Notice

5.B The Secretary of State may serve a Termination Warning Notice where he considers that:

a) the Academy Trust has breached the provisions of this Agreement or the Master Agreement; or

b) the standards of performance of pupils at the Academy are unacceptably low; or

c) there has been a serious breakdown in the way the Academy is managed or governed; or

d) the safety of pupils or staff is threatened, including due to breakdown of discipline.

5.C A Termination Warning Notice served under clause 5.B will specify:

a) the action the Academy Trust must take;

b) the date by which the action must be completed; and

c) the date by which the Academy Trust must make any representations, or confirm that it agrees to undertake the specified action.

5.D The Secretary of State will consider any representations from the Academy Trust which he receives by the date specified in the Termination Warning Notice. The Secretary of State may amend the Termination Warning Notice to specify further action which the Academy Trust must take, and the date by which it must be completed.

5.E If the Secretary of State considers that the Academy Trust has not responded to the Termination Warning Notice as specified under clause 5.C(c), or has not completed the action required in the Termination Warning Notice as specified under clauses 5.C(a) and (b) (and any further action specified under clause 5.D) he may serve a Termination Notice.

Termination by the Secretary of State after inspection

5.F If the Chief Inspector has made a report under section 124(4)(a) or 125(4)(a) of the Education and Inspections Act 2006 and stated that he does not consider the education or training inspected in the Academy to be of a quality adequate to meet the reasonable needs of those receiving it, the Secretary of State May serve a Termination Warning Notice, specifying the date by which the Academy Trust must make any representations.

5.G In deciding whether to give notice of his intention to terminate under clause 5.F, the Secretary of State will have due regard to the overall performance of the Academy Trust.

5.G.1 Not used.

5.H If the Secretary of State has served a Termination Warning Notice under clause 5.F and:

a) has not received any representations from the Academy Trust by the date specified in the notice; or

b) having considered the representations made by the Academy Trust remains satisfied that this Agreement should be terminated;

he may serve a Termination Notice.

5.I Not used.

Termination by the Secretary of State

5.J If at any time before the Academy opens, the total number of prospective pupils who have accepted offers of places to attend the Academy in September 2019 is less than 288, the Secretary of State may:

a) require the Academy Trust not to open the Academy until 288 prospective pupils have accepted offers of places to attend the Academy; or

b) serve a Termination Notice.

5.K If at any time after the Academy has opened, the Secretary of State considers that the Academy is not financially viable because of low pupil numbers, then he may:

a) serve a Termination Warning Notice; or

b) serve a Termination Notice.

5.L If both parties agree that the Academy is not financially viable because of low pupil numbers, they may jointly terminate this Agreement after agreeing the precise terms of termination.

5.M Not used.

5.N If at any time before the Academy opening date, the Secretary of State considers that:

a) the Academy would, on opening, provide an unacceptably low standard of education; or

b) the safety of pupils or staff at the Academy would, on opening, be threatened; or

c) the staff employed at the Academy are unsuitable; or

d) there is a serious breakdown in the way the Academy Trust is being managed or governed; or

e) the buildings and other structures on the Land are unsuitable or the Academy Trust has not obtained Building Regulations approval,

he may either:

A. require the Academy Trust:

i. not to open the Academy; or

ii. not to admit pupils of a particular age range, to be determined by the Secretary of State; or

iii. not to use any building or other structure on the Land,

until each relevant matter in paragraphs (a) to (e) above has been resolved to the Secretary of State's satisfaction; or

B. serve a Termination Notice.

Funding and admission during notice period

5.O If the Secretary of State serves a Termination Notice under clause 5.A, the Academy Trust may continue during the notice period to admit pupils to the Academy, and to receive GAG and EAG, in accordance with this Agreement.

5.P If the Secretary of State serves a Termination Warning Notice or a Termination Notice otherwise than under clause 5.A, the Academy Trust may continue during the notice period to admit pupils to the Academy (unless the Secretary of State specifies otherwise), and to receive GAG and EAG, in accordance with this Agreement.

Notice of intention to terminate by Academy Trust

5.Q The Secretary of State will, before the start of each Academy Financial Year, provide the Academy Trust with a final funding allocation indicating the level

of GAG and EAG to be provided in the next Academy Financial Year (the **"Funding Allocation").**

5.R If the Academy Trust is of the opinion that, after receipt of the Funding Allocation for the next Academy Financial Year (the **"Critical Year"**) and after taking into account all other resources likely to be available to the Academy, including other funds that are likely to be available to the Academy from other academies operated by the Academy Trust (**"All Other Resources"**), it is likely that the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent (and for this reason only) then the Academy Trust may give written notice of its intention to terminate this Agreement on 31 August before the Critical Year.

5.S Any notice given by the Academy Trust under clause 5.R must be provided to the Secretary of State within six weeks of the Secretary of State issuing the Funding Allocation. The notice given by the Academy Trust under clause 5.R must specify:

a) the grounds upon which the Academy Trust's opinion is based, including:

i. evidence of those grounds;

ii. any professional accounting advice the Academy Trust has received;

iii. a detailed statement of steps which the Academy Trust proposes to take to ensure that the running costs of the Academy are reduced such that costs are less than the Funding Allocation and All Other Resources, and the period of time within which such steps will be taken; and

b) the shortfall in the Critical Year between the Funding Allocation and All Other Resources expected to be available to the Academy Trust to run the Academy and the projected expenditure on the Academy; and

c) a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.T Both parties will use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Academy Trust 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 use their best endeavours to agree a practical solution to the problem.

5.U If no agreement is reached by 30 April (or another date if agreed between the parties) as to whether the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent, then that question will be referred to an independent expert (the "**Expert**") for resolution. The Expert's determination will be final and binding on both parties. The Expert will be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**").

5.V The Expert will be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert will be appointed by the President of the Institute of Chartered Accountants in England and Wales. The Expert's fees will be borne equally between the parties.

5.W The Expert will 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 schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist will be appointed by the Chairman of the Specialist Schools and Academies Trust (or any successor or equivalent body). The educational specialist's fees will be borne equally between the parties.

5.X If the Expert determines that the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent, and the Secretary of State will not have agreed to provide sufficient additional funding to cover the Shortfall, then the Academy Trust will be entitled to terminate this

Agreement, by notice expiring on 31 August before the Critical Year. Any such notice will be given within 21 days after (a) the Expert's determination will have been given to the parties or (b), if later, the Secretary of State will have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

Effect of termination

5.Y If this Agreement is terminated, the Academy will cease to be an Academy within the meaning of sections 1 and 1A of the Academies Act 2010.

5.Z Subject to clauses 5.BB and 5.CC, if the Secretary of State terminates this Agreement under clause 5.A, he will indemnify the Academy Trust. If the Secretary of State terminates this Agreement otherwise than under clause 5.A, he may at his discretion indemnify or compensate the Academy Trust.

5.AA The amount of any such indemnity or compensation will be determined by the Secretary of State, having regard to representations made to him by the Academy Trust, and will be paid as and when the Secretary of State considers appropriate.

5.BB The categories of expenditure incurred by the Academy Trust in consequence of termination, for which the Secretary of State may indemnify the Academy Trust under clause 5.Z, may include:

a) staff compensation and redundancy payments;

b) compensation payments in respect of broken contracts;

c) expenses of disposing of assets or adapting them for other purposes;

d) legal and other professional fees; and

e) dissolution expenses.

5.CC If this Agreement is terminated, and the Academy Trust owns capital assets which have been partly or wholly funded by HM Government, the Academy Trust must, as soon as possible after the termination date:

a) transfer a proportion of those capital assets, equal to the proportion of the original financial contribution made by HM Government, to a nominee of the Secretary of State to use for educational purposes; or

b) if the Secretary of State directs that a transfer under clause 5.CC(a) is not required, pay to the Secretary of State at the termination date (or, by agreement with the Secretary of State, at the date of their subsequent disposal) a sum equivalent to the proportion of the original financial contribution made by HM Government..

5.DD The Secretary of State may:

a) Waive all or part of the repayment due under sub-clause 5.CC(b) if the Academy Trust obtains his permission to invest the sale proceeds for its charitable purposes; or

b) direct the Academy Trust to pay all or part of the sale proceeds to the relevant LA.

6. OTHER CONTRACTUAL ARRANGEMENTS

Annexes

6.A Any annexes to this Agreement form part of and are incorporated into this Agreement.

The Master Agreement

6.B Except as expressly provided in this Agreement, all provisions of the Master Agreement have full force and effect.

General

6.C The Academy Trust cannot assign this Agreement.

6.D Failure to exercise, or a delay in exercising, any right or remedy of the Secretary of State under this Agreement (including the right to terminate this Agreement), or

a single or partial exercise of such a right or remedy, is not a waiver of, and does not prevent or restrict any initial or further exercise of, that or any other right or remedy.

6.E Termination of this Agreement will not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

6.F This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all of which will together constitute the same agreement.

6.G This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales, and submitted to the exclusive jurisdiction of the courts of England and Wales.

6.H Not used.

This Agreement was executed as a Deed on 28 January 2019

Executed on behalf of the **Academy Trust** by:

[redacted] and .....

Director **Director**

or [redacted]

Company Secretary

or [redacted].....

Witness

Name: JOANNE TONEX

Address: [redacted]

The Corporate Seal of

THE SECRETARY OF STATE FOR EDUCATION

affixed to this deed is authenticated by:

.....

Duly Authorised

This Agreement was executed as a Deed on

Executed on behalf of the **Academy Trust** by:

.....	and	.....
Director		**Director**
	or	.....
		Company Secretary
	or	.....
		Witness
		Name:
		Address:

The Corporate Seal of

THE SECRETARY OF STATE FOR EDUCATION

affixed to this deed is authenticated by:

.....

Duly Authorised

ANNEXES

7. ADMISSION OF CHILDREN AND YOUNG PEOPLE WITH EDUCATION, HEALTH AND CARE PLANS

"**EHC plan**" means an Education, Health and Care plan made under section 37 of the Children and Families Act 2014.

7.A "EHC plan" means an Education, Health and Care plan made under section 37 of the Children and Families Act 2014. Except as set out in clause 8 below, the Children and Families Act 2014 imposes duties directly on Academies in respect of pupils with special educational needs, including the admission of pupils with EHC plans. If an Academy Trust considers that a LA should not have named the Academy in an EHC plan, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Academy Trust must admit the pupil if such a determination is pending. The Secretary of State's determination as to whether the LA acted unreasonably will be final, subject to any right of appeal which a pupil (if over compulsory School age) or the parent of the pupil may have to the First Tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.

8. ADMISSION OF CHILDREN WITH A STATEMENT OF SPECIAL EDUCATIONAL NEEDS

(Clauses 8.A – 8.G only apply where the pupil has a statement of special educational needs (SEN) rather than an EHC plan and where they therefore continue to be subject to the relevant provisions of the Education Act 1996. EHC plans are replacing statements of SEN but although all statements of SEN should have been converted to an EHC plan by the 1 April 2018 this clause is retained to protect pupils who still have a statement of special education need after this date. The detail on the drafting of a statement below is retained to protect pupils in exceptional circumstances).

"**Statement of SEN**" means a statement made under section 324 of the Education Act 1996.

8.A The Academy Trust must admit all pupils with a statement of SEN naming the Academy.

8.B The Academy Trust must have regard to the Special Educational Need Code of practice 2001 when dealing with statements of SEN.

8.C Where an LA sends the Academy Trust a draft statement with a proposal that the Academy is named in the final statement, the Academy Trust must respond within 15 working days unless the time period falls within a school holiday that is longer than two weeks in which case the Academy Trust should respond within 15 working days of the end of the school holiday.

8.D In its response the Academy Trust must either:.

a. Consent to being named in the final statement or;

b. Explain why it believes that admitting the child would be incompatible with the provision of efficient education for other children and the efficient use of resources, including why no reasonable steps could secure compatibility. In doing so the Academy Trust must have regard to the relevant legislation and Code of Practice. If the LA does not agree with the Academy Trust's response, and names the Academy in the child's Statement of SEN, the Academy Trust must admit the child to the school as specified in the statement or otherwise by the LA. The final decision as to whether to name the Academy falls to the LA.

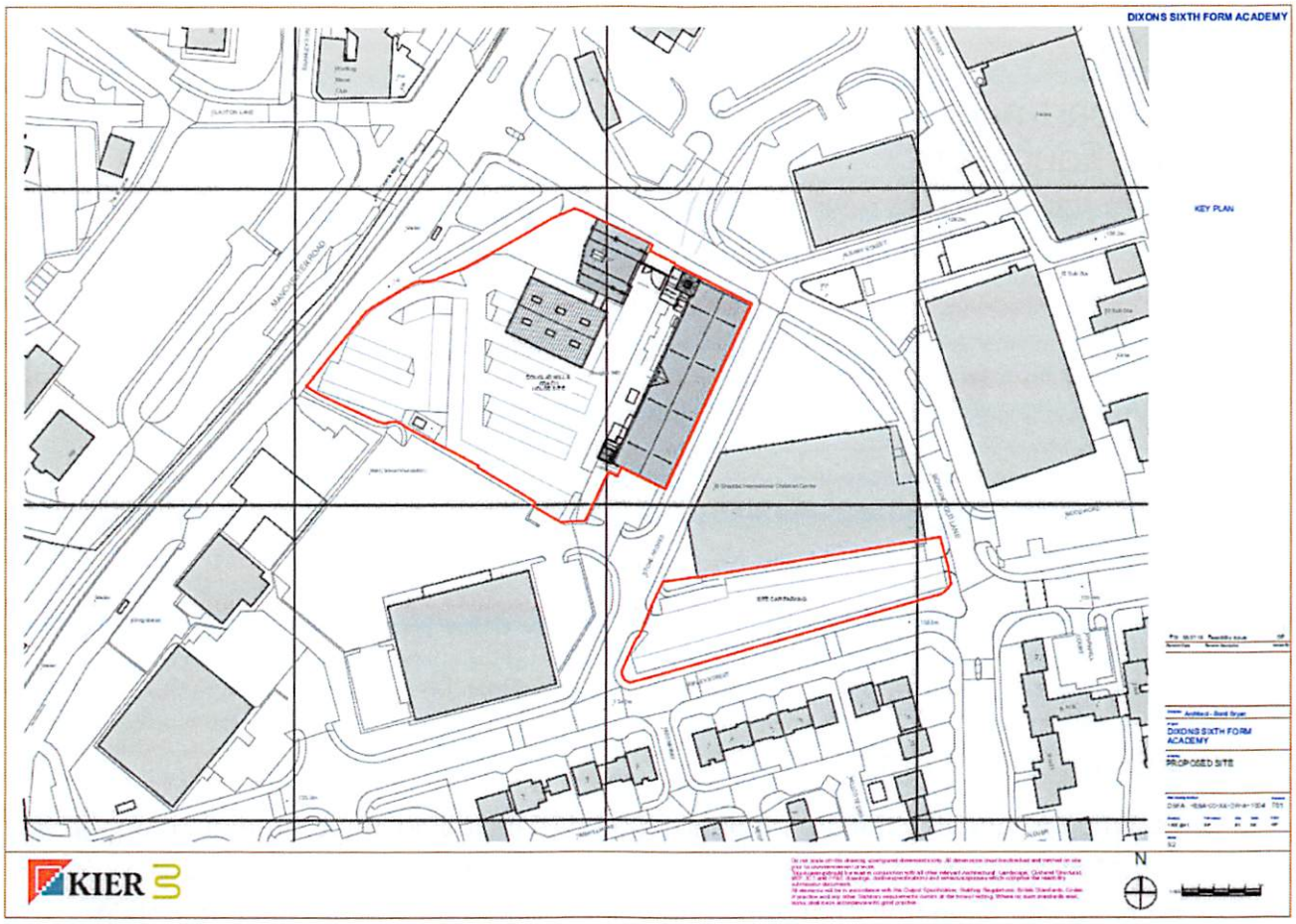
8.E If the Academy Trust considers that the LA should not have named the Academy in the statement of SEN, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Academy Trust must admit the pupil if such a determination is pending. The Secretary of State's determination will be final, subject only to any right of appeal which a parent of the child may have to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.

8.F If a parent of a child for whom the LA maintains a statement appeals to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber, either for or against the naming of the Academy in the child's statement, then the Tribunal's decision will be binding, even if it is different from that of the Secretary of State.

8.G Where it has been finally determined that the Academy be named in a child's Statement of SEN, the Academy Trust must admit the child to the Academy, notwithstanding any other admissions requirements in this Agreement.

8.H Clauses 8.A to 8.G only apply insofar as the relevant provisions of the Children and Families Act 2014 relating to SEN and disability do not apply to Academies and Free Schools.

Annex 9


DIXONS SIXTH FORM ACADEMY
KEY PLAN
DIXONS SIXTH FORM ACADEMY
PROPOSED SITE
KIER
N

Department
for Education

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