

DEED OF VARIATION

The parties to this Deed are:

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

- and -

(2) CfBT Schools Trust a charitable company incorporated in England and Wales with registered number 07468210 ("**the Company**").

together referred to as the "**Parties**"

INTRODUCTION

- A. The Parties entered into a supplemental funding agreement dated 31 July 2012 ("the Supplemental Agreement") relating to the establishment, maintenance and funding of an independent school known as Oakbank, supplemental to a master funding agreement between the Parties dated [19/08/2011] ("the Master Agreement").
- B. The Parties then agreed to amend and restate the terms of the Master Agreement (which shall be known as "the Existing Master Agreement") and the Supplemental Agreement (which shall be known as "the Existing Oakbank Supplemental Agreement") by way of a deed of variation executed as a deed on 19 December 2014.
- C. The Parties now wish to further vary and amend the terms of the Existing Oakbank Supplemental Agreement and wish to record their agreement as to such variations/amendments to the Existing Oakbank Supplemental Agreement by this Deed.

1. INTERPRETATION

- 1.1 Any word or phrase used in this Deed shall, if that word or phrase is defined in the Existing Master Agreement and / or Existing Oakbank Supplemental Agreement, bear the meaning given to it in those agreements.

2. VARIATION OF THE FUNDING AGREEMENT

- 2.1 The Secretary of State and the Academy agree that with effect from the date of this Deed the Existing Oakbank Supplemental Agreement shall be amended in accordance with Schedule 1 to this Deed.
- 2.2. As varied by this Deed, the Existing Oakbank Supplemental Agreement shall remain in full force and effect.

3. GOVERNING LAW AND JURISDICTION

3.1 This Deed, and any disputes or claims arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with English law.

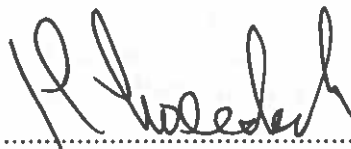
3.2 The Parties irrevocably agree that the English courts have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Deed or its subject matter or formation (including non-contractual disputes or claims).

4. COUNTERPARTS

4.1 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 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 date first above written.

EXECUTED as a deed by
CFBT Schools Trust acting by:



.....
Director

Print name CHRIS TWEEDALE

In the presence of:

Signature of witness

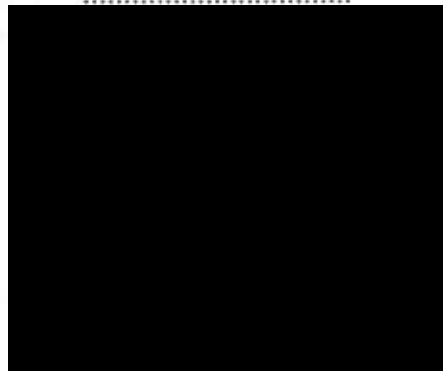


Print name

C. GILBERT

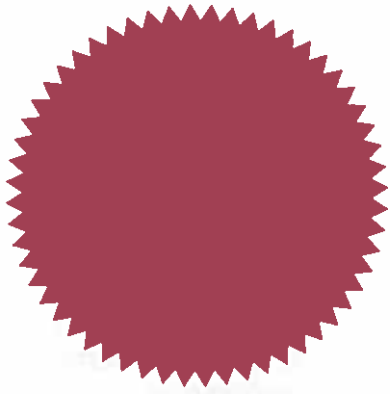
Address

Occupation



EXECUTED as a deed by affixing the corporate)
seal of the **Secretary of State for Education**)
authenticated by:-)


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



Schedule 1

Amendments to the Existing Oakbank Funding Agreement

1. The definition of "Additional Permanent Site" shall be deleted and replaced by:

"Additional Permanent Site" means the leasehold land (including for the avoidance of doubt all buildings, structures, landscaping and other erections) situated at and known as the Caretaker's Bungalow at Oakbank Free School, Hyde End Road, Ryeish Green, Shinfield, Berkshire, RG7 1ER, edged red in the attached plan at Annex C and to be registered with the Land Registry, making up part of the permanent site of the Academy, or the part of such land remaining in the ownership of the Company, following any disposal in accordance with clause 7.14(a);

2. The following definition of "Additional Permanent Site Value" shall be inserted after the definition of "Additional Permanent Site":

"Additional Permanent Site Value" means, at any time:-

- (a) where there has been a disposal of the Additional Permanent Site as a result of the enforcement of the Legal Charge by the Secretary of State, the proceeds of that disposal after payment of any necessary and reasonable costs incurred by the seller in connection with such disposal; or
- (b) in any other case, the Market Value of the Additional Permanent Site;

3. The following definition of "Debt" shall be inserted after the definition of "Chief Inspector" at Clause 1.2):

"Debt" means the amount equal to 100% of the Additional Permanent Site Value;

4. The following definition of "Discharge Process" shall be inserted after the definition of "Debt" at Clause 1.2):

"Discharge Process"

means the removal of:-

- i. the Legal Charge registered with Companies House as against the Company;
- ii. the Legal Charge from the charges register at the Land Registry against the title for the Additional Permanent Site;
- iii. the restriction in the proprietorship register as referred to in 108B(a); and
- iv. the notice in the proprietorship register as referred to in 108F(a)

5. The definition of "the Land" in Clause 1.2) shall be deleted and replaced by the following definition of "the Land" in Clause 1.2):

"the Land" means the leasehold land (including for the avoidance of doubt all buildings, structures, landscaping and other erections) situated at part of the site of the Oakbank Free School, Hyde End Road, Shinfield, Reading, RG7 1ER, edged red in the attached plan at Annex B and to be registered with the Land Registry, making up part of the permanent site of the Academy;

6. The definition of "the Lease(s)" shall be deleted and replaced by:

"the Lease(s)" means the leasehold agreement(s) or its (their) equivalent(s) between the Company and Wokingham Borough Council ("the Landlord") in respect of:

"Lease 1" means the leasehold agreement between the Company and Wokingham Borough Council, dated 31 August 2012, in respect of the Land; and

"Lease 2" means the leasehold agreement between the Company and Wokingham Borough Council, dated 31 August 2012, in respect of the Additional Permanent Site;

7. The following definition of "Legal Charge" shall be inserted after the definition of "the Lease(s)" in Clause 1.2):

"Legal Charge" means the legal charge to be entered into upon the date of this Agreement by the Company in favour of the Secretary of State over the Additional Permanent Site, in a form and substance satisfactory to the Secretary of State;

8. The following definition of "Market Value" shall be inserted after the definition of "the Legal Charge" at Clause 1.2):

"Market Value" means the market value of the relevant part of the Additional Permanent Site (as that term is defined or referred to in the RICS Appraisal and Valuation Manual (current edition) published by RICS), as determined by a professionally qualified independent valuer;

9. The following definition of "School Premises" shall be inserted after the definition of "SENCO" at Clause 1.2):

"School Premises" means the Land and the Additional Permanent Site together making up the permanent site of the Academy;

10. Clause 5.25 shall be deleted.

11. Clauses 7.1 to 7.4 shall be deleted and replaced with:

7.1 The Secretary of State has agreed to make payments of Capital Grant to the Company pursuant to clause 3.1 of this Agreement.

7.2 The payments referred to at 7.1 are made available to the Company on an interest free basis.

7.3 In consideration of the Secretary of State making the payments referred to at 7.1 and financing the acquisition of the Additional Permanent Site, it shall pay the Debt upon termination of this Agreement, or in accordance with clause 7.14(a), or upon any disposition by way of sale of the whole or part of the Additional Permanent Site, whether or not such sale has been consented to by the Secretary of State.

7.4 The Debt shall be secured by the Legal Charge.

12. The following clause 7.5A shall be inserted after clause 7.5:

7.5A In consideration that it has acquired a legal interest in the Additional Permanent Site, such acquisition being financed by the Secretary of State, the Company:

- a) shall, within 28 days from the date of this Agreement, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) ('LRR 2003') in the following terms:

No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date]¹ in favour of The Secretary of State for Education of Sanctuary Buildings, Great Smith Street, London SW1P 3BT referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its conveyancer.

- b) shall take any further steps reasonably required to ensure that the restriction referred to in clause 7.5A(a) is entered on the proprietorship register,
- c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 7.5A(a) as soon as reasonably practicable after it receives notification from the Land Registry, and
- d) in the event that it has not registered the restriction referred to in clause 7.5A(a), hereby consents to the entering of the restriction

¹ Date to be inserted should be date charge is entered into.

referred to in 7.5A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002), and

- e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 7.5A(a) or 7.5A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

13. Clauses 7.6i to 7.6iii shall be deleted and replaced by:

7.6i The Company shall keep the School Premises clean and tidy and make good any damage it causes to the School Premises and / or any deterioration to the condition of the School Premises that may arise from the date of this Agreement, save that the Company shall ensure that any actions undertaken in compliance with this clause shall be consistent with the terms of the Lease(s). In compliance with this clause, the Company shall not do or cause or permit to be done anything to lessen the value or marketability of the School Premises save with the express written consent of the Secretary of State.

7.6ii The Company shall observe and comply with its obligations under the Lease(s) and shall promptly enforce its rights against the Landlord.

7.6iii The Company agrees it shall seek and obtain the prior written consent of the Secretary of State, not to be unreasonably withheld or delayed before taking any steps to:

- a) terminate, vary, surrender or dispose of the Lease(s); and / or
- b) grant any consent or licence in respect of the School Premises or any part of it; and / or
- c) create or permit to arise or continue any encumbrance affecting the School Premises or any part of it; and / or
- d) part with or share possession or occupation of the School Premises or any part of it; and / or
- e) enter into any onerous or restrictive obligations affecting the School Premises or any part of it.

14. Clause 7.7 shall be deleted and replaced by:

7.7 The Company shall, save where the terms of the Lease(s) provide for the Landlord to obtain insurance in respect of the School Premises:-

- a) keep the School Premises insured, as in accordance with the terms of the Lease(s), and in any event with a reputable insurance office against loss or damage by the Insured Risks in the sum the

Company is advised represents the reinstatement value of the School Premises from time to time;

- b) pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the School Premises;
- c) following the incidence of damage to or destruction of the School Premises and subject to receipt of all necessary consents licences permissions and the like apply the proceeds of the policy of the insurance received for those purposes in rebuilding and reinstating the School Premises (provided that this clause should be satisfied if the Company provides premises not necessarily identical to the School Premises as the same existing prior to such damage or destruction occurring) as soon as may be reasonably practicable;
- d) produce to the Secretary of State a copy of the insurance policy whenever reasonably requested and the receipt for the last premium or other evidence of renewal and up to date details of the amount of cover (but no more often than once in any period of 12 months in both cases);
- e) not knowingly do anything whereby any policy of insurance relating to the School Premises may become void or voidable; and
- f) insure against liability in respect of property owners' and third party risks including occupiers liability.

15. The following clauses 7.9A and 7.9B shall be inserted after 7.9:

7.9A In consideration that it has acquired a legal interest in the Additional Permanent Site, such acquisition being financed by the Secretary of State, the Company hereby grants and the Secretary of State hereby accepts an option, exercisable by the Secretary of State or his nominee, to acquire the Additional Permanent Site or any part thereof at nil consideration. The option hereby granted shall be exercisable (by notice in writing by or on behalf of the Secretary of State) on the termination of this Funding Agreement for whatever cause or in circumstances where the Company is unable to use all or part of the Additional Permanent Site as the permanent site of the Academy in accordance with clause 7.14. On the exercise of this option, the Law Society's Standard Conditions of Sale for Commercial Property in force at the date of such exercise shall apply to the transaction and completion shall take place 28 days after such exercise.

7.9B In consideration that it has acquired a legal interest in the Additional Permanent Site, such acquisition being financed by the Secretary of State, the Company:

- a) shall, within 14 days from the date of this Agreement, apply to the Land Registry in Form AN1 as prescribed by Rule 81 of the Land Registration Rules 2003 for a notice to be entered in the register (under section 34(3)(a) of the Land Registration Act 2002) to protect the option granted under clause 7.9A and including a copy of this Agreement as evidence of that option.
- b) shall take any further steps required to ensure that the notice referred to in clause 7.9B(a) is entered on the proprietorship register,
- c) shall provide the Secretary of State with confirmation of the entry of the notice referred to in clause 7.9B(a) as soon as practicable after it receives notification from the Land Registry,
- d) in the event that it has not registered the notice referred to in clause 7.9B(a), hereby consents to the entering of the notice referred to in 7.9B(a) in the register by the Secretary of State (by application in Form UN1 under s. 34(3)(b) of the Land Registration Act 2002),
- e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a notice entered in accordance with clause 7.9B(a) or 7.9B(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Trust, and
- f) in the case of previously unregistered land, for the further protection of the option granted in Clause 7.9A the Company shall within 14 days of the signing of this Agreement make application to register a Class C (iv) land charge in the Land Charges Registry and a Caution against First Registration in the Land Registry and shall provide the Secretary of State with copies of the entries secured thereby within 7 days of completing each registration, respectively. If the Secretary of State is of the view that the Company has failed to perform the registration obligations in this sub-clause he shall be at liberty to make his own applications to secure these registrations.

16. Clause 7.10 shall be deleted and replaced by:

7.10 In consideration that it has acquired a legal interest in the Additional Permanent Site, such acquisition being financed by the Secretary of State, the Company:

- a) shall enter into the Legal Charge within 14 days of the date of this

Agreement;

- b) shall, within 21 days from the entry into of the Legal Charge, register the Legal Charge with Companies House or if required by the Secretary of State shall use all reasonable endeavours to assist the Secretary of State to register the Legal Charge at Companies House, including signing and executing any documents, deeds and/or forms as required;
- c) shall, within 28 days from the date of the Legal Charge, apply to the Land Registry for the Legal Charge to be entered on the charges register, using forms AP1 (Rule 13 LRR 2003) and CH1 (Rule 103 LRR 2003) or such form as may be required by the Secretary of State;
- d) shall take any further steps required to ensure that the Legal Charge is entered on the charges register;
- e) shall provide the Secretary of State with confirmation of the registration of the Legal Charge as soon as reasonably practicable after it receives notification from the Land Registry; and
- f) in the event that it has not registered the legal Charge, hereby consents to the registration of the Legal Charge by the Secretary of State. To enable the Secretary of State to do so, the Company shall use all reasonable endeavours to assist the Secretary of State to register the Legal Charge, including signing and executing any documents, deeds and/or forms as required, specifically but not limited to providing the Secretary of State with the executed Legal Charge and completed AP1/CH1 forms, and dealing with any requisitions raised by the Land Registry.

17. Clause 7.12 shall be deleted and replaced by:

7.12 The Company agrees that if:

- a) the Academy does not reach its planned capacity over a period of six Academy Funding Years; or
- b) notice of termination is served by either the Company or the Secretary of State in accordance with clause 6.1 of this Agreement; or
- c) in the reasonable opinion of the Secretary of State the operation of the Academy at planned capacity does not require the use of the full extent of the School Premises;

(i) it will share occupation of the School Premises with such other Academy as the Secretary of State deems appropriate in the

circumstances and enter into such legal arrangements in respect of the same as are required by the Secretary of State; or

(ii) it will dispose of the Additional Permanent Site or part thereof as required by the Secretary of State and account for any proceeds of such disposal to the Secretary of State or his nominee. Upon such disposal and accounting of the proceeds of the disposal, the Secretary of State will discharge / consent to discharge the existing Legal Charge, subject to the Academy Trust entering into a new Legal Charge with the Secretary of State in respect of the part of the Land that has not been disposed of.

18. Clauses 7.13 to 7.17 shall be deleted and replaced by:

7.13 On the termination of this Agreement, the Secretary of State shall give notice of his intention to exercise the rights conferred upon the Secretary of State pursuant to clause 6.5, 6.6 and 7.9A and the Legal Charge in respect of the Additional Permanent Site:

a) any such notice shall be in writing and shall confirm which clause of this Agreement the Secretary of State intends to exercise without prejudice to the Secretary of State's right to exercise all and any other rights available to him;

b) in the event that upon termination of this Agreement for whatever reason, the Secretary of State exercises his option granted and the legal interest in the Additional Permanent Site is transferred to the Secretary of State or his nominee for nil consideration by the Company pursuant to clause 7.9A, the Company's obligation to pay the Debt shall be deemed to have been satisfied in full, the obligation on the Company to pay a proportion of the proceeds of sale of the Additional Permanent Site to the Secretary of State under clause 6.5(b) shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process;

c) in the event that upon termination of this Agreement for whatever reason the Secretary of State enforces the Legal Charge, the Company's obligation to pay the Debt shall be deemed to have been satisfied in full following the realisation of the Debt by any receiver, the obligation on the Company to pay a proportion of the proceeds of sale of the Additional Permanent Site to the Secretary of State under clause 6.5(b) shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process;

d) in the event that upon termination of this Agreement for whatever reason, the Secretary of State exercises his rights under clause 6.5, the Company's obligations to pay the Debt shall be deemed

to have been satisfied in full and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process; and

e) in the event that upon termination of this Agreement for whatever reason, the Secretary of State agrees that pursuant to clause 6.6 the Company may invest the proceeds of the sale of the Additional Permanent Site for its charitable objects or directs the Company to pay all or part of the proceeds of sale of the Additional Permanent Site to the LA, the Company's obligations to repay the Debt shall be deemed to have been satisfied in full and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process.

7.14 On the Company applying to the Secretary of State for consent to the disposal of all or part of the Additional Permanent Site during the lifetime of this Agreement, the Secretary of State shall, should he agree that the Additional Permanent Site is no longer required or cannot be used for the purposes of the Academy, subject to clause 90 of the Master Agreement,

a) consent to the disposal subject to any one or a combination of the following conditions:-

- i) that (notwithstanding the provisions of clause 92 of the Master Agreement) the Company pays the Debt in full or, in the event of a proposed disposal of part, repays to the Secretary of State the Market Value;
- ii) that pursuant to clause 92 of the Master Agreement, the Company may retain some or all proceeds of the disposal for its charitable purposes, subject to the Company accounting to the Secretary of State for any remaining proceeds of sale that the Secretary of State does not agree that the Company may retain for such charitable purposes; or
- iii) that pursuant to clause 93 of the Master Agreement, the Company pays all or some of the proceeds of sale to the LA and / or may reinvest all or some of the proceeds of sale for its charitable purposes,

and any such notice of consent and conditions shall be in writing;

or

b) exercise the option granted to him pursuant to clause 7.9A to transfer the relevant part of the Additional Permanent Site to him or his nominee for nil consideration.

7.15 In the event that the Secretary of State consents to the disposal of the Additional Permanent Site during the lifetime of this Agreement, subject to any of the conditions set out in clause 8.14(a):

a) if the Secretary of State enforces the Legal Charge, the Company's obligation to pay the Debt shall be deemed to have been satisfied in full following the realisation of the Debt by any receiver, the obligations on the Company to pay a proportion of the proceeds of sale of the Additional Permanent Site to the Secretary of State under clause 92 of the Master Agreement shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process,

b) if the Secretary of State agrees that the Company may retain some or all proceeds of the disposal for its charitable purposes, subject to the Company accounting to the Secretary of State for any remaining proceeds of sale that the Secretary of State does not agree that the Company may retain for such charitable purposes, the Company's obligations to pay the Debt shall be deemed to have been satisfied in full, the obligations on the Company to pay a proportion of the proceeds of sale of the Additional Permanent Site to the Secretary of State under clause 92 of the Master Agreement shall be deemed to have been complied with and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of a disposal of part of the Additional Permanent Site, the Company's obligation to pay the Debt shall be deemed to have been satisfied to the extent of the Market Value, the Company's obligation under clause 92 of the Master Agreement shall be deemed to have been satisfied in relation to the relevant part of the Additional Permanent Site, the Legal Charge shall be released and the restriction and the notice shall be removed in relation to such part and the Legal Charge, the restriction and the notice shall remain in place in relation to the balance of the Additional Permanent Site, and

c) if the Secretary of State directs the Company to pay all or part of the proceeds of sale of the Additional Permanent Site to the LA pursuant to clause 93 of the Master Agreement or agrees that the Company may reinvest the proceeds of the sale for its charitable purposes, the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of a disposal of part of the Additional Permanent Site the restriction and notice shall remain in place in relation to the balance of the Additional Permanent Site.

7.16 In the event that the Secretary of State exercises his option during the lifetime of this Agreement under clause 7.14(b) and the legal interest in the Alternative Permanent Site is transferred to the Secretary of State or his nominee for nil consideration by the Company

pursuant to clause 7.9A, the Company's obligation to pay the Debt shall be deemed to have been satisfied in full, the obligations on the Company to pay a proportion of the proceeds of sale of the Alternative Permanent Site to the Secretary of State under clause 92 of the Master Agreement shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of the exercise of the option in relation to part of the Alternative Permanent Site, the Company's obligation to pay the Debt shall be deemed to have been satisfied to the extent of the Market Value, the Company's obligation under clause 92 of the Master Agreement shall be deemed to have been satisfied in relation to the relevant part of the Alternative Permanent Site and the Legal Charge shall be released and the restriction and notice shall be removed in relation to such part and the Legal Charge, the restriction and the notice shall remain in place in relation to the balance of the Alternative Permanent Site.

Payment of Debt

7.17 In the event that the Company repays all the Debt, upon termination of this Agreement or at any other time, the Secretary of State shall take all steps reasonably required to carry out the Discharge Process.

19. Clauses 7.18 shall be deleted and replaced by:

7.18 If the Company is in material breach, or if it is reasonably foreseeable that the Company will be in material breach, of the provisions of Lease(s), it shall forthwith give written notice to the Secretary of State specifying the exact nature of the material breach or reasonably foreseeable material breach and such notice shall set out the steps taken or to be taken by the Company to remedy the material breach or reasonably foreseeable material breach and shall, where appropriate, include the timescales relating to any remedial action.

19. Clauses 7.21 to 7.23 shall be deleted and replaced by:

7.21 The Company shall, within 14 days of receiving any order, notice, proposal, demand or any other requirement affecting the ability of the Company to use the School Premises for the purposes of the Academy from any competent authority (including the Landlord), give full particulars by written notice to the Secretary of State and deliver to the Secretary of State copies of such documents as he may require. Such notice shall state what steps, if any actions are required, the Company intends to take in response to the order, notice, proposal, demand or other requirement affecting the School Premises.

7.22 The Company will at its own cost provide all information reasonably required by the Secretary of State in respect of order, notice, proposal, demand or any other requirement affecting the School Premises as referred to in clause 7.21.

7.23 Following the receipt by the Secretary of State of the written notice under clause 7.21, the Company shall permit the Secretary of State to take all steps in conjunction with or instead of the Company as may be necessary to comply with any order, notice, proposal, demand or other requirement affecting the School Premises referred to in the said notice. The Company shall, in such circumstances, use all reasonable endeavours to assist the Secretary of State to take the appropriate required steps.

