

This agreement is made under section 482 of the Education Act 1996 between (1) the Secretary of State for Education and Employment ("the Secretary of State") and (2) Emmanuel College, the Tyneside City Technology College ("the CTC"). The CTC is a charitable company incorporated in England and Wales limited by guarantee with registration no 2461391.

WHEREAS

(1) This agreement is supplemental to an Agreement made under section 105 of the Education Reform Act 1988 between the Secretary of State for Education and Science and the CTC dated 28 January 1991 ("the Principal Agreement");

(2) As from 6th July 1992 the Secretary of State for Education and Science was known by the style and title of the Secretary of State for Education, pursuant to article 5 of the Transfer of Functions (Science) Order 1992, and on 1st January 1996 the rights and liabilities of the Secretary of State for Education under the Principal Agreement were transferred to the Secretary of State for Education and Employment by article 4 of the Transfer of Functions (Education and Employment) Order 1995.

NOW THEREFORE the Secretary of State and the CTC agree as follows:

1. The Principal Agreement shall be amended in accordance with the Schedule hereto as from the date of this Agreement.
2. The Principal Agreement as amended shall remain in full force and effect under section 482 of the Education Act 1996.

SCHEDULE

Paragraph 1

Delete paragraph 1 and replace with:

"1. This Agreement is made under section 105 of the Education Reform Act 1988 ("ERA") between the Secretary of State for Education and Science and the Emmanuel College, the Tyneside City Technology College (hereafter "the CTC") and has been amended by an amending agreement made under section 482 of the Education Act 1996 ("the EA") between the Secretary of State for Education and Employment ("the Secretary of State") and the CTC dated 8.5.97. The CTC is a charitable company incorporated in England and Wales, limited by guarantee with registered no 2461391."

Paragraph 3

Delete paragraph 3 and replace with:

"3. Section 482 (1) of EA states that -

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"(1) The Secretary of State may enter into an agreement with any person under which -

(a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of, an independent school with such characteristics as are specified in the agreement and in subsection (2), and

(b) the Secretary of State agrees to make payments to that person in consideration of those undertakings." "

Paragraph 5

Delete at the beginning of the paragraph "section 105 (2) of ERA" and replace with "section 482 (2) of EA".

Paragraph 5(b) after "who have attained the age of eleven years" delete "but not the age of nineteen years".

Paragraph 5 (e) delete "section 105 of ERA" and replace with "sections 482 and 483 of EA".

Paragraph 11

Delete paragraph 11 (a) and replace with:

"11(a). APG will be paid for normal running costs including but not limited to, salaries and related costs, overheads, repairs and maintenance, insurance, staff development (including in-service training), and curriculum development, the costs of providing school meals for pupils, and discretionary grants to pupils to meet the cost of pupil support, and towards the cost of providing software and courseware for the incorporation and exploitation of information technology throughout the curriculum and the College's administration, but not any costs met from EAG. Subject to sub-paragraph (b) below and paragraphs 12, 13 and 37, APG for each College year (see paragraph 17) of the CTC will be based on units of calculation for that year derived from an average of expenditure on secondary grant-maintained and LEA-maintained schools located in urban areas similar to those in which the CTCs are located, the selection of such areas to be reviewed and updated from time to time, in consultation with the CTCs. The units of calculation will be multiplied by the forecast number of registered pupils at the College, as indicated through the information supplied by the CTC in its draft budget (see paragraph 29) on proposed pupil numbers not exceeding the admissions number approved by the Secretary of State (see paragraph 37). The budget may be subject to adjustment to the extent that actual pupil numbers are lower. The basis of the APG calculation, including any annual repricing which may be necessary, will be set out in the annual letter of funding (see paragraph 16)."

Paragraph 14

Paragraph 14: delete subparagraphs (ii) to (v) and renumber (vi) as (ii).

Paragraph 16

Delete paragraph 16 and replace with:

"16. The amounts of APG, EAG and grants in respect of capital expenditure for a college financial year (as defined in paragraph 17) will be determined annually by the Secretary of State and notified to the CTC in a funding letter not later than the 1 April preceding that year ("the annual letter of funding"). The CTC shall be notified in the December preceding the financial year of the APG and EAG figures which, subject to Parliamentary approval, the Secretary of State plans for that year and the subsequent financial year and of the assumptions and figures on which these are based. Any amounts so determined, and in particular the planned levels of grant for the subsequent financial year will be reviewed annually taking account of changes in pay and price assumptions and circumstances affecting the individual institutions. Before the annual letter of funding is sent the Secretary of State will consult the CTC on all the matters concerning it. The references to Parliamentary approval in this and the following paragraph relate to planned or indicative figures and do not qualify or reduce the Secretary of State's obligation to pay APG on the basis indicated in paragraph 11."

Paragraph 17

Paragraph 17, fifth sentence: after "education year falling outside of the Department" delete "of Education and Science's" and replace with " for Education and Employment's".

Paragraph 19

Delete at the beginning of the paragraph "Section 105 (3) of ERA states - "(3)" and replace with "Section 482 (4) of EA states - "(4)".

Paragraph 21

Delete at the beginning of the paragraph "Sections 106-110, 117 and 118 of ERA" and replace with "Sections 402, 449 - 457, 459 and 460 - 462 of EA".

Paragraph 21(iv): after "determined under section" delete "110" and replace with "457"

Paragraph 21 (v): after "arrangements made under section" delete "57(5)" and replace with "231(8)"

Paragraph 23

Paragraph 23(ii) after " Safety at Work etc Act 1974, and section" delete " 47 of the Education (No 2) Act 1986" and replace with "548 - 550 of EA".

Paragraph 24

Paragraph 24 (A)ii. after "in excess of" replace "£5,000" with "£20,000".

Paragraph 28

Paragraph 28, first sentence: after "officials of the Department" delete "of Education and Science" and replace with "for Education and Employment".

Paragraph 29

Paragraph 29, first sentence: after "not later than by" delete "31 December" and replace with "15 February".

Delete sub -paragraphs iii and iv and replace with:

"iii. a statement of proposed current expenditure in the following financial year;
and

iv. a statement of proposed capital expenditure in the following financial year;
and"

Paragraph 30

Paragraph 30 (a): after "equivalent to" delete "2.5%" and replace with "2%".

Paragraph 30 (b): after "equivalent to a further" delete "1.5%" and replace with "10%" and delete from the end of the paragraph "other than that for which capital grant has been approved".

Paragraph 33

Paragraph 33, after the end of the third sentence beginning "The CTC shall not borrow" insert the words "except with the written consent of the Secretary of State".

Paragraph 35

Delete paragraph 35 and sub-paragraphs i and ii and replace with:

"35. The arrangements for admission of pupils to the College shall be determined by the Governing Body in accordance with the CTC's Scheme of Government and the characteristics of a CTC mentioned in paragraph 5 above, so as to secure as far as possible that the intake of pupils is representative of the full range of ability among pupils in the catchment area; and broadly representative of the community in the catchment area."

Paragraph 36

Paragraph 36, first sentence: after "has to offer," delete "who" and after "to succeed and" delete "who".

Paragraph 37

Delete paragraph 37 and replace with:

"37. (1) The number of pupils to be admitted to any year group or post-16 group in any year (the admissions number) has initially been determined by the Secretary of State in Annex 5 and subsequently may be varied by agreement between him and the CTC. Pupils admitted above any approved number will not be taken into account in calculating the level of APG. The CTC shall inform the Secretary of State if any year group is 10 or more below the agreed admissions number and if any post-16 group is below any minimum number of places agreed between the Secretary of State and the CTC for the purposes of this paragraph. Any such shortfall may be taken into account in calculating the level of APG. The Secretary of State shall not, however reduce the number of pupils he is prepared to support through APG below the initial number in Annex 5, or such other number as may subsequently be agreed, without the consent of the CTC. As the College builds to its full capacity not more than one year group shall be admitted in any one year without the prior approval of the Secretary of State. Nothing in this paragraph shall prevent the CTC from admitting pupils to make up the number in any year group or post-16 group to the number specified in Annex 5, where intending pupils do not take up the places offered to them or pupils leave the College for any reason.

(2) For the purposes of this paragraph -

(a) "year group" means all the pupils in the classes in the College in which the age attained in a school year by the majority of the pupils in each class is the same for all those classes and does not exceed 16;

(b) "post-16 group" means all the pupils in the classes in the College in which the age attained in a school year by the majority of the pupils in each class is 17 or older; and

(c) "class" and "school year" have the meaning given to them in section 355 of the EA.

Paragraph 39

Paragraph 39, first sentence: after "Education (Teachers) Regulations" delete "1989" and replace with "1993 (S.I. 1993/543)".

Paragraph 47

Paragraph 47, first sentence: after "at any reasonable time to" delete "DES" and

replace with "DfEE".

Paragraph 47, fourth sentence: after "Two" delete "DES" and replace with "DfEE".

Paragraph 48

Delete paragraph 48 and replace with:

"48. Any notice or other communication concerning this Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the CTC to Peter Vardy Esq, Chairman, Tyneside City Technology College, Stoneysgate, Houghton-le-Spring, Tyne and Wear, DH4 4NJ or such other addressee/address as may be notified in writing from time to time by the CTC and, in the case of a notice or communication from the CTC to the Secretary of State to Head of CTC Unit, Specialist Schools and Schools Governance Division, Department for Education and Employment, Sanctuary Buildings, Great Smith Street, London SW1P 3BT; or such other address as may be notified from time to time by the Secretary of State and where any such notice or communication is sent by post, unless the contrary is proved, it shall be deemed, subject to satisfactory proof of posting, to be effected at the time at which the letter would be received in the ordinary course of post."

Paragraph 49

Delete paragraph 49 and replace with:

"49. Sections 483 (1) and (2) of EA state that:

"(1) Payments under an agreement under section 482 may be in respect of capital or current expenditure.

(2) In so far as such payments relate to current expenditure, the agreement shall provide for their continuance (subject to the fulfilment of the conditions and requirements falling within section 482(4)) -

(a) for a period of not less than seven years, or

(b) for an indefinite period terminable by the Secretary of State by not less than seven years' written notice."

Paragraph 51

Delete paragraph 51 and replace with:

"51. Section 483 (4) of the EA states that:

"(4) Without prejudice to subsection (1), an agreement under section 482 may provide for indemnifying a person, in the event of the agreement

being terminated by the Secretary of State, for expenditure -

(a) incurred by that person in carrying out the undertakings mentioned in section 482(1), or

(b) incurred by that person (otherwise than by virtue of subsection (3)) in consequence of the termination of the agreement."

Paragraph 57

Paragraph 57, second sentence: after "the provisions of section" delete "105(5) of ERA" and replace with "483 (3) of EA".

Paragraph 59

Paragraph 59, second sentence: after "served a notice of complaint on the CTC under section" delete "71 of the Education Act 1944" and replace with "469 of EA".

Paragraph 59, third sentence: after "notice that the provisions of section" delete "105(5)" and replace with "483 (3)".

IN WITNESS of which the Secretary of State for Education and Employment has caused her Official Seal to be affixed to this Deed this *18th* day of *April* 1997.

EXECUTED AS A DEED and the OFFICIAL SEAL affixed by authority of the Secretary of State for Education and Employment under Article 10 of the Transfer of Functions (Education and Employment) Order 1995 in the presence of:



A. K. Fraser

IN WITNESS of which Tyneside City Technology College Trust has caused its common seal to be affixed to this Deed this *22* day of *April* 1997.

EXECUTED AS A DEED and THE COMMON SEAL OF Tyneside City Technology College Trust affixed pursuant to a resolution of the board of directors in the presence of:

DIRECTOR
[Signature]
SECRETARY

[Signature]

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