

DEED OF VARIATION

The parties to this Deed are:

(1) The Secretary of State for Education ("the Secretary of State"),

- and -

(2) Alderbrook School a charitable company incorporated in England and Wales with registered number 07687619 ("the Academy Trust").

together referred to as the "Parties"

INTRODUCTION

- A. The Parties entered into a funding agreement dated 1 August 2011 ("the Funding Agreement") relating to the establishment, maintenance and funding of an independent school known as Alderbrook School.
- B. The Parties now wish to vary and amend the terms of the Funding Agreement and wish to record their agreement as to such variations/amendments to the Funding Agreement by this Deed.

LEGAL AGREEMENT

- 1. Any word or phrase used in this Deed shall, if that word or phrase is defined in the Funding Agreement, bear the meaning given to it in the Funding Agreement.
- 2. The Secretary of State and the Academy Trust agree that with effect from the date of this Deed the Funding Agreement shall be amended in accordance with Schedule 1 to this Deed.
- 3. As varied by this Deed, the Funding Agreement shall remain in full force and effect.

EXECUTED AND DELIVERED AS A DEED by the Parties on the day of

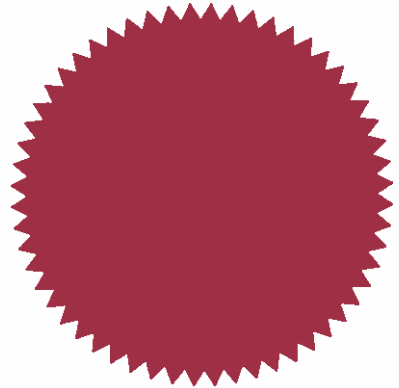
11th December

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

David M. Keen

.....
Duly Authorised by the Secretary of State for Education



Executed on behalf of the Academy Trust by:

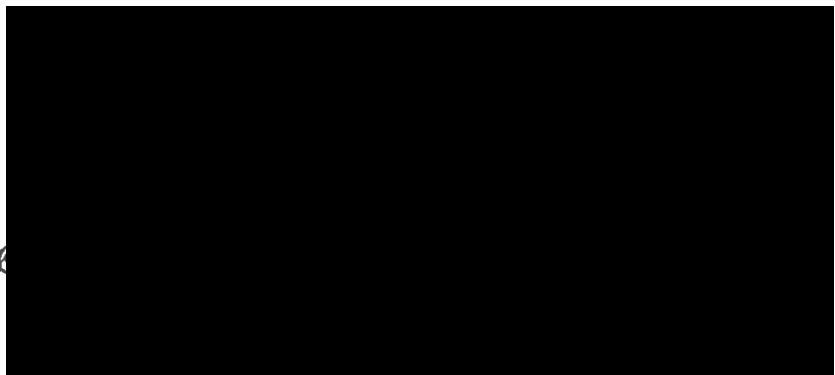
Ann Scott

.....
Director

Print name.....

ANNETTE M SCOTT

In the presence of:



Schedule 1

Amendments to the Funding Agreement

1. Clause 17 of the Funding Agreement shall be replaced with:

"The planned capacity of the Academy is 1537 in the age range 11 to 18, including a sixth form of 250 places. 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."

2. Clause 52 (b) of the Funding Agreement shall be replaced with:

"the total number of pupils as measured in the Schools Census for the preceding January is 90% or more of the planned final size of the Academy, which is 1537."

3. Annex B of the Funding Agreement shall be replaced with:

"REQUIREMENTS FOR THE ADMISSION OF PUPILS TO ALDERBROOK SCHOOL

GENERAL

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Academy Trust.

2. Except as provided in paragraphs 2A to 2B below the Academy Trust 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

governing body of the Academy Trust.

2A The Academy Trust 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 an Academy Trust 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 Academy Trust 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 Academy Trust to admit a named pupil to Alderbrook School on application from an LA. This will include complying with a School Attendance Order². Before doing so the Secretary of State will consult the Academy Trust;
- (b) direct the Academy Trust to admit a named pupil to Alderbrook School if the Academy Trust 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 Academy Trust to amend its admission arrangements where they fail to comply with the School Admissions Code or the School Admission Appeals Code.

5. The Academy Trust shall ensure that parents and 'relevant children'³

¹ As defined in the School Admissions Code.

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.

³ 'relevant children' means:

- a) in the case of appeals for entry to a sixth form, the child, and;
- b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Academy Trust. The Independent Appeal Panel will be independent of the Academy Trust. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. 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.

7. If the Academy Trust 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 Academy Trust and the LA in which the Academy is situated in reaching a decision.

Requirement to admit pupils

8. 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.

9. The Academy Trust 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.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group⁴. The Academy Trust will consult on the Academy's admission arrangements and determine them in line with the requirements within the School Admissions Code.

⁴ 'Relevant age group' means 'normal point of admission to the school, for example, year R, Year7 and Year 12.

11. The Office of the School's Adjudicator (OSA) will consider objections to the Academy's admission arrangements⁵. The Academy Trust should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the OSA.

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

⁵ The OSA has no jurisdiction to consider objections against the agreed variation from the Codes set out in paragraphs 2A and 2B.