



Department
for Education

Department for Education
Sponsored Academy Projects Division
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Lucy Heller
ARK Schools
65 Kingsway
LONDON
WC2B 6TD

28th

August 2013

Dear Lucy

I am pleased to tell you that the Secretary of State for Education has agreed to enter into a Deed of Termination to replace St Michaels and All Angels Academy and to enter into a Supplemental Funding Agreement to allow ARK All Saints Academy to open on 1 September 2013. This Academy will operate in new buildings on the same site and serving the same community.

The Secretary of State has written to Harriet Harman, MP and I am writing in similar terms to Romi Bowen at Southwark Council, Colin Powell at the Southwark Diocesan Board of Education and Peter Martin as Chair of Governors.

Yours sincerely

Damian McGrath
Project Lead
Sponsored Academy Projects Division
Department for Education

SUPPLEMENTAL FUNDING AGREEMENT

ARK ALL SAINTS ACADEMY

THIS AGREEMENT made 28th AUGUST 2013

BETWEEN

- (1) THE SECRETARY OF STATE FOR EDUCATION; and
- (2) ARK SCHOOLS ("the Company")

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the Secretary of State for Education and Skills and the Company dated 26 August 2006 (the "Master Agreement" which expression shall refer to the Master Agreement as amended and restated pursuant to an Agreement and Restatement Agreement dated [28th AUGUST] 2013).

1 **DEFINITIONS AND INTERPRETATION**

- 1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.
- 1.2 The following words and expressions shall have the following meanings:
 - "the Academy" means the ARK All Saints Academy to be established at Wyndham Road, London SE5 0UB.
- 1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 **THE ACADEMY**

- 2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy as a Sponsored Academy in accordance with the Master Agreement and this Agreement¹.

¹ Where the Academy is to be a "selective school" within the meaning of section 6(4) of the Academies Act 2010, please see alternative wording for this clause in Section C of the Appendix of Alternative and Additional Clauses.

- c) in subsection (6)(b) for the words “governing body” read “appropriate body”;
- d) in subsection (9) for (a) and (b) read the words “Company”;

(2) Section 60(4) of the SSFA shall apply to the Company with the modification that for the words “head teacher” read “principal” each time they occur.

RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP

2.8 Clause 26 of the Master Agreement shall not apply and Clause 27 of the Master Agreement shall be replaced by the following:

The requirements for religious education and collective worship are as follows:

- a) subject to clause 28 of the Master Agreement, the Company Trust 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 as if the Academy were a foundation school or voluntary controlled school with a religious character;
- b) subject to clause 28 of the Master Agreement, 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 or voluntary controlled school with a religious character, 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 the Academy's collective worship given in accordance with the tenets and practice of the specific religion or religious denomination is 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 controlled school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a religious character.

Academy requires significant improvement (as that expression is used in section 44 of the Education Act 2005 (as amended))².

- (e) there has been a serious breakdown in the way the Academy is managed or governed;
- (f) the safety of pupils or staff is threatened (whether by breakdown of discipline or otherwise); or
- (g) the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement.

5.2A At any time after the expiry of two years beginning with the date on which the Academy opened as a school as set out in clause 2.4 of this Agreement, the Chief Inspector gives notice to the Company in accordance with section 13(3) of the Education Act 2005 stating that in the Chief Inspector's opinion special measures are required to be taken in relation to the Academy or that the Academy requires significant improvement (as that expression is used in section 44 of the Education Act 2005 (as amended)).

5.3 A Termination Warning Notice issued by the Secretary of State in accordance with clause 5.2 or 5.2A shall specify:

- (a) reasons for the Secretary of State's issue of the Termination Warning Notice;
- (b) the remedial measures which the Secretary of State requires the Company to carry out, with associated deadlines, in order to rectify the defaults identified ("Specified Remedial Measures"); and
- (c) the date by which the Company must respond to the Termination Warning Notice providing its representations with regard thereto or confirm that it accepts and agrees to undertake the Specified Remedial Measures.

5.4 The Secretary of State shall consider any response and representations from the Company which are received by the date specified in accordance with clause 5.3(c) and shall confirm whether he considers that:

² If the Academy is a Sponsored Academy, the wording in Section F of the appendix should be used.

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

9 GENERAL

9.1 This Agreement shall not be assignable by the Company.

9.2 No delay, neglect or forbearance on the part of the Secretary of State in enforcing (in whole or in part) any provision of this Agreement or in exercising (in whole or in part) any right or remedy conferred on him by this Agreement shall be or be deemed to be a waiver of such provision or right or remedy or a waiver of any other provision or right or remedy or shall in any way prejudice any right or remedy of the Secretary of State under this Agreement or shall amount to an election not to enforce such provision or exercise such right or remedy (including, for the avoidance of doubt, any right to terminate this Agreement). No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

9.3 Termination of this agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

9.4 This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

9.5 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.

9.6 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 agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement was executed as a Deed the day and year first before mentioned.

Executed on behalf of ARK SCHOOLS by:

..... L. HEWEL

Director

In the presence of:

Witness..... 

Address..... 29A Whitcomb Street

LONDON WC2A 7EP

Occupation Chief operating Officer

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



W Churchill

Duly Authorised

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the ARK All Saints Academy

Annex 1

Annex 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO THE ARK ALL SAINTS ACADEMY

GENERAL

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Company.
2. Except as provided in paragraphs 2A to 2B below the Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code, and the School Admission Appeals Code published by the Department for Education (“the Codes”) as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or legislation to “admission authorities” shall be deemed to be references to the Directors of the Company.
 - 2A The Company is permitted to determine admission arrangements (subject to consultation in accordance with the School Admissions Code) that give priority for admission (but not above looked after children and previously looked after children¹) to other children attracting the pupil premium, including the service premium (‘the pupil premium admission criterion’). Where a Company exercises this freedom it will provide information in its admission arrangements of eligibility for the premiums.
 - 2B For the purposes of applying the pupil premium admission criterion only, sections 1.9(f) and 2.4(a) of the School Admissions Code do not apply insofar as they prevent admission authorities from giving priority to children according to the financial or occupational status of parents or using supplementary forms that ask for:
 - any personal details about their financial status; or
 - whether parents are serving in the armed forces (of any nation), stationed in England, and exercising parental care and responsibility for the child in question.
3. Notwithstanding the generality of paragraph 2 of this Annex, the Company will participate in the co-ordinated admission arrangements operated by the Local Authority (LA) and the local Fair Access Protocol.
4. Notwithstanding any provision in this Annex, the Secretary of State may:
 - (a) direct the Company to admit a named pupil to the ARK All Saints Academy on application from an LA. This will include complying

¹ As defined in the School Admissions Code.

with a School Attendance Order². Before doing so the Secretary of State will consult the Company;

- (b) direct the Company to admit a named pupil to the ARK All Saints Academy if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes;
- (c) direct the Company to amend its admission arrangements where they fail to comply with the School Admissions Code or the School Admission Appeals Code.

Relevant Area

5. Subject to paragraph 7, the meaning of “Relevant Area” for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

6. If the Company does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consult the Company and the LA in which the Academy is situated in reaching a decision.

Requirement to admit pupils

7. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

8. The Company will:

- a. subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;
- b. determine admission oversubscription criteria for the Academy that give highest priority to looked after children and previously looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

9. The Academy admission arrangements will include oversubscription

² Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

criteria, and an admission number for each relevant age group³. The Company will consult on the Academy's admission arrangements and determine them in line with the requirements within the School Admissions Code.

10. The Office of the School's Adjudicator (OSA) will consider objections to the Academy's admission arrangements⁴. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the OSA.

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

³ 'Relevant age group' means 'normal point of admission to the school, for example, year R, Year7 and Year 12.

⁴ The OSA has no jurisdiction to consider objections against the agreed variation from the Codes set out in paragraphs 2A and 2B.